

RESOLUTION NO. 41-18  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Jhx Beals ON THE  
16<sup>th</sup> DAY OF July, 2018.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A RIGHT OF WAY LICENSE AGREEMENT WITH VECTREN ENERGY DELIVERY OF OHIO INC., FOR A NON-EXCLUSIVE LICENSE TO USE A PORTION OF THE PUBLIC RIGHT-OF-WAY LOCATED ALONG YANKEE STREET FOR THE SOLE PURPOSE OF ERECTING A GROUND IDENTIFICATION SIGN.

WHEREAS, Vectren Energy Delivery of Ohio Inc., owns property located at 9973 Yankee Street in the City of Centerville; and

WHEREAS, Vectren Energy Delivery desires to obtain a non-exclusive license, as described herein, to erect a ground identification sign and all related activities on the Premises (described below) upon the terms and conditions set forth therein; and

WHEREAS, the City agrees to provide a non-exclusive license to use a portion of the public right-of-way located along Yankee Street, in the City of Centerville, Ohio, for the sole purpose of erecting a ground identification sign; and

WHEREAS, Section 1020.03 of the Centerville Municipal Code allows the City Manager to prepare and enforce rules and regulations for access to the public right-of-way.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. The City of Centerville hereby agrees to grant a non-exclusive license to Vectren Energy Delivery Of Ohio Inc., as set forth in the Right of Way License Agreement (“Agreement”), over the right-of-way located along Yankee Street, in the City of Centerville, Ohio, for the sole purpose of erecting a ground identification sign, said land being more particularly described in Exhibit “A” attached hereto and made a part hereof.

Section 2. The City Manager is hereby authorized to execute the Agreement attached as Exhibit “A” and take all necessary actions to effectuate this grant of license in the right-of-way.

Section 3. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 16<sup>th</sup> day of July, 2016.

  
Mayor of the City of Centerville, Ohio

ATTEST:

  
Clerk of Council, City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 41-18, passed by the Council of the City of Centerville, Ohio, on the 16<sup>th</sup> day of July, 2016.

  
Clerk of Council

Approved as to form, consistency  
with the Charter and Constitutional Provisions.

Department of Law  
Scott A. Liberman  
Municipal Attorney

**RIGHT OF WAY LICENSE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Centerville, Ohio, 100 W. Spring Valley Road, Centerville, Ohio 45458, hereinafter referred to as "LICENSOR" and Vectren Energy Delivery of Ohio, Inc., an Ohio corporation, located at 9973 Yankee Street, Centerville OH 45459, hereinafter referred to a "LICENSEE".

**WITNESSETH:**

WHEREAS, Licensor desires to grant a non-exclusive license to use a portion of the public right-of-way located along Yankee Street, in the City of Centerville, Ohio to the Licensee, for the sole purpose of erecting a ground identification sign; and

WHEREAS, Licensee desires to obtain said non-exclusive license, as described herein, to erect a ground identification sign and all related activities on the Premises (described below) upon the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. This Agreement is created in furtherance of the authority set forth in Sections 1020.03, *et.seq.*, of the Centerville Municipal Code regarding Revocable Street Privileges.
2. The Licensor hereby licenses and authorizes the Licensee, its tenants and their respective agents, employees and invitees the right to enter upon and use certain City of Centerville right-of-way at 9973 Yankee Street, ("Licensee's Property"), as more particularly described in Exhibit "A" and as depicted in Exhibit "B" attached hereto and incorporated by reference herein (the "License Area") for the sole purposes of erecting and maintaining a ground identification sign and for no other purposes. The approved sign is depicted in Exhibit "C" attached hereto.



3. Licensee specifically agrees that it shall defend, indemnify and hold harmless the Licensor and its officials, officers and employees from any and all damages, injuries or losses suffered by any person arising as a result of the erection or maintenance of a ground identification sign in the License Area, including the Licensor's attorneys' fees and costs.
4. This Agreement shall be for an indefinite period of time; provided however, that either party hereto shall have the right to revoke and terminate this Agreement and the license granted herein for any reason or no reason by providing thirty (30) days written notice to the other party of its intention to do so. Upon termination, the License Area shall be returned to its original condition, including the removal of any ground identification sign and its appurtenances.
5. Licensor further grants to Licensee the right to maintain the License Area at the sole cost of the Licensee. Upon the expiration of this Agreement, Licensee shall no longer utilize the License Area for a ground identification sign or any other purpose. Licensor reserves the right to inspect said property at any and all reasonable times.
6. Prior to expiration of the Agreement, Licensor agrees not to construct any permanent public improvements, barricades or other obstructions within the License Area nor take any action which will prevent the use of the License Area by Licensee for the purposes detailed in this Agreement, without the written approval of the Licensee, unless said actions are part of a legal permissible eminent domain action, such as, but not limited to, future public roadway construction. Such action may require the relocation or removal of the ground identification sign at the Licensor's sole discretion. The expense related to relocation or removal of the ground identification sign shall be the sole responsibility of the Licensee.
7. LICENSEE ACKNOWLEDGES THAT THE PROPERTY WHICH IS THE SUBJECT OF THE LICENSE GRANTED HEREIN IS HELD BY THE CITY AS PUBLIC RIGHT OF WAY FOR PUBLIC TRAVEL PURPOSES AND AS SUCH MAY BE USED FOR THAT PURPOSE AT ANY TIME. LICENSEE ACKNOWLEDGES AND ASSUMES THE FINANCIAL RISK INCIDENT TO ITS USE FOR A GROUND IDENTIFICATION SIGN IN SAID RIGHT OF WAY UNDER THESE CIRCUMSTANCES AND NOT CONTRARY TO ITS CURRENT USE.
8. This Agreement is a license in real estate and the rights created by it are personal to those named herein and their successors and assigns. This Agreement does not pass any interest in the property described above, other than as specifically set forth in this Agreement.



9. Licensee shall agree to pay the Licensor's attorney's fees in the amount of \$250 for drafting of this Agreement and its associated Resolution.

**EXECUTED** by the parties hereto on the day and year first above written.

**LICENSOR:**

CITY OF CENTERVILLE, OHIO

\_\_\_\_\_  
By: Wayne S. Davis  
Its: City Manager

Approved as to form:

\_\_\_\_\_  
Scott A. Liberman, Municipal Attorney

**LICENSEE:**

VECTREN ENERGY DELIVERY OF  
OHIO, INC., an Ohio corporation

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OHIO )  
 )  
COUNTY OF MONTGOMERY ) SS:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018 by Wayne S. Davis, City Manager.

\_\_\_\_\_  
Notary Public

STATE OF OHIO )  
 )  
COUNTY OF MONTGOMERY ) SS:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, the subscriber, a Notary Public in and for said County and State, personally came \_\_\_\_\_, the \_\_\_\_\_ of Vectren Energy Delivery of Ohio, Inc., an Ohio corporation, which executed the foregoing instrument, who acknowledged that he/she did sign said instrument as such agent on behalf of corporation and by authority of the corporation; that said instrument was signed as his/her free act and deed individually, and the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

This Agreement prepared by:

Scott A. Liberman, Esq.  
Altick & Corwin Co., L.P.A.  
1 S. Main St., Suite 1590  
Dayton, Ohio 45402

EXHIBIT A



## EXHIBIT A

### DESCRIPTION OF A 0.131 ACRE TRACT CITY OF CENTERVILLE, OHIO

Situate in Section 4, Town 2, Range 5, M.Rs., the City of Centerville, County of Montgomery, State of Ohio and being a tract of land lying on the left side of the baseline of construction for Yankee Street as shown on the Centerline Plat for MOT-CR175-0.79 as recorded in Plat Book 223, Pages 70, 70A, 70B, 70C, 70D, 70E, 70F, 70G and 70H of the plat records of Montgomery County, Ohio and being more particularly described as follows:

Commencing at Yankee Street centerline P.C. Station 37+40.39 of said Centerline Plat;

Thence along the centerline of Yankee Street on a curve to the right having a radius of 11,459.16 feet for an arc length of 211.38 feet (chord to said curve bears N 04°54'28" E for a distance of 211.37 feet) to a point at centerline Station 39+51.77;

Thence leaving said centerline of Yankee Street N 84°33'50" W for a distance of 20.71 feet to a point; said point being located 20.71 feet left of centerline Station 39+51.77; said point also being the **TRUE POINT OF BEGINNING** for the land herein described:

Thence N 85°05'09" W for a distance of 27.29 feet to a point on the existing west right-of-way line of Yankee Street; said point being located at 48.00 feet left of centerline Station 39+51.52;

Thence along the existing west right-of-way line of Yankee Street on a curve to the right having a radius of 11,507.16 feet for an arc length of 21.00 feet (chord to said curve bears N 05°29'14" E for a distance of 21.00 feet) to a point on the existing west right-of-way line of Yankee Street; said point being located at 48.00 feet left of centerline Station 39+72.43;

Thence S 85°05'09" E for a distance of 27.08 feet to a point; said point being located at 20.93 feet left of centerline Station 39+72.73;

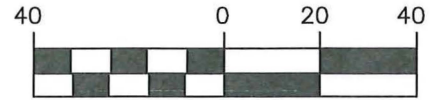
Thence S 04°54'51" W for a distance of 21.00 feet to the **TRUE POINT OF BEGINNING** containing 0.0131 acres more or less, subject, however, to all highways, easements and restrictions of record.

The above description is the result of a field survey prepared by Judge Engineering Company, dated June 28, 2018.

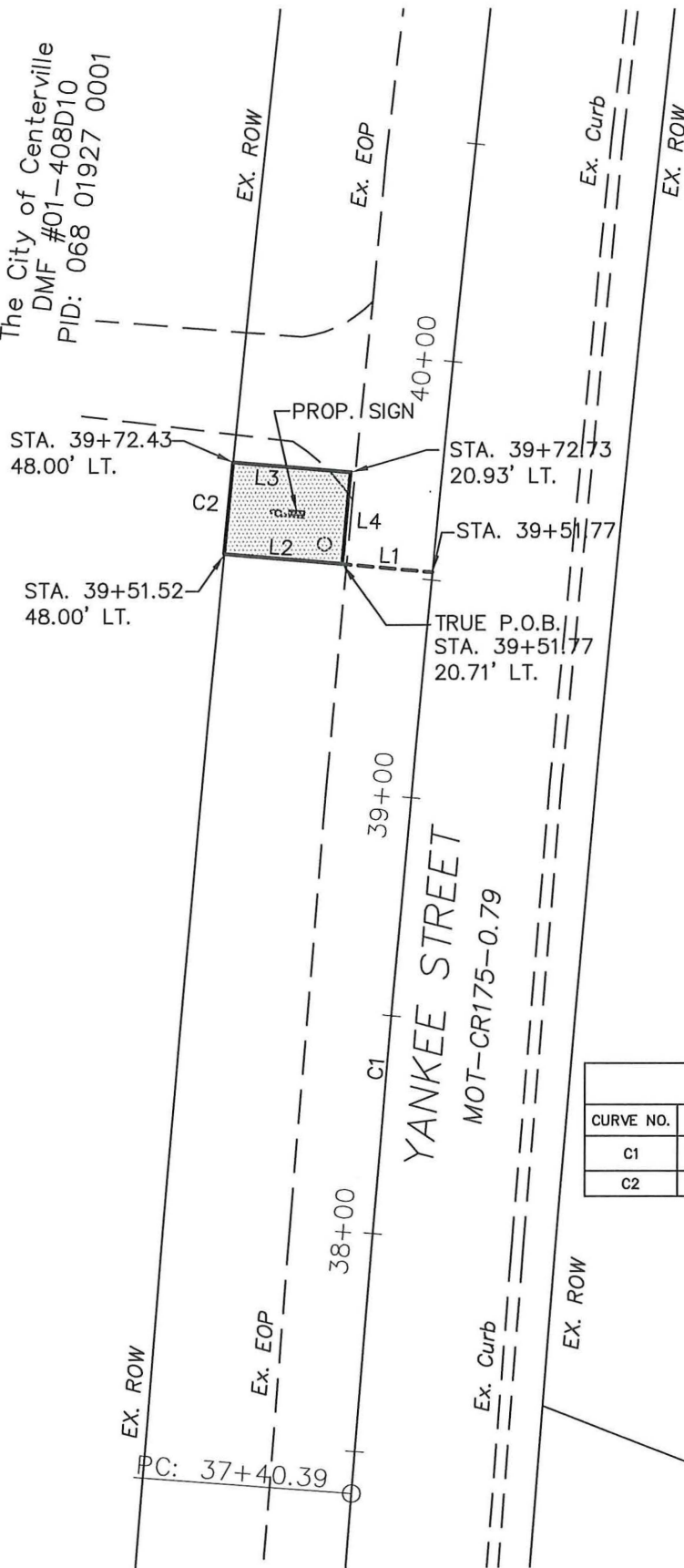
EXHIBIT B

The City of Centerville  
DMF #01-408D10  
PID: 068 01927 0001

GRAPHIC SCALE



1 inch = 40 ft.



LINE TABLE		
LINE NO.	BEARING	DISTANCE
L1	N 84°33'50" W	20.71'
L2	N 85°05'09" W	27.29'
L3	S 85°05'09" E	27.08'
L4	S 04°54'51" W	21.00'

CURVE TABLE				
CURVE NO.	RADIUS	ARC LENGTH	CHORD BEARING	CHORD DISTANCE
C1	11,459.16'	211.38'	N 04°54'28" E	211.37'
C2	11,507.16'	21.00'	N 05°29'14" E	21.00'

PREPARED BY:



JUDGE ENGINEERING CO.  
1201 E. DAVID ROAD  
KETTERING, OHIO 45429  
PHONE (937)294-1441 FAX (937)294-6498

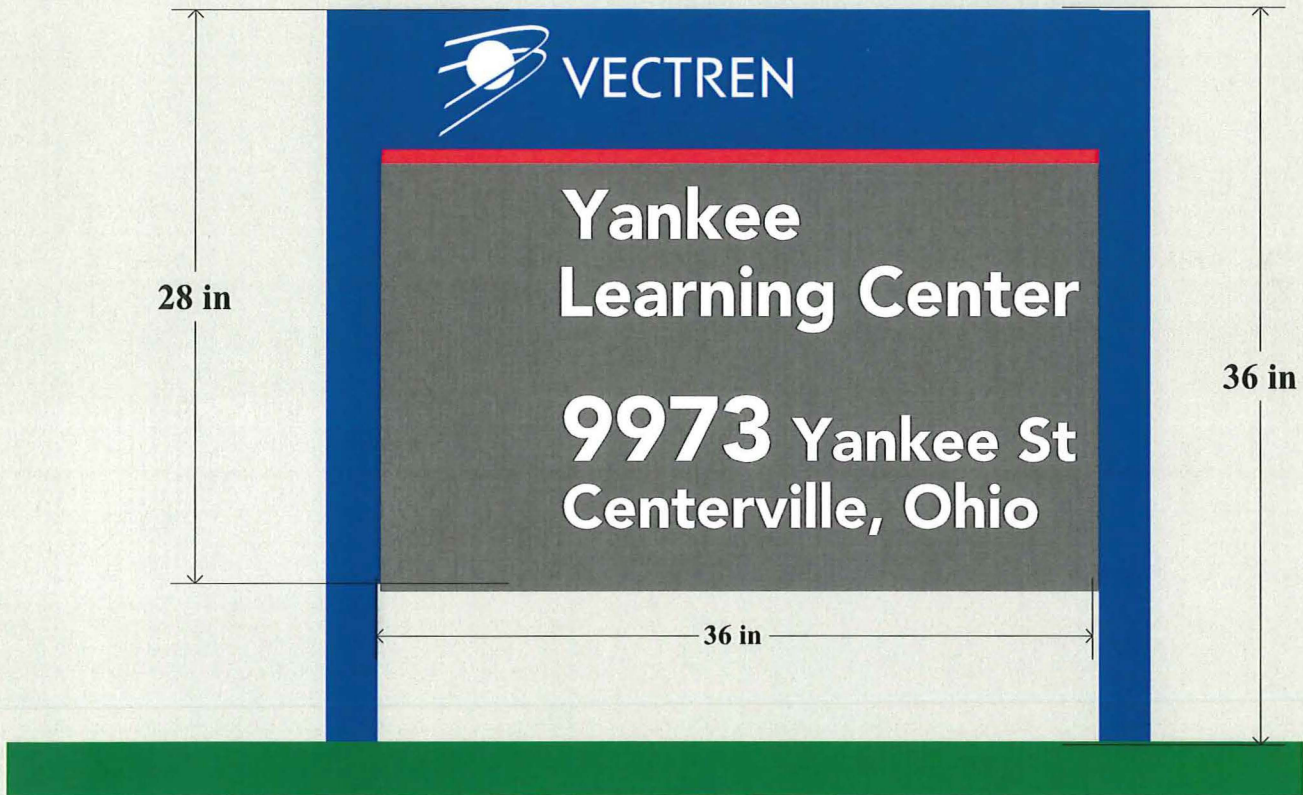
EXHIBIT B  
VECTREN SIGN LOCATION  
SECTION 4, TOWN 2, RANGE 5 MRs  
CITY OF CENTERVILLE  
MONTGOMERY COUNTY OHIO



NORTH



EXHIBIT C



36" to top of sign - less then mail box height

.125 thick aluminum sign panel with 3" aluminum square legs  
all painted colors as shown