

**RESOLUTION NO. 65-24**  
**CITY OF CENTERVILLE, OHIO**

SPONSORED BY COUNCILMEMBER Mark Engert ON THE  
17<sup>th</sup> DAY OF June, 2024.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY  
MANAGER TO ENTER INTO A RIGHT OF ENTRY  
AGREEMENT WITH BRIGHTER GENERATION GROUP LLC  
FOR THE PROPERTY AT 27 W. FRANKLIN STREET.

WHEREAS, Brighter Generation Group LLC owns a property located at 27  
W. Franklin St., Centerville, Ohio and further described in Exhibit "A", attached  
hereto (the "Property"); and

WHEREAS, the City is performing a driveway closure/public greenspace  
project, which improvements will be within City owned property and a section of the  
Property (the "Project") which requires temporary access to and upon the Property;  
and

WHEREAS, Brighter Generation Group LLC is willing to grant such entry  
to the Property to assist the City in completing the Project.


NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE  
HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized to execute the  
Right of Entry Agreement with Brighter Generation Group LLC. A Copy of the  
Agreement is attached and marked Exhibit "A" and incorporated herein.

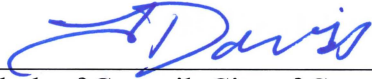
Section 2. That the city Manager is hereby authorized and directed to do  
any and everything necessary to carry out the terms of said Agreement

Section 3. This Resolution shall become effective at the earliest date  
allowed by law.

PASSED this 17<sup>th</sup> day of June, 2024.

  
\_\_\_\_\_  
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 65-24, passed by the Council of the City of Centerville, Ohio, on the 17<sup>th</sup> day of June, 2024.



Clerk of Council

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

Department of Law  
Scott A. Liberman  
Municipal Attorney

**RIGHT OF ENTRY AGREEMENT**

This Right of Entry Agreement (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2024, between BRIGHTER GENERATION GROUP LLC, an Ohio limited liability company, Grantors, whose address is 27 West Franklin Street, Centerville, Ohio 45459, and CITY OF CENTERVILLE, OHIO, an Ohio municipal corporation (the "City"), whose address is 100 W. Spring Valley Road, Centerville, Ohio 45458, under the following circumstances:

A. Grantor owns the property at 27 West Franklin Street 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 public access, parking, and parks that is located on the Property, which improvements will be on the Property (hereinafter referred to as the "Project").

C. The City will be under contract with a contractor to perform survey work necessary to begin the Project.

D. It is necessary for the contractor to access the Property in order to perform survey work directly related with the Project, in the area more particularly depicted in Exhibit "B".

E. Grantor shall grant to the City a right of entry onto the Property for the purpose of access for survey work directly related with the Project and other activities, as set forth below.

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

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

2. Right of Entry. Grantor hereby grants to the City and its contractor the right to enter onto the Property for all purposes related generally to surveying directly related with the Project.

3. Survey Work Requirements. During survey work directly related with the Project, the following terms and conditions shall apply:

(a) Unless otherwise mutually agreed, surveying directly related with 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 surveying 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.

(c) The City will provide Grantor notice of survey work directly related with the project Project start date at least 24 hours 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 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

**GRANTOR:**

**BRIGHTER GENERATION GROUP LLC,**  
an Ohio limited liability company

\_\_\_\_\_  
By: Wayne S. Davis  
Its: City Manager

\_\_\_\_\_  
By: Earl Hatmaker  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Scott A. Liberman  
Municipal Attorney

EXHIBIT A

Property Deed

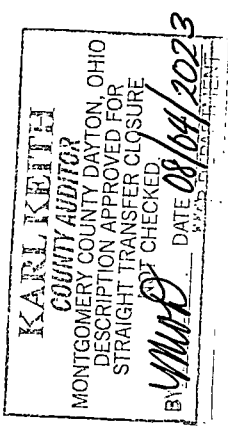
Type: DEED  
Kind: DEE  
Recorded: 08/07/2023 at 08:00:34 AM  
Fee Amt: \$34.00 Page 1 of 2  
Montgomery County, OH  
Stacey Benson-Taylor Recorder  
File# 2023-00039772

TRANSFER  
10:36:06 8/04/2023  
Reg DT06 Receipt 20250 Cashier KC  
Montgomery County Auditor  
Karl L. Keith  
CONV # 012615 \$780.00

2

# General Warranty Deed

*Debra L. Deardoff fka Debra L. Teeters, Unmarried, Grantor*, for valuable consideration paid, grants, with general warranty covenants, to *Brighter Generation Group, LLC, an Ohio limited liability company, Grantee*, whose tax mailing address is: **1121 Peachcreek Road, Dayton, OH 45458**, the following described **REAL PROPERTY**:



Situated in the State of Ohio, County of Montgomery, and City of Centerville and being part Lot Numbered TWENTY ONE (21) on the west side of Main Street and north side of Franklin Street in Benjamin Robbins Plat in the City of Centerville, containing one half (1/2) acre and EXCEPTING 40.00 feet in width running parallel with the east line off the east side of said Lot Numbered Twenty One (21) conveyed by Elmira Lincoln and others to the Trustees of Center Lodge K of P 683. By deed executed September 20, 1902 and recorded in Deed Book 253 Page 117 and reserving therefrom that part sold to the State of Ohio by deed dated October 10, 1967 and recorded in Deed Book 2391 Page 572.

Parcel ID No. O68 00103 0003

Prior Instrument:Reference: Instrument No. 11-065131 and Instrument No. 02-127089 of Montgomery County, Ohio  
Parcel Number: O68 00103 0003  
Property Address: 27 W. Franklin Street Centerville, OH 45459

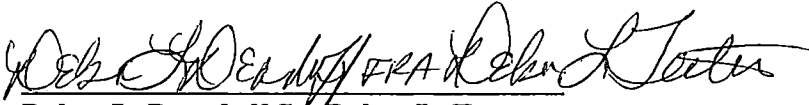
BW



Subject to all easements, covenants, conditions, restrictions, rights-of-way and reservations of record and all zoning and legal highways.

Saving and excepting all taxes and assessments due and payable with the July, 2023, installment and thereafter, all of which the grantee herein assumes and agrees to pay.

Executed by me this 1st day of August, 2023.

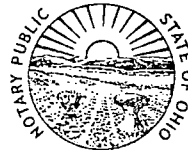
  
Debra L. Deardoff fka Debra L. Teeters

STATE OF OHIO

COUNTY OF MONTGOMERY

The foregoing instrument was acknowledged before me this 1st day of August, 2023 by Debra L. Deardoff fka Debra L. Teeters, Unmarried.

  
NOTARY PUBLIC



AMY RUSSELL  
Notary Public  
State of Ohio  
My Comm. Expires  
April 17, 2027

My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY:

John M. Spencer, Attorney at Law  
30 Warder Street, Ste. 250  
Springfield, OH 45504

CTA-30638

*ms*  
CITY TITLE, LLC  
30 WARDER STREET  
SUITE 250  
SPRINGFIELD, OH 45504

EXHIBIT B

Work Area

