

RESOLUTION NO. 41-09
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Gresham ON THE
16th DAY OF November, 2009.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO GRANT A RIGHT OF WAY AND EASEMENT, ON BEHALF OF THE CITY OF CENTERVILLE, TO THE DAYTON POWER & LIGHT COMPANY TO EXTEND ELECTRIC SERVICE ACROSS LOT 13 OF THE SOUTH SUBURBAN COMMERCIAL AREA PLAT, SECTION 3.

WHEREAS, it is necessary for the City of Centerville to grant unto The Dayton Power & Light Company a right of way and easement in order that electricity may be extended to property located on South Suburban Road, south of East Franklin Street, and

WHEREAS, to accomplish this The Dayton Power & Light Company is requesting a right of way and easement 10 feet in width on property situated in the City of Centerville, Montgomery County, State of Ohio, and owned by the City of Centerville, said property being situated in Section 24, Town 3, Range 5 M.R.s and being the premises described in Plat Book 213, Pages 22 and 22A of the Plat Records of Montgomery County, Ohio.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized to do all things necessary to execute a grant of right of way and easement to the Dayton Power & Light Company in order that electric service may be extended to Lot 13 of the South Suburban Commercial Area Plat, Section 3, in accordance with said option for right of way and easement, which is attached hereto and made a part hereof, marked Exhibit "1" provided, however, that such right of way and easement shall be modified so as to reflect they are subject to any comprehensive right of way Ordinance or regulations adopted by the City and to indicate that nothing in the grant of such right of way or easement should be construed to waive any franchise rights of the City.

PASSED this 16th day of November, 2009.

C. Mark Kuyper
Mayor of the City of Centerville, Ohio

ATTEST:

Debra A. James
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 41-09, passed by the Council of the City of Centerville, Ohio, on the 16th day of November, 2009.

Debra A. James
Clerk of Council

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

Department of Law
Scott A. Liberman
Municipal Attorney

**THE DAYTON POWER AND LIGHT COMPANY
GRANT FOR ELECTRIC RIGHT OF WAY AND EASEMENT**

Know all men by these presents that The City of Centerville, Ohio (hereinafter "Grantor"), for valuable consideration provided by THE DAYTON POWER AND LIGHT COMPANY, an Ohio Corporation (hereinafter "Grantee"), does hereby grant to the Grantee, its successors and assigns forever, a Right of Way and Easement for any and all purposes for which electric energy is now or may hereafter be used, and also, to construct, reconstruct, erect, add to, operate, maintain, use, remove, replace either overhead or underground electric facilities consisting of poles, lines, structures, wires, underground lines, cables, conduits, manholes, anchors, grounding systems, communication circuits, fiber optic cables, equipment, and all other necessary and incidental appurtenances contained in, over, upon, under and through, subject to the conditions hereinafter on the following premises, viz:

Situate in the City of Centerville, Montgomery County, Ohio and being Lot Numbered 13 on the South Suburban Commercial Area Plat, Section 3, as recorded in Plat Book "213", Page 22A of the plat records of said county, said lot conveyed to The City of Centerville, Ohio by deed recorded in Microfiche 75-553B10 of the deed records of said county.

Parcel I. D. No. 068 00810 0001

Said Right of Way and Easement shall be along the following course identified on Exhibit "A" attached hereto and made a part hereof.

The Grantee, its successors and assigns, its agents, contractors and employees shall have the right of ingress and egress over the right of way and the adjoining premises of the Grantor for all purposes previously stated, together with the right to trim, cut, and remove or otherwise control trees, roots, undergrowth or overhanging branches or other obstructions both within and without the limits of the right of way and easement which according to the Grantee's standards and its opinion may interfere with the construction, maintenance, use or successful operation of the electric facilities.

No buildings or other structures shall be erected within the limits of the said Right of Way and Easement by the Grantor. No excavating or filling shall be done or be permitted by the Grantor within Right of Way and Easement that would either (A) reduce or add to the distance between the Grantee's facilities and the land surface without the Grantee's prior written consent and which consent will not be unreasonably withheld, (B) impair the Grantee's ability to maintain the facilities or (C) create a hazard.

The Grantor shall have the right to use the land within the easement area in any manner not inconsistent within this grant for Right of Way and Easement.

The Grantee, its successors and assigns, shall reimburse the Grantor for any damage or loss to growing crops and other property damages that may be caused by the Grantee, its agents, contractors or employees in construction, repair or removal of said electric facilities.

The Grantor covenant with the Grantee, that they is/are the true and lawful owners of the property herein described and have full power and authority to grant this Right of Way and Easement.

In the event that any road should be widened or relocated so that its right of way extends onto the Grantee's Right of Way and Easement herein provided for, the Grantee may, but shall not be required to, relocate or reconstruct its facilities, so that the Grantee's right of way as relocated has a centerline of said right of way that shall not be more than five (5) feet off the road right of way as widened or relocated.

The grant of right of way and easement shall run with the land and be binding on and inure to the benefit of the parties, their heirs, successors, and assigns. This easement is also subject to the City of Centerville Rights of Way Administration Ordinance, Chapter 1080 of the Centerville Municipal Code.

As used herein, words in plural number include words in the singular number.

IN WITNESS WHEREOF, the Grantor has hereunto subscribed its name this ____ day of _____, 20 __.

GRANTOR:
The City of Centerville, Ohio

Name _____

Print: _____

Title _____

STATE OF OHIO)
 SS:)
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20 by ____
_____, an authorized representative of _____
_____.

NOTARY PUBLIC

This Instrument Prepared By:
Real Estate Services Department
The Dayton Power and Light Company
1900 Dryden Rd.
Dayton, OH 45439
Project Number: 09487

EXHIBIT A
PROJECT NO. 09487



N.T.S.

EASEMENT LINE TABLE

LINE	LENGTH	BEARING
L1	344.86	S01°20'50"W
L2	55.31	S39°59'17"W
L3	51.98	S90°00'00"W
L4	23.23	N62°27'38"W
L5	12.96	N00°00'00"E

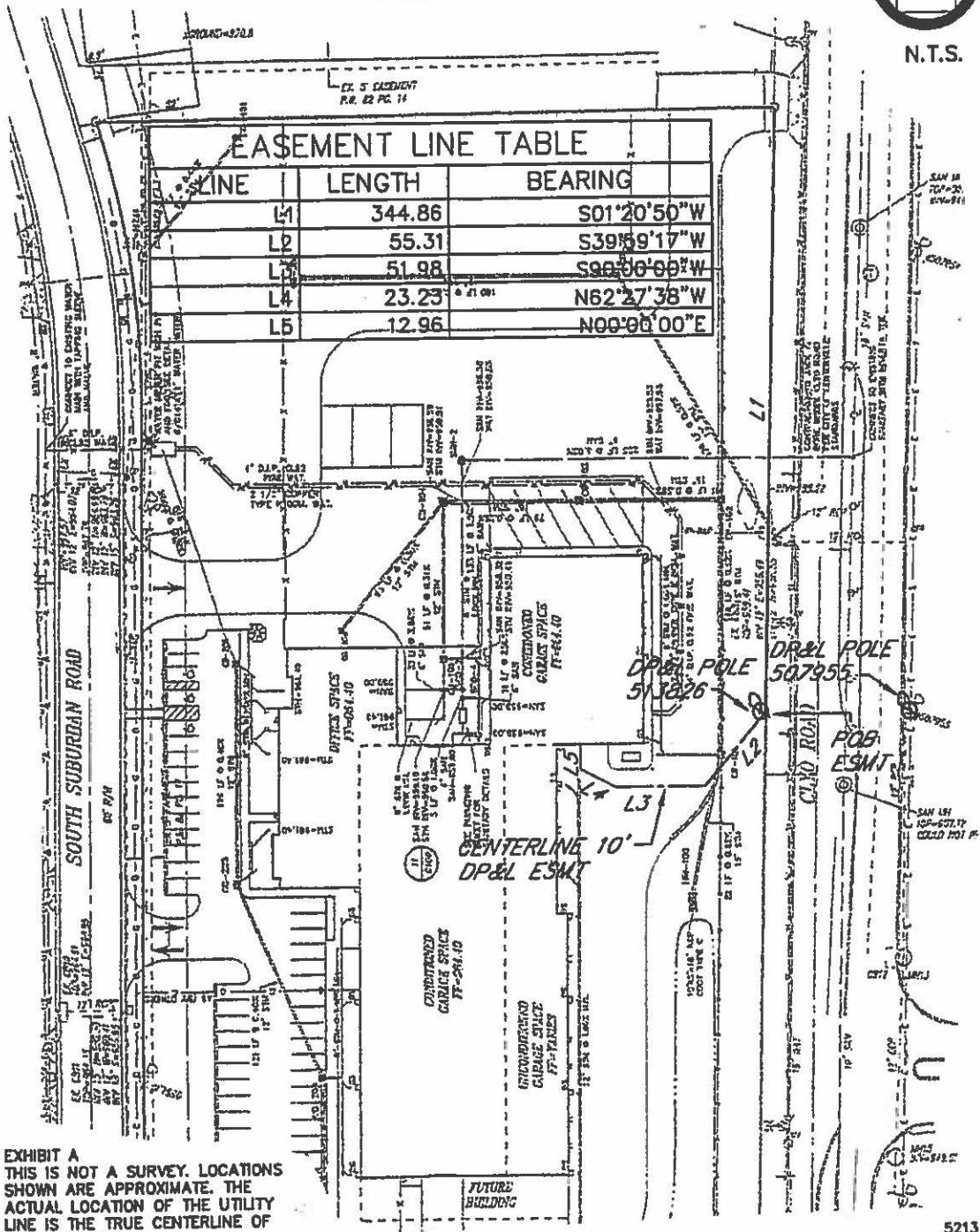


EXHIBIT A
THIS IS NOT A SURVEY. LOCATIONS SHOWN ARE APPROXIMATE. THE ACTUAL LOCATION OF THE UTILITY LINE IS THE TRUE CENTERLINE OF THE EASEMENT.