## RESOLUTION NO. 32-95 CITY OF CENTERVILLE, OHIO

R.

SPONSORED BY COUNCILMEMBER $3 = 1 - (3 = 2 + 3)$ ON THE $17 + 1$ , DAY OF $A_{2} = 1$ , 1995.
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE EASEMENTS TO THE OHIO BELL TELEPHONE COMPANY IN ORDER THAT TELEPHONE AND OTHER COMMUNICATION SERVICES CAN BE PROVIDED TO THE YANKEE TRACE RESIDENTIAL DEVELOPMENT AND SURROUNDING AREAS.
WHEREAS, it is necessary for the City of Centerville to grant unto The Ohio Bell Telephone Company perpetual right of ways and easements to install, construct, reconstruct, operate, maintain, repair and remove, at any time or times hereinafter, its underground communication systems, together with all such communication facilities as may from time to time require or deem proper thereof, in under, over and upon a strip of land deeded to the City of Centerville, and

WHEREAS, this being a part of a tract of land situated in Section 4, Town 2, Range 5 M.R.s., City of Centerville, Washington Township, containing a total of 377.701 acres, more or less, and being more fully described in deed records of Montgomery County as M.F. deed 94-0742 D04 and 94-0311 C02.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the City Manager is hereby authorized to do all things necessary to execute rights of way and easements to The Ohio Bell Telephone Company in order that telephone and other communication systems can be provided to the Yankee Trace residential development and surrounding areas, provided, however, that such rights of way and easements 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 rights of way or easements should be construed to waive any franchise rights of the City; a copy of said rights of way and easements attached hereto and made a part hereof, and marked Exhibit "A". SECTION 2. That this Resolution shall become effective at the earliest date allowed by law.

PASSED this 1741. day of April Centerville, Ohio

ATTEST:

1995.

in in

Clerk of the Council of the 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 32-95, passed by the Council of the City of Centerville, Ohio, on the <u>1740</u> day of <u>April</u>, 1995.

Clerk of Council

Approved as to form, consistency with the Charter and Constitutional Provisions. Department of Law Robert N. Farquhar Municipal Attorney

## THE OHIO BELL TELEPHONE COMPANY

### Easement

In consideration of ONE & NO/100 Dollars (\$1.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, <u>WE</u> hereby grant unto THE OHIO BELL TELEPHONE COMPANY, its successors and assigns, (hereinafter called the Company) a perpetual right of way and easement to install, construct, reconstruct, operate, maintain, repair, and remove, at any time or times hereinafter, its underground communication systems, together with all such communication facilities, including conduits, manholes, cables, wires, fixtures and appurtenances, as may from time to time require or deem proper thereof, in under, over and upon a strip of land as shown on exhibit(s) across the property and/or along the highway adjoining the property which <u>WE</u> own or in which <u>WE</u> have an interest situated in the City of Centerville, County of Montgomery, State of Ohio, known as being:

PART OF A TRACT OF LAND SITUATE IN SECTION 4, TOWN 2, RANGE 5 M.R.S, CITY OF CENTERVILLE, WASHINGTON TOWNSHIP, CONTAINING A TOTAL OF 377.701 ACRES, MORE OR LESS, AND BEING MORE FULLY DE-SCRIBED IN A DEEDS TO CITY OF CENTERVILLE DATED NOVEMBER 30, 1994 AND MAY 18, 1994.

and being the same premises of record in <u>M. F. DEED 94-0742 D04 & 94-0311 C02</u> of Montgomery County Records.

Said underground communication system shall be constructed within the boundaries of a strip of land as shown and delineated upon the attached drawing marked, <u>"EXHIBIT A"</u> and made a part hereof.

Said grant includes the right, at all times, of ingress to and egress from said strip, the right to use the premises parallel to and adjoining the boundaries of said strip for the operation of apparatus, appliances and equipment for any of the purposes herein specified, and the right to carry in said underground communication system the communication facilities the Company deems proper. The Company shall promptly compensate the undersigned for all damage caused by any of the operations that the company is herein granted the right to perform. The Company, at its expense, shall restore all disturbed areas to as reasonable a condition as possible to the condition prior to any construction.

The Company shall indemnify and save harmless the owners of said property from all damages to said property and from all claims and causes of actions for personal injury and damages asserted against grantor by reason of any negligence in the construction of, and maintenance of, said equipment upon said premises.

The undersigned may use the surface of said strip provided such use does not interfere with the Company's use of said easement. IN WITNESS WHEREOF, WE have hereunto set OUR hand(s) this \_\_\_\_\_ day of \_\_\_\_\_

**CITY OF CENTERVILLE, OHIO** Signed and acknowledged in the presence of: X (Sign) WITNESS (Print) GRANTOR GREGORY B. HORN. **City Manager** X (Sign) WITNESS (Print) GRANTOR

(This acknowledgment is to be executed if the Grantor is a corporation/partnership.)

STATE OF	OHIO	)
COUNTY OF	MONTGOMERY	) SS )

X (Sign)

X (Sign)

1.16

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

GREGORY B. HORN to me known to be the City Manager

of the above named corporation, and by me duly sworn, did severally depose and say that they executed the foregoing instrument for and on behalf of said corporation as such officers, being duly authorized so to do, and further did severally depose and say that they are such officers of said corporations and that the seal affixed to said instrument is the seal of the corporations.

Notary Public in and for

County, Ohio

CITY OF CENTERVILLE, OHIO	FOR OHIO BELL TELEPHONE COMPANY USE ONLY	Date Order No. 16589-94 Engineering District 513/FVPWOH88 Recording R/W Agent	WILLIS W. GOULD SIERRA TELCOM SERVICES, INC. STS-E03942031336AP THIS SPACE FOR COUNTY RECORDER, GEFICE USE
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## EXHIBIT "A"

To Easement Dated \_\_\_\_\_

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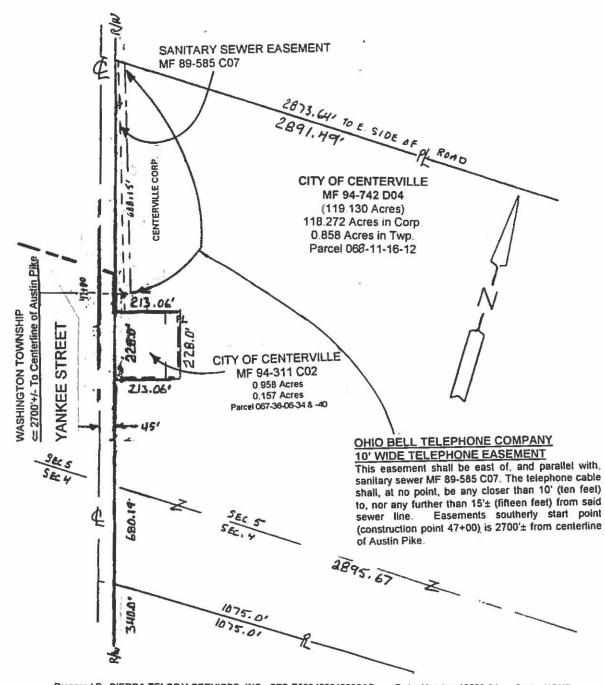
# FROM

CITY OF CENTERVILLE, OHIO 100 West Spring Valley Road \* Centerville, Ohio 45458-3759

TO

## THE OHIO BELL TELEPHONE COMPANY

Being the property of CITY OF CENTERVILLE, containing a total of 377.701 acres, more or less, and being more fully described in deeds dated 11/30/94 and 5/18/94, of record in Montgomery County, Ohio Recorder's Office. Parcels 068-11-16-04, -05, -12



Prepared By SIERRA TELCOM SERVICES, INC. STS-E039420313336AP Order Number 16589-94 Scale NONE This Exhibit is Drawn For The Limited Use Of The OHIO BELL TELEPHONE COMPANY To Identify The Easement Location And Is Not Intended To Represent An Accurate Survey Of The Property.

#### **EXHIBIT "A"**

### To Easement Dated \_\_\_\_\_

1.06

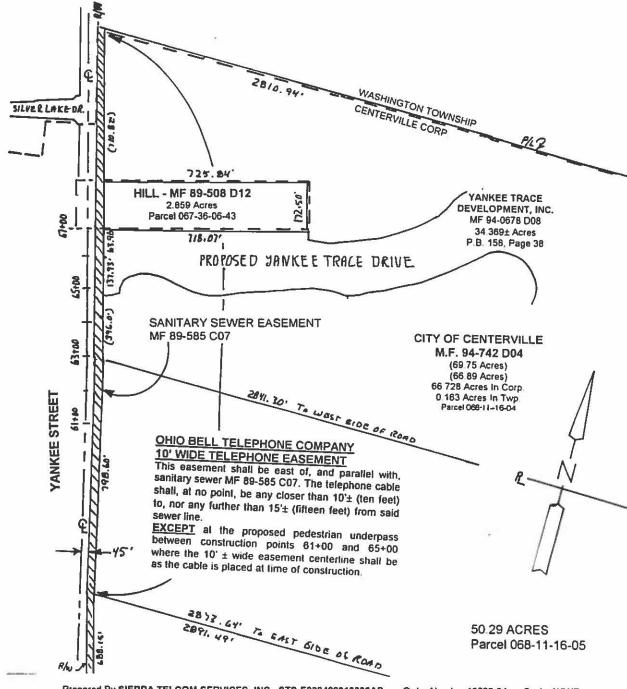
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and being the same premises of record in <u>M. F. DEED 94-0742 D04 & 94-0311 C02</u> of Montgomery County Records.

Said underground communication system shall be constructed within the boundaries of a strip of land as shown and delineated upon the attached drawing marked, <u>"EXHIBIT A & B</u>" and made a part hereof.

Within each an every right given to the Company by this easement, the Com-

pany shall also have the perpetual right and easement to place above the strip

of land shown in EXHIBIT 'A' the following:

# TELEPHONE EQUIPMENT CABINETS TOGETHER WITH ALL THE NECES-SARY CONCRETE WORK PADS, APRONS, FIXTURES, CLOSURES AND APPURTENANCES AS MAY BE REQUIRED.

Said grant includes the right, at all times, of ingress to and egress from said strip, the right to use the premises parallel to and adjoining the boundaries of said strip for the operation of apparatus, appliances and equipment for any of the purposes herein specified, the right to clear said strip upon the land of the undersigned, and the right to carry in said underground communication system the communication facilities the Company deems proper. The Company shall promptly compensate the undersigned for all damage caused by any of the operations that the company is herein granted the right to perform. The Company, at its expense, shall restore all disturbed areas to as reasonable a condition as possible to the condition prior to any construction.

The Company shall indemnify and save harmless the owners of said property from all damages to said property and from all claims and causes of actions for personal injury and damages asserted against grantor by reason of any negligence in the construction of, and maintenance of, said equipment upon said premises.

The undersigned may use the surface of said strip provided such use does not interfere with the Company's use of said easement. IN WITNESS WHEREOF, WE have hereunto set OUR hand(s) this \_\_\_\_\_ day of \_\_\_\_\_\_, 1995

	CITY OF CENTERVILLE, OHIO
Signed and acknowledged	17
in the presence of:	V
and Another Chamber and a strandomore in	1 11
X (Sign)	X (Sign)
WITNESS (Print)	GRANTOR GREGORY B. HORN,
	City Manager
X (Sign)	X (Sign)
WITNESS (Print)	GRANTOR

(This acknowledgment is to be executed if the Grantor is a corporation/partnership.)

STATE OF OHIO ) )SS COUNTY OF MONTGOMERY )

21 42

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 1995. GREGORY B. HORN to me known to be the City Manager

of the above named corporation, and by me duly sworn, did severally depose and say that they executed the foregoing instrument for and on behalf of said corporation as such officers, being duly authorized so to do, and further did severally depose and say that they are such officers of said corporations and that the seal affixed to said instrument is the seal of the corporations.

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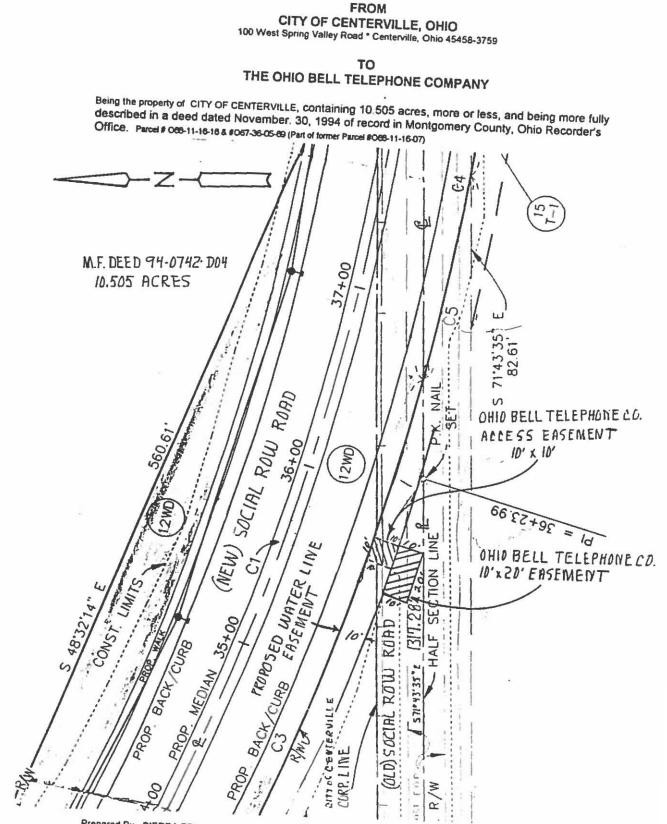
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