

RESOLUTION NO. 74-23
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Belinda Kenley ON THE
11th DAY OF September, 2023.

A RESOLUTION ACCEPTING A PERMANENT STORM SEWER EASEMENT FOR PUBLIC PURPOSES FROM PAULA PAPROCKI AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A RIGHT OF ENTRY AGREEMENT WITH PAULA PAPROCKI.

WHEREAS, a parcel of land owned by Paula Paprocki, is necessary for the establishment, construction, reconstruction, widening, repair or maintenance of a storm sewer for the benefit of the public; and

WHEREAS, Paula Paprocki proposes to grant to the City of Centerville a non-exclusive permanent easement for a portion of land more fully described in the Easement attached hereto as Exhibit "1", and referenced as Tax parcel No. O68 00906 0007 and in the legal description attached to Exhibit "1", and recorded in Deed 2011-00036070 of the records of Montgomery County, Ohio for said purpose (the "Property"); and

WHEREAS, the City is proceeding with improvements to the storm sewer system which requires temporary access to and upon the Property; and

WHEREAS, Paula Paprocki is willing to grant such entry to the Property to assist the City in completing the improvements to the storm sewer system.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City of Centerville hereby accepts a non-exclusive permanent sewer easement for a portion of the land owned by Paula Paprocki for the public to install, maintain, and repair the storm sewer on said Property, said land being and referenced as Tax Parcel No. O68 00906 0007 and recorded in Deed 2011-00036070 of Montgomery County, Ohio, and more particularly described in Exhibit "1" attached hereto and made a part hereof.

Section 2. That the City Manager is hereby authorized to execute the Right of Entry Agreement with Paula Paprocki. A copy of the Agreement is attached and marked Exhibit "2" and incorporated herein.

Section 3. That the City Manager is hereby authorized and directed to do anything necessary to carry out the terms of said Agreement

Section 4. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 11th day of September, 2023.



Mayor of the City of Centerville, Ohio

ATTEST:



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 74-23, passed by the Council of the City of Centerville, Ohio, on the 11th day of September, 2023.



Clerk of Council

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

PERMANENT SEWER EASEMENT

Paula Paprocki aka Paula R. Paprocki, the Grantor, in consideration of the sum of \$1 and other good consideration, paid by the **City of Centerville**, an Ohio Municipal corporation, the Grantee, does convey(s) to Grantee, its successors and assigns, an easement, which is more particularly described in Exhibit A and depicted on Exhibit B, attached, the following described real estate:

SEE EXHIBIT A ATTACHED

Montgomery County Current Tax Parcel No. O68 00906 0007

Prior Instrument References: Deed 2011-00036070, Montgomery County Recorder's Office.

The easement is being acquired by Grantee for a public purpose, namely the establishment, construction, reconstruction, widening, repair or maintenance of a storm sewer for the benefit of the public. Said easement shall be for the use of the Grantee and Grantee's contractors and assigns.

The above-described easement is to be used for locating, constructing, improving, grading, landscaping and other necessary work, including the operation of equipment, and the movement of a work force, over, upon and across the described easement, together with the right of ingress and egress.

This Agreement is binding upon the heirs, executors, administrators, successors, and assigns.

EXECUTED BY the said, **Paula Paprocki, aka Paula R. Paprocki**, on 31 day of August, 2023.

Paula Paprocki
Paula Paprocki aka Paula R. Paprocki

STATE OF OHIO

COUNTY OF MONTGOMERY ss:

This is an acknowledgement clause; no oath or affirmation was administered to the signer.

BE IT REMEMBERED, that on the 31st day of August, 2023, before me the subscriber, a Notary Public in and for said state and county, personally came the above named **Paula Paprocki aka Paula R. Paprocki**, and who acknowledged the foregoing instrument to be her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Donna M. Fiori
Notary Public

My Commission expires: 11/29/2025

This document was prepared by:
Scott A. Liberman, Esq.
Buckley King LPA
110 N. Main St., Ste. 1200
Dayton, OH 45402

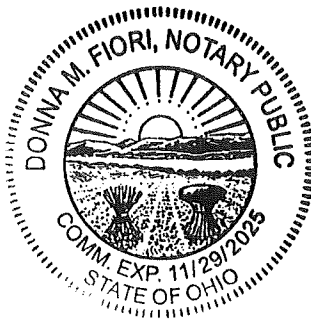


Exhibit "A"
Easement Description
Paula R. Paprocki, Tract
Section 20, Town 2, Range 6 East
City of Centerville
Montgomery County, Ohio

Situated in Section 20, Township 2, Range 6 East, Washington Township, Montgomery County, and in the City of Centerville, Ohio and being part of Lot 260 of the Village South Section 14 Plat as recorded in Montgomery County Recorders Plat Book 83, Page 35 as conveyed to Paula R. Paprocki, as described in I.R. Deed 11-036070 0002, (all references to deed books, official records, instrument numbers, survey records, and/or plats refer to the Montgomery County Recorders Office, Montgomery County, Ohio) and being more particularly described as follows:

Commencing at a point at the north corner of said Lot 260;

thence South $41^{\circ} 25' 26''$ East 155.00 feet along the southwest right of way of Laurelhurst Lane to a 5/8 inch iron pin found at a corner of said Lot 260, said pin being the TRUE POINT OF BEGINNING for the tract described herein;

thence with a curve to the right having a radius of 15.00 feet, an arc length of 23.55 feet, a central angle of $89^{\circ} 57' 14''$ and a chord bearing South $03^{\circ} 33' 20''$ West 21.20 feet to a 5/8 inch iron pin found at a corner of said Lot 260;

thence along the northwest right of way of Millbank Drive with a curve to the left having a radius of 212.63 feet, an arc length of 13.88 feet, a central angle of $03^{\circ} 44' 21''$ and a chord bearing South $46^{\circ} 39' 42''$ West 13.87 feet to a point;

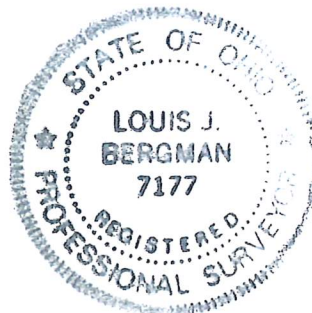
thence North $20^{\circ} 23' 24''$ East 32.74 feet to the TRUE POINT OF BEGINNING, containing 0.003 acres (163.6 square feet), more or less, and being subject to all legal highways and easements of record.

Bearings are based on NAD83 (NSRS 2011) Ohio, State Plane Coordinates, South Zone.

This description was prepared under my direct supervision, Louis J. Bergman, Registered Surveyor #7177, May, 3, 2023.


Louis J. Bergman, Registered Surveyor #7177

Mote & Associates, Inc.
214 West Fourth Street



5/8" IRON
PIN FD.

EASEMENT EXHIBIT "B"
PAPROCKI LOT 260
SECTION 20, TOWN 2,
RANGE 6 EAST
CITY OF CENTERVILLE
MONTGOMERY COUNTY, OHIO



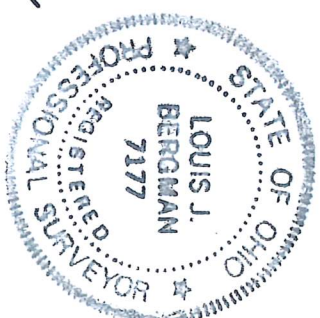
SCALE 1"=40'

N48°34'34"E (110.00')
I.R. DEED 11-036070 0002
LOT 260

LAURELHURST LANE 50' RW
S41°25'26"E (155.00')
S41°25'26"E (155.00')
154.97' (155.00')

LOT 261

5/8" IRON
PIN FD.



BEARINGS BASED ON NAD83
(NSRS 2011) OHIO, STATE
PLANE COORDINATES,
SOUTH ZONE

EASEMENT 0.003 ACRES
(163.6 square feet)

EASEMENT P.O.B.

5/8" IRON
PIN FD. (A)
5/8" IRON
PIN FD. (B)
5/8" IRON
PIN FD. (C)

LOT 259
VILLAGE SOUTH
SECTION 14
PLAT BOOK 83 PAGE 35
N63°27'13"W (175.00')

- (A) RADIUS=15.00' ARC=23.55'
CENTRAL ANGLE=89°57'14"
CHORD=S03°33'20"W 21.20'
- (B) RADIUS=212.63' ARC=13.88'
CENTRAL ANGLE=03°44'21"
CHORD=S46°39'42"W 13.87"
- (C) N20°23'24"E 32.74'

ARC = 80.57'
(80.61')
RADIUS = 212.63'

MILLBANK DRIVE 50' RW
5/8" IRON
PIN FD.

PREPARED BY:

Louis J. Bergman
LOUIS J. BERGMAN
REG. SURVEYOR #7177

NOTE & ASSOCIATES, INC.
CML ENGINEERS-LAND SURVEYORS

214 WEST 4th STREET
GENWALE, OHIO 43031
PHONE: (607) 546-7511
FAX: (607) 546-7186
E-MAIL: info@noteandassociates.com
WEBSITE: www.noteandassociates.com

SCALE 1" = 40' DRAWN: L.L.B. CHECKED: J.D.S.

DATE: 5-3-23

JOB NO. CN17011722

RIGHT OF ENTRY AGREEMENT

This Right of Entry Agreement (this "Agreement") is made this ____ day of _____, 2023, between PAULA R. PAPROCKI, Centerville Resident ("Paprocki"), whose address is 6211 Laurelhurst Lane, Centerville, Ohio 45459, and CITY OF CENTERVILLE, OHIO, an Ohio municipal corporation (the "City"), whose address is 100 W. Spring Valley Road, Centerville, Ohio 45459, under the following circumstances:

A. Paprocki owns the property at 2611 Laurelhurst Lane in Centerville, Ohio and further described in Exhibit "A", attached hereto (hereinafter referred to as the "Property").

B. The City is performing a project to make improvements to the storm sewer system that is adjacent to the Property, which improvements will be partially within the existing easement and partially within a new easement (hereinafter referred to as the "Project").

C. The City will be under contract with a construction contractor and subcontractors to complete the Project.

D. It is necessary for the contractor and subcontractors to access the Property in order to perform the Project, in the area more particularly depicted in Exhibit "B".

E. Paprocki shall grant to the City a right of entry onto the Property for the purpose of access for construction of the Project and other activities, as set forth below.

NOW, THEREFORE, Paprocki and the City agree as follows:

1. Consideration. Paprocki acknowledges and agrees that the City will make no payments to Paprocki pursuant to this Agreement. Paprocki acknowledges and agrees that the grant of the right of the entry by Paprocki to the City which will allow the City to construct the Project is complete and sufficient consideration for the covenants and agreements of Paprocki in this Agreement, subject to other terms set forth herein.

2. Right of Entry. Paprocki hereby grants to the City and its contractors and subcontractors the right to enter onto the Property for all purposes related generally to construction of the Project.

3. Construction Requirements. During construction of the Project, the following terms and conditions shall apply:

(a) Unless otherwise mutually agreed, construction of the Project will only occur between the hours of 7:00 AM and 7:00 PM, Monday through Saturday.

(b) Any damage to the Property caused by construction work directly related to the Project will be restored to a condition that reasonably meets or exceeds the condition of the Property at the beginning of the Project. Turf areas damaged by the project will be restored with a seed mix that meets the City's specification. Paprocki will be responsible for watering and protecting the seeded area after completion of the Project.

(c) The City will provide Paprocki notice of the Project start date at least two-weeks before work commences.

4. Compliance with Laws. The City will adhere and will require by contract that all contactors and subcontractors on the Property adhere to all applicable federal, state and local laws and regulations at all times during the construction.

5. Term. The term of this Agreement shall commence upon execution of this Agreement and will expire on the date of completion of the Project as determined by the City.

6. Miscellaneous

(a) Governing Law. This Agreement shall be governed and enforced in accordance with the law of the State of Ohio.

(b) Execution of Instruments. The parties to this Agreement shall execute (and, if necessary, acknowledge) and deliver any and all documents and papers and take all such further action as may be necessary or desirable to carry out and effectuate the full purpose and intent of this Agreement.

(c) Severability. In case any of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the remaining provisions shall remain in effect and the Agreement be performed in a fair and equitable manner as to any uncertainties arising from the unenforceable provisions.

(d) Exhibits. All exhibits, schedules and any other documents attached to this Agreement are incorporated into this Agreement by this reference and shall be deemed a part of this Agreement as if set forth in full in this Agreement. References to "this Agreement" and words of similar import refer to this Agreement (including all Exhibits and schedules to this Agreement) as an entirety.

(e) Waiver. The terms, covenants, representations, warranties and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of any party at any time to require performance of any of the provisions of this Agreement shall, in no manner, affect the right at a later date to enforce such provisions. No waiver by any party of any condition, or breach of any provision, term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

(f) Nontransferability of Agreement. The rights, obligations, benefits and burdens of this Agreement may not be transferred, assigned or conveyed in any manner by any party without the prior, written consent of all other parties to this Agreement.

(g) Benefit. Subject to the restrictions contained in this Agreement with respect to transfer, assignment and conveyance, this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement, and the heirs, legal representatives, successors and assigns of the parties to this Agreement.

(h) Entire Agreement. This Agreement (including the exhibits attached to this Agreement), and the other documents referred to in this Agreement or delivered pursuant to this Agreement contain the entire understanding of the parties with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous written and oral agreements and understandings between the parties with respect to the subject matter of this Agreement.

(i) Amendment. This Agreement may be amended at any time by the joint act of the parties to this Agreement; provided, however, that no amendment shall be valid unless the amendment is in writing and signed by all parties to this Agreement.

(j) Headings. The headings used in this Agreement are for convenience only and this Agreement shall be interpreted as if such headings were omitted.

(k) Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one agreement. No new counterparts shall be valid unless the counterpart has been approved in writing and signed by all parties to this Agreement.

7. Signatures. This Agreement is effective as of the Effective Date which reflects the date last signed by the parties. This Agreement may be signed in several counterparts and, together, shall constitute one document. Facsimile copies of signatures or digitally scanned signatures are acceptable to evidence complete agreement.

THE CITY:

CITY OF CENTERVILLE, OHIO,
an Ohio municipal corporation

By: Wayne S. Davis
Its: City Manager

Date: _____

PAPROCKI:

Paula R. Paprocki

By: Paula R. Paprocki
Its: Owner

Date: 8/31/2023

APPROVED AS TO FORM:

Scott A. Liberman
Municipal Attorney

EXHIBIT A

Property Deed

Quitclaim Deed

Deed-2

GERALD A. PAPROCKI, married to PAULA PAPROCKI (the same person as the Grantee), of Montgomery County, Ohio, in consideration of love and affection, grants to PAULA PAPROCKI aka PAULA R. PAPROCKI the real property described on Exhibit 1, which is attached to and incorporated by reference into this deed.

This conveyance is made subject to all legal highways and easements; all restrictions, conditions, and covenants of record; all zoning restrictions; and all taxes and assessments not yet payable.

Grantor's spouse, PAULA PAPROCKI, releases all of her dower rights in the property.

Signed and acknowledged on this 12 day of May, 20 11, in the presence of:

Willis E. Blackshear
First Witness

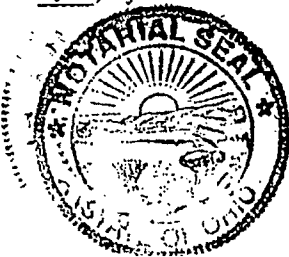
Gerald A. Paprocki
GERALD A. PAPROCKI

Cheryl A. Lail
Second Witness

Paula Paprocki
PAULA PAPROCKI

State of Ohio, County of Montgomery, ss:

The foregoing instrument was acknowledged before me on this 12 day of May, 20 11, by GERALD A. PAPROCKI and PAULA PAPROCKI, husband and wife.



Cheryl A. Lail
Notary Public
CHERYL A. LAIL, Notary Public
In and for the State of Ohio
My Commission Expires Sept. 2, 2012

Exhibit 1

Parcel identity: O68.00906 0007.

Mailing Address: 6211Laurelhurst Lane, Centerville, Ohio 45459-2228.

Parcel location: 6211Laurelhurst Lane, Centerville, Ohio 45459-2228.

Prior instruments references: General Warranty Deed at Deed-88-0336-D04; Quitclaim Deed at Deed 88-0336-D03; and Survivorship Deed at Deed 81-293-D01, Montgomery County, Ohio, Deed Records.

Legal description: Situated in the City of Centerville, Montgomery County, Ohio, and being Lot TWO HUNDRED SIXTY (260) of Village South Plat, Section 14, as recorded in Book 83, Page 35, Montgomery County, Ohio, Plat Records.

EXHIBIT B

Project Area

