

RESOLUTION NO. 53-17  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Beals ON THE 18<sup>th</sup>  
DAY OF September, 2017.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AN AFFIRMANCE OF GRANT OF EASEMENT TO PROPERTY LOCATED ALONG YANKEE ROAD ACROSS FROM YANKEE TRACE GOLF COURSE AND ADJACENT TO PROPERTY OWNED BY THE CITY.

WHEREAS, in June 2001, The Dayton Power and Light Company, aka Dayton Power & Light Co. ("DP&L"), transferred approximately 27 acres of land to the City, and reserved an easement of access to DP&L property; and

WHEREAS, subsequently, the City and DP&L entered into an Amendment to Restrictive Covenants dated October 25, 2015, which restated the existence of the access easement; and

WHEREAS, DP&L has been required by the PUCO, as part of the deregulation of electricity, to put its generation and transmission businesses in separate companies, thereby leaving the substation as a DP&L asset, but the generating units and solar panels to be an asset of a sister company, AES Ohio Generation; and

WHEREAS, there is a concern as to whether the sister company or DP&L, as a result of such transfers, might not retain the right and use of the easement granted to DP&L; and

WHEREAS, it was the intent of the City and DP&L to provide access to the subject property to DP&L, its successors and assigns; and

WHEREAS, there will be no additional burden on the City in that the same activities will take place; and

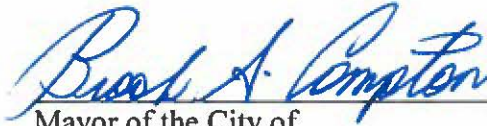
WHEREAS, DP&L has requested that the City just affirm this grant of easement that was reserved in the prior deeds and amendments.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized and Directed to execute the Affirmance of Grant of Easement in the form attached hereto as Exhibit "A" and incorporated herein, indicating that such easement is to run with the land to the benefit of the real property set forth in the Exhibit.

Section 2. That this Resolution shall take effect at the earliest date allowed by law.

PASSED THIS 18<sup>th</sup> day of September, 2017.



\_\_\_\_\_  
Mayor of the City of  
Centerville, Ohio

ATTEST:



\_\_\_\_\_  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 53-17, passed by the Council of the City of Centerville, Ohio on the 18<sup>th</sup> day of September 2017.



\_\_\_\_\_  
Clerk of the Council

Approved as to form, consistency  
with existing ordinances, the  
charter & constitutional provisions  
Department of Law  
Scott A. Liberman  
Municipal Attorney

AFFIRMANCE OF GRANT OF EASEMENT

THE CITY OF CENTERVILLE, a body politic, whose mailing address is 100 West Spring Valley Road, Centerville, Ohio, and its successors and assigns ("**Grantor**") makes this Affirmance of Grant of Easement (this "**Easement**") as of the \_\_\_ day of \_\_\_\_\_, 2017.

Grantor hereby affirms the grant of easement reserved in the Limited Warranty Deed dated June 13, 2001 and recorded on June 15, 2001 in the Montgomery County, Ohio records at Deed number 01-068197, which easement description is contained on **Exhibit A**, attached hereto and incorporated herewith, and which easement was supplemented by an Amendment to Restrictive Covenants dated October 20, 2015 and recorded on October 30, 2015 in the Montgomery County, Ohio records as instrument number 2015-00061248. Grantor affirms that such grant of easement shall run with the land to the benefit of the real property described on **Exhibit B** (the "**Benefitted Parcel**"), and shall benefit all users of the Benefitted Parcel, including, without limitation, the fee owner of the Benefitted Parcel and such owner's successors and assigns, as well as any persons with an easement on or over the Benefitted Parcel, and such persons' successors and assigns.

[signature page follows]

IN WITNESS WHEREOF, the Grantor has executed this Easement as of the date first written above.

THE CITY OF CENTERVILLE

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

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OHIO )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2017 by \_\_\_\_\_, the \_\_\_\_\_ of The City of Centerville.

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

My commission expires: \_\_\_\_\_

This instrument was prepared by:  
Lindi S. Vernick, Esq.  
Taft Stettinius & Hollister LLP  
425 Walnut Street, Suite 1800  
Cincinnati, Ohio 45423  
513-827-3896

**EXHIBIT A**

Beginning at a spike found in the centerline of Yankee Street and the east line of the northwest quarter of said Section 4, said point being North 2 degrees 28'00" East 2570.18 feet from a 5/8" iron pin found at the southeast corner of the northwest quarter of said Section 4, said point also being North 2 degrees 28'00" East 705.80 feet from a spike found at the northeast corner of a 0.145 acre tract conveyed to the Ohio Fuel Gas Company by deed recorded in deed book 2528 page 95 of the deed records of said county;

Thence with the centerline of said 50 feet wide easement for ingress and egress, North 87 degrees 02'20" West 232.64 feet to a spike found;

Thence continuing with the centerline of said 50 feet wide easement, North 86 degrees 56'40" 697.23 feet to a spike set in the west line of the above described 26.3215 acre tract and there terminate.

## EXHIBIT B

### Description of a 51.161 Acre Tract Washington Township, Montgomery County, Ohio

Situate in Sections 4 & 5, Town 2, Range 5 M.Rs., Washington Township, Montgomery County, Ohio, and being part of a 82.74 acre tract conveyed to The Dayton Power and Light Company by deed recorded in Book 1941, Page 259 of the deed records of said county and being a 51.161 acre tract more particularly described as follows;

Starting for reference at a  $\frac{5}{8}$ " iron pin found at the southeast corner of Yankee Trace, Section 19 as recorded in Book 176, Page 4 of the plat records of said county;

thence N 67° 23' 46" W with the south line of said Plat a distance of 204.65 feet to a  $\frac{5}{8}$ " iron pin found at the northwest corner of a tract conveyed to the City of Centerville by deed recorded in DMF # 01-408D10 of the deed records of said county and the true point of beginning of the herein described tract;

thence from said true point of beginning S 07° 24' 16" W with the west line of said city tract a distance of 1165.40 feet to a  $\frac{5}{8}$ " iron pin found;

thence S 28° 07' 34" E a distance of 557.79 feet to a  $\frac{5}{8}$ " iron pin set at the southwest corner of said city tract;

thence N 76° 27' 16" E with the south line of said city tract a distance of 34.65 feet to a  $\frac{5}{8}$ " iron pin set at the northwest corner of a 0.145 acre tract conveyed to The Ohio Fuel Gas Company by deed recorded in Book 2528, Page 95 of the deed records of said county;

thence S 04° 48' 05" W with the west line of said 0.145 acre tract and its southerly extension a distance of 109.84 feet to a  $\frac{5}{8}$ " iron pin set (witness  $\frac{5}{8}$ " iron pin found N 66° 15' 00" W 2.10 feet) at the northeast corner of a 6.931 acre tract conveyed to Mark J. Granato, Jennie M. Granato, and Lawrence P. Granato by deed recorded in DMF # 92-543A09 of the deed records of said county;

thence N 67° 12' 15" W with the north line of said Granato tract and its westerly extension a distance of 2199.09 feet to a Mag Nail set (witness a Mag Nail found N 85° 10' 00" E, 2.70 feet) at the northwest corner of a 5.508 acre tract conveyed to Daniel J. Kvenold and Roberta M. Kvenold by deed recorded in IR # 04-107053 of the deed records of said county, said point also being on the west line of aforementioned Section 4 and the centerline of Washington Church Road (30' R/W);

thence N 05° 13' 50" E with said centerline a distance of 339.17 feet to a Mag Nail set at the southwest corner of a 2.1582 acre tract conveyed to Orville J. Wright by deed recorded in IR # 16-069754 of the deed records of said county;

thence S 84° 45' 01" E with the south line of said Wright tract a distance of 435.53 feet to a 5/8" iron pin found at the southeast corner of said tract;

thence N 25° 20' 02" E with the east line of said tract a distance of 1102.12 feet to a 5/8" iron pin set (witness a 5/8" iron pin found N 04° 28' 00" E, 1.0 feet) on the south line of Yankee Trace, Section 22 as recorded in Book 178, Page 33 of the plat records of said county;

thence S 67° 23' 46" E with said south line and its easterly extension a distance of 1033.23 feet to the point of beginning containing 51.161 acres ( 18.178 acres in Section 5 and 32.983 in Section 4) more or less, subject, however, to all highways, easements and restrictions of record.

Deed Reference: Deed Book 1941, Page 259

Bearing Basis: Ohio State Plane, South Zone – CORS Network – NAD 83 (2011)

The above description is the result of a field survey prepared by Raymond B. Mefford, Ohio Registered Surveyor No. 7367 and Judge Engineering Company, dated May 17, 2017, as recorded in the Montgomery County Engineer's Record of Land Surveys in Volume 2017, Page 0147.