

RESOLUTION NO. 55-06
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Douglas Cline ON THE 20th
DAY OF November, 2006.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO TAKE ALL STEPS AND EXECUTE ALL DOCUMENTS NECESSARY IN ORDER TO EFFECT THE SECURING OF AN EASEMENT FOR PARKING, INGRESS/EGRESS AND UTILITY OVER REAL PROPERTY OWNED BY MULAY HOLDINGS, LLC.

WHEREAS, this Council has determined that the City should assist in the economic development of the Main and Franklin Streets area of the City; and

WHEREAS, pursuant to this determination the City has been working with property owners in said area to develop additional access and parking; and

WHEREAS, the City staff has successfully negotiated with Mulay Holdings, LLC to secure an easement over their real property located at Pt. Lot 24 and Lot 25 of the Benjamin Robbins Plat for parking, ingress/egress and utilities; and

WHEREAS, this City as a charter city with full home rule powers as authorized by Section 3, Article XVIII of the Constitution of the State of Ohio which powers would allow the City to conclude said securing of said easement if this Council determines that such a procedure is in the best interests of the citizens of Centerville; and

WHEREAS, this Council has determined that it is in the best interests of the City to conclude said securing of said easement and to authorize and direct the City Manager to do any and everything and to execute all documents deemed by him to be necessary to conclude said securing of said easement.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is authorized and directed to do any and everything and to execute all documents deemed by him to be necessary to conclude the securing of said easement for the reasons set forth in the preamble hereof. A copy of the proposed Easement is attached hereto as Exhibit "A" and incorporated herein.

Section 2. That the City Manager is further authorized and directed to do any and everything and to accept the terms for said easement as set forth in the Easement Agreement, attached as Exhibit "B".

PASSED THIS 20th day of November, 2006.

Mark Kenney
Mayor of the City of
Centerville, Ohio

ATTEST:

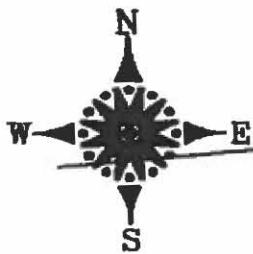
Debra A. James
Clerk of Council
City of Centerville, Ohio

CERTIFICATE

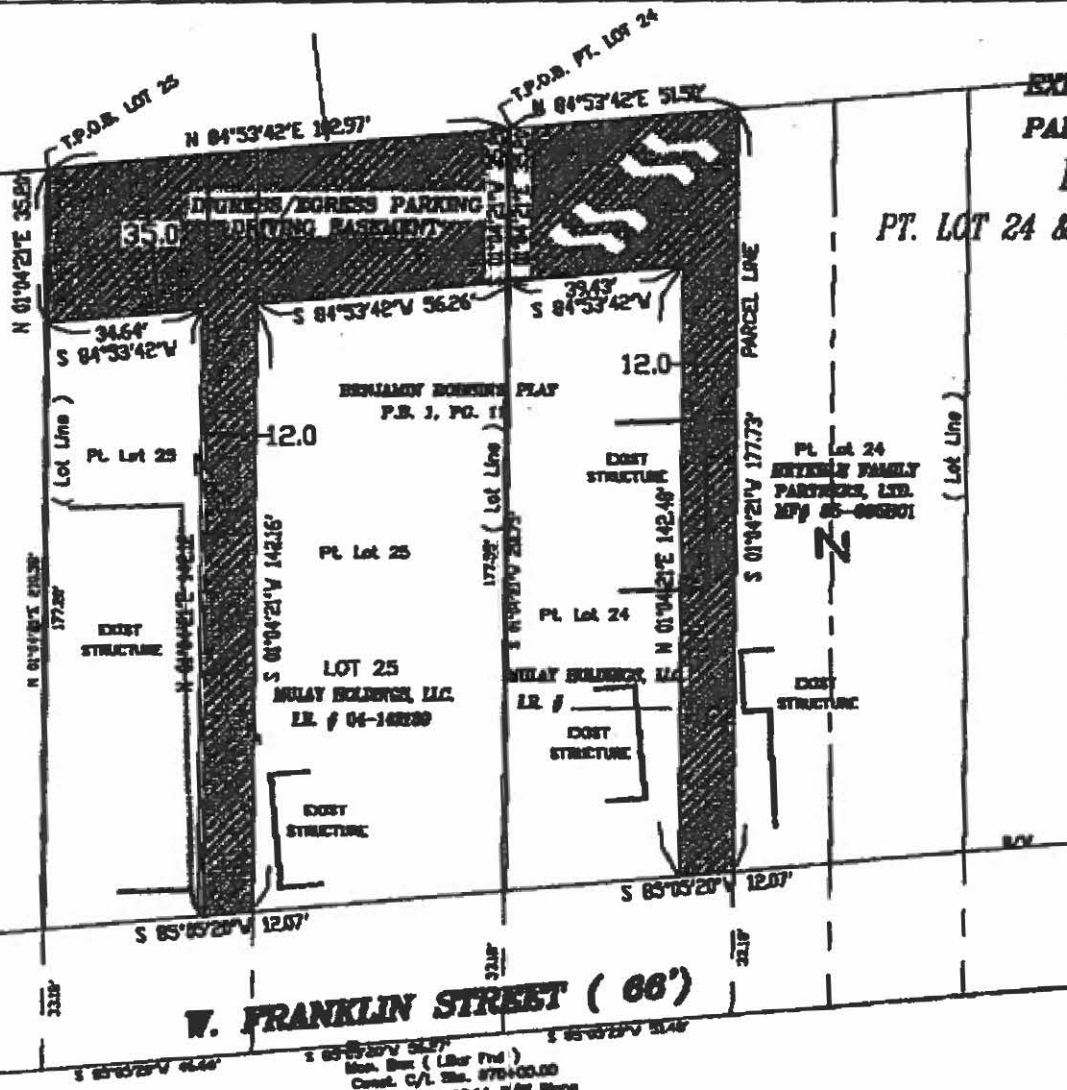
The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 55-06, passed by the Council of the City of Centerville, Ohio on the 20th day of November, 2006.

Debra A. James
Clerk of the Council

Approved as to form, consistency with the
Charter and Constitutional Provisions.
Department of Law
Scott A. Liberman
Municipal Attorney



Lot 31
CHARLES C. CRAFT
PAULAN K. MARSH-CRAFT
 M/F 03-082204



**EXHIBIT TO INGRESS / EGRESS
 PARKING & DRIVING EASEMENT
 MULAY HOLDINGS, LLC.**

**PT. LOT 24 & LOT 25 - BENJAMIN ROBBINS PLAT
 City of Centerville
 Montgomery County, Ohio**

⊕ **McDougall, Marsh & Chico**
 Surveyors and Civil Engineers
 6828 Gyro Road Tel: 537-847-2880
 Montgomery, Ohio 45362 Fax: 537-847-2670
 Ord. File - 3032PM / Pl. File 3032NOVEASE



EXHIBIT "A"



Thomas K. Marsh
THOMAS K. MARSH, P.S. # 7735

Map. Box (Lib. Prod.)
 Const. C/L. Sta. 870+00.00
 Per MDT 720-18.11 R/W Plans

 **McDougall, Marsh & Chico**
Surveyors & Civil Engineers

8528 Byers Road, Marietta, OH 45742
Tel: 937-847-2680 Fax: 937-847-2670

INGRESS/EGRESS, PARKING & DRIVING EASEMENT
Part Lot 24 - Benjamin Robbins Plat

Situate in the City of Centerville, Montgomery County, Ohio and being an ingress/egress, parking and driving easement for the purpose of vehicular and pedestrian traffic upon Part Lot 24 of the Benjamin Robbins Plat as recorded in Plat Book 1, Page 11 and as conveyed to Mulay Holdings, LLC. by I.R.# Deed _____ of the deed records of Montgomery County, Ohio and being more particularly described as follows:

Beginning at a 5/8" rebar set at the northwest corner of said Lot 24 and also being the northeast corner of Lot 25 of said Plat as conveyed to Mulay Holdings, LLC. by I.R.# 04-142139 and the **True Point of Beginning** for the herein described easement;

Thence N 84°53'42" E with the north line of said Lot 24 a distance of 51.50 feet to the northwest corner of a parcel of land conveyed to Beyerle Family Partners, Ltd. by MF# 85-665B01;
thence S 01°04'21" W with the west line of said Beyerle Family Partners, Ltd parcel a distance of 177.73 feet to a point in the north line of West Franklin Street;

Thence S 85°05'20" W with the north line of said West Franklin Street a distance of 12.07 feet to a point;

Thence N 01°04'21" E through Mulay Holdings, LLC said Part Lot 24 a distance of 142.48 feet to a point;

Thence S 84°53'42" W continuing through Mulay Holdings, LLC said Part Lot 24 35.00 feet south of and parallel to the north line of said Lot 24 a distance of 39.43 feet to a point in the west line of said Lot 24 and also being the east line of said Lot 25;

thence N 01°04'21" E with the west line of said Lot 24 and the east line of said Lot 25 a distance of 35.20 feet to the **True Point of Beginning**, subject to all legal conditions, easements and rights-of-way of record. This description prepared by McDougall, Marsh, & Chico, based on a survey made by same in January 2003, October 2004 and November 2006. Bearings are based on the centerline of right-of-way (N 01° 04'21" E) as shown on recorded Survey 2003-0211 of the Montgomery County Engineer's Office.


Thomas K. Marsh, P.S. #7735





8529 Byers Road, Miamisburg, OH 45342
Tel: 937-847-2650 Fax: 937-847-2670

INGRESS/EGRESS, PARKING & DRIVING EASEMENT Lot 25 - Benjamin Robbins Plat

Situate in the City of Centerville, Montgomery County, Ohio and being an ingress/egress, parking and driving easement for the purpose of vehicular and pedestrian traffic upon Lot 25 of the Benjamin Robbins Plat as recorded in Plat Book 1, Page 11 and as conveyed to Mulay Holdings, LLC. by I.R.# 04-142139 of the deed records of Montgomery County, Ohio and being more particularly described as follows:

Beginning at a 5/8" rebar set at the northwest corner of said Lot 25 and also being the northeast corner of Lot 31 of said Plat conveyed to Charles C. Craft and Vannah E. Nantz-Craft by MF# 93-062D04 and the True Point of Beginning for the herein described easement;

Thence N 84°53'42" E with the north line of said Lot 25 a distance of 102.97 feet to the northeast corner of said Lot 25 and also being the northwest corner of Lot 24 of said plat;

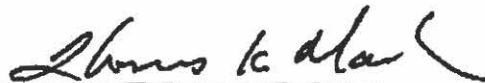
Thence S 01°04'21" W with the east line of said Lot 25 and the west line of said Lot 24 a distance of 35.20 feet to a point;

Thence S 84°53'42" W through Mulay Holdings, LLC said Lot 25 35.00 feet south of and parallel to the north line of said Lot 25 a distance of 56.26 to a point;

Thence continuing through Mulay Holdings, LLC said Lot 25 for the following four (4) courses:

- 1.) S 01°04'59" W a distance of 142.16 feet to a point in the north line of West Franklin Street;
- 2.) S 85°05'20" W with the north line of said West Franklin Street a distance of 12.07 feet to a point;
- 3.) N 01°04'21" E a distance of 142.12 to a point;
- 4.) S 84°53'42" W 35.00 feet south of and parallel to the north line of said Lot 25 a distance of 34.64 feet to a point in the west line of said Lot 25 and also being the east line of said Lot 31;

Thence N 01°04'21" E with the west line of said Lot 25 and the east line of said Lot 31 a distance of 35.20 feet to the True Point of Beginning, subject to all legal conditions, easements and rights-of-way of record. This description prepared by McDougall, Marsh, & Chico, based on a survey made by same in January 2003, October 2004 and November 2006. Bearings are based on the centerline of right-of-way (N 01° 04'21" E) as shown on recorded Survey 2003-0211 of the Montgomery County Engineer's Office.


Thomas K. Marsh, P.S. #7735



PARKING, INGRESS/EGRESS & UTILITY EASEMENT

MULAY HOLDINGS, LLC, an Ohio Limited Liability Company, Grantors, of Montgomery County, Ohio for valuable consideration paid and the agreements set forth below, GRANTS to the CITY OF CENTERVILLE, OHIO, an Ohio municipal corporation, as trustee for the public, whose address is 100 West Spring Valley Road, Centerville, Ohio 45458, a non-exclusive perpetual easement for the public to park vehicles of every kind, to pass on foot or by vehicles of every description over the property of the Grantor as described in Exhibits "A" and "B" attached hereto and incorporated herein (the Properties), and to install, maintain and replace utilities and a driveway/parking area on said Properties.

Grantee shall construct and maintain the way that is the subject of this easement.

Grantor shall have the right to use the way for purposes not inconsistent with Grantee's full enjoyment of the easements granted.

The grant of easement shall run with the land and be binding on and inure to the benefit of the parties, their heirs, successors and assigns.

Prior Instrument Reference: Microfiche _____ of the Deed Records of Montgomery County, Ohio.

Executed by a representative of the Grantor this ____ day of _____, 2006.

MULAY HOLDINGS, LLC

By: _____
Its: _____

STATE OF OHIO
MONTGOMERY COUNTY SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____, the _____ of Grantor.

NOTARY PUBLIC

This Instrument Prepared By:
Scott A. Liberman, Esq.
Altick & Corwin Co., L.P.A.
1700 One Dayton Centre
One South Main Street
Dayton, OH 45402