

RESOLUTION NO. 12-95
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Sally Geels ON THE
17th DAY OF April, 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

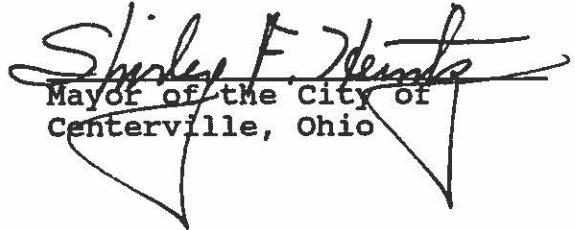
WHEREAS, this being a part of a tract of land situated in Section 4, Town 2, Range 5 M.R.s., City of Centerville, Washington Township, containing a total of 377.701 acres, more or less, and being more fully described in deed records of Montgomery County as M.F. deed 94-0742 D04 and 94-0311 C02.

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 17th day of April, 1995.


Mayor of the City of
Centerville, Ohio

ATTEST:


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 17th day of April, 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, WE 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 WE own or in which WE 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 DESCRIBED IN A DEEDS TO CITY OF CENTERVILLE DATED NOVEMBER 30, 1994 AND MAY 18, 1994.

and being the same premises of record in M. F. DEED 94-0742 D04 & 94-0311 C02 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, "EXHIBIT A" 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.

EXHIBIT "A"

To Easement Dated _____

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

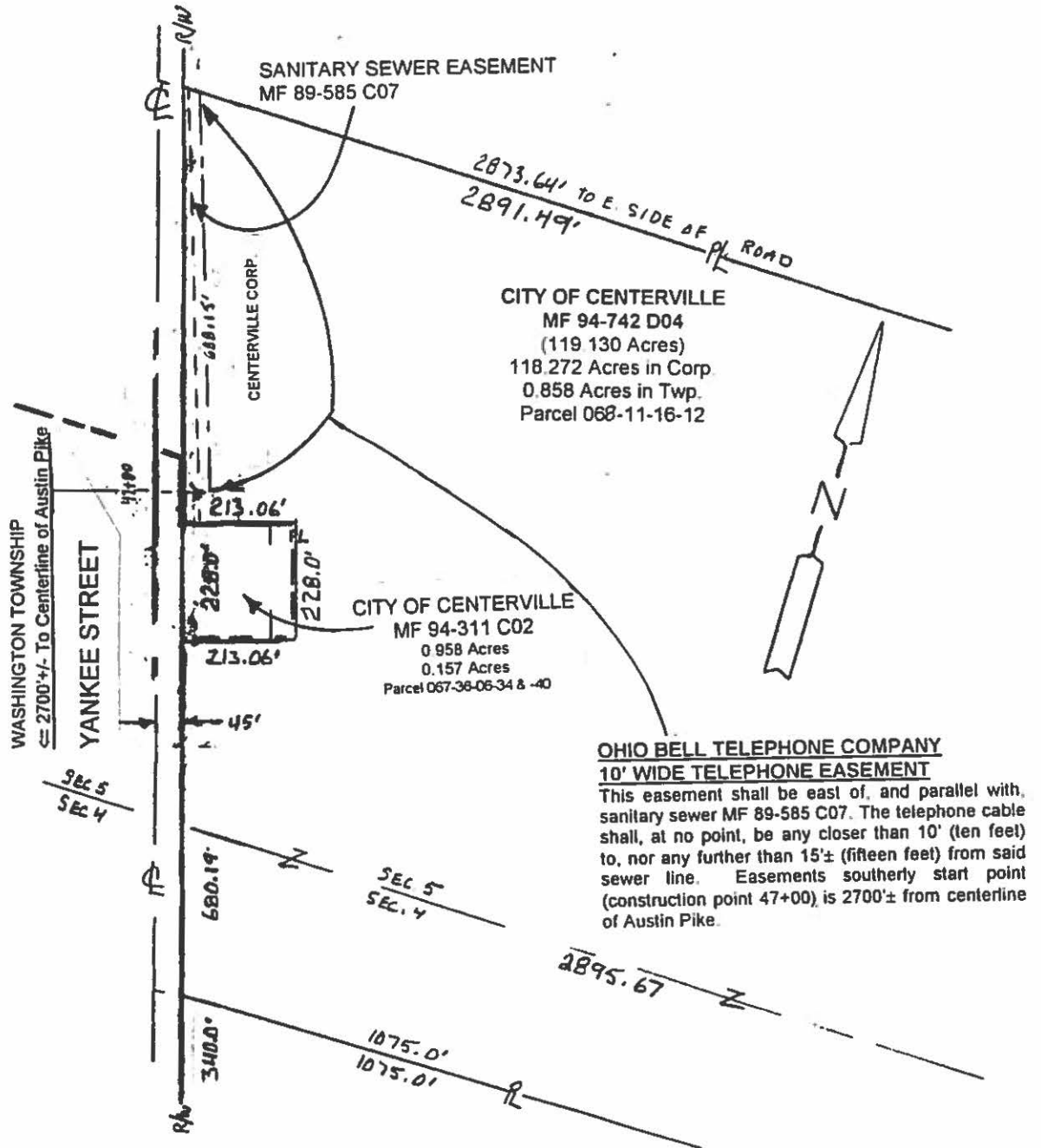


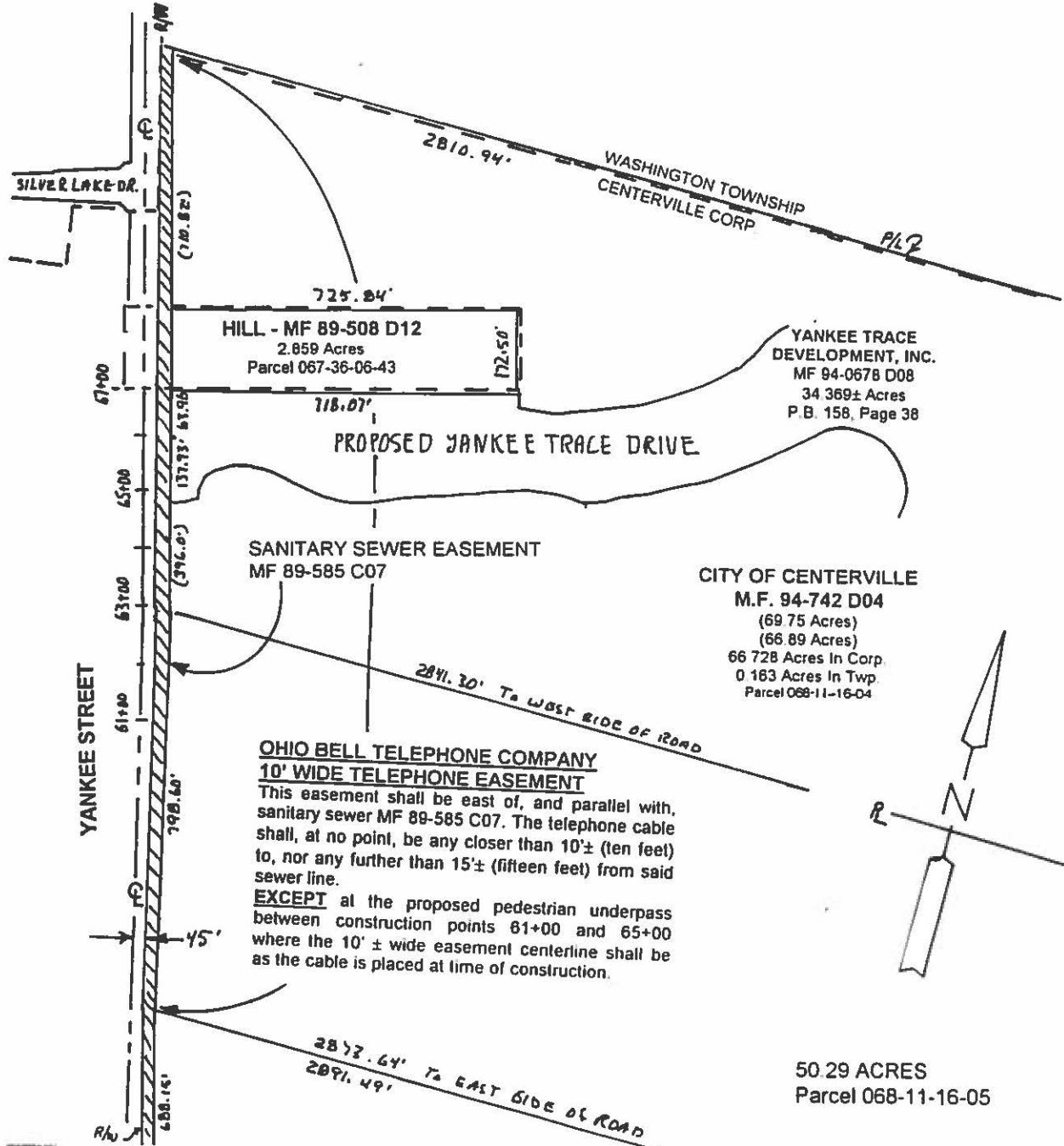
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THE OHIO BELL TELEPHONE COMPANY

Easement

In consideration of ONE & NO/100 Dollars (\$1.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, WE 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, supplement 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 WE own or in which WE 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 DESCRIBED IN A DEEDS TO CITY OF CENTERVILLE DATED NOVEMBER 30, 1994 AND MAY 18, 1994.

and being the same premises of record in M. F. DEED 94-0742 D04 & 94-0311 C02 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, "EXHIBIT A & B" and made a part hereof.

Within each an every right given to the Company by this easement, the Company 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 NECESSARY 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.

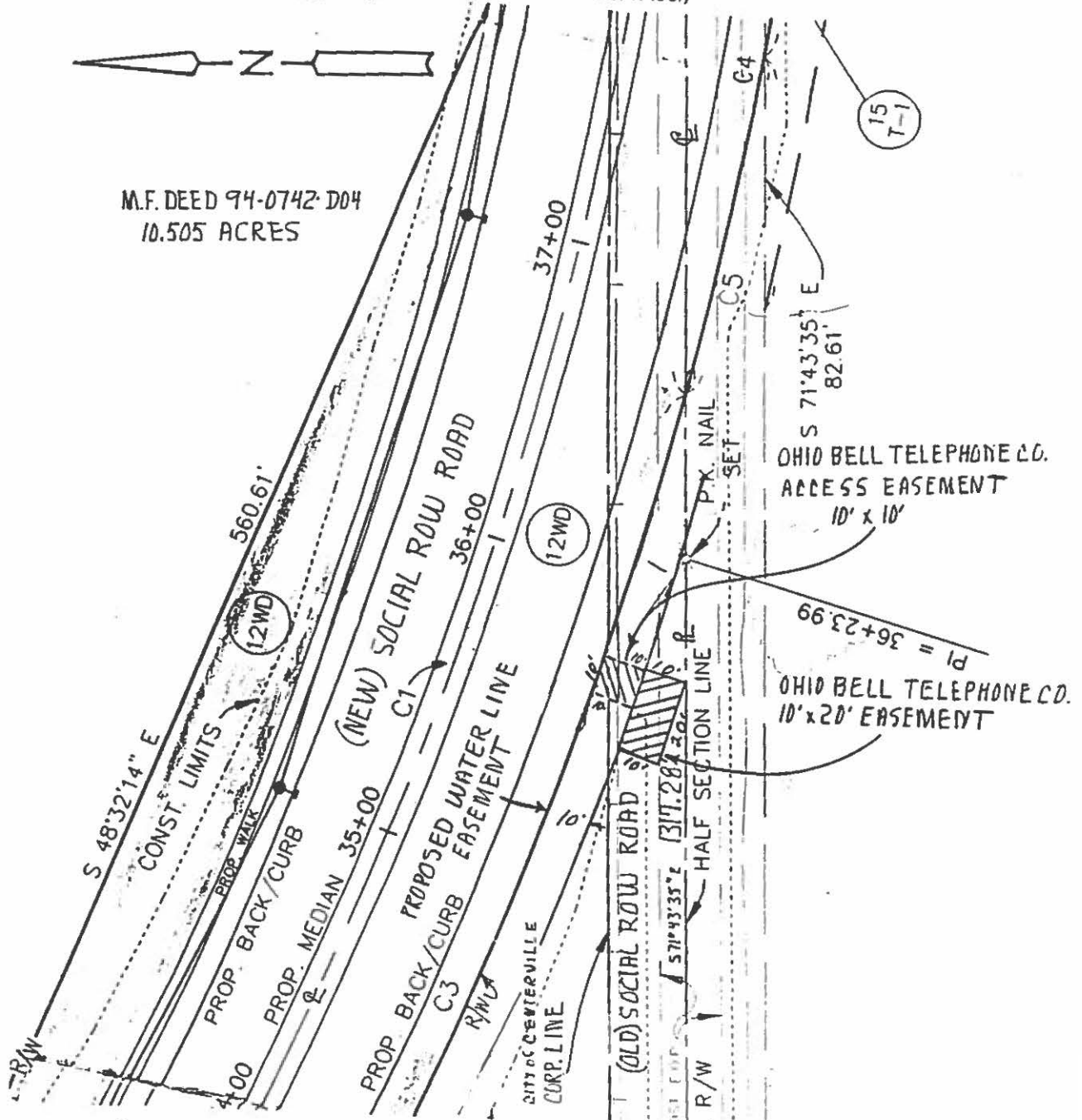
EXHIBIT " A "

To Easement Dated _____

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 10.505 acres, more or less, and being more fully described in a deed dated November. 30, 1994 of record in Montgomery County, Ohio Recorder's Office. Parcel # 068-11-16-18 & #067-36-05-69 (Part of former Parcel #068-11-16-07)



Prepared By SIERRA TELCOM SERVICES, INC STS-E03942031338AP 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.