

TRANSFER NOT NECESSARY
MATT NOLAN, AUDITOR
WARREN COUNTY, OHIO

DEC 27 2016

MATT NOLAN
AUDITOR, WARREN CO. OHIO



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Tx:4235882

LINDA ODA

WARREN COUNTY RECORDER

2016-039989

EASEMENT

12/27/2016 9:31:56 AM

REC FEE: 93.00 PGS: 10

PIN:

10/92

(space above this line for recording purposes)

Pt. Parcel No. 1636277003

EASEMENT AGREEMENT

This Easement Agreement (the "Agreement") is made as of this 22nd day of DECEMBER, 2016, by and between THE CITY OF MASON, OHIO, fka Village of Mason Water Works an Ohio municipal corporation, its successors and assigns (referred to herein as, "Grantor") whose tax mailing address is 6000 Mason-Montgomery Rd., Mason, Ohio 45040 and CINCINNATI BELL TELEPHONE COMPANY LLC, an Ohio limited liability company, on behalf of itself, its affiliated companies, and any of its successors and assigns, with an address of 221 E. Fourth Street, Cincinnati, Ohio 45202 (referred to herein as, "Grantee").

Recitals:

A. Grantor is the record title owner of that certain real property commonly known as CHURCH ST. WATER WORKS, which is more particularly described on Exhibit A, attached hereto and incorporated herein (the "Property").

B. Grantor agrees to grant to Grantee certain easement rights to the Property under the terms and conditions described herein.

NOW, THEREFORE, in consideration of the sum of One and No/100 Dollars (\$1.00), the recitals set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1

COPY

EXHIBIT A
PAGE 1 OF 10

1. Recitals. The above recitals are true and correct and incorporated herein.

2. Grant of Easement. Grantor, its successors and assigns, hereby grants to Grantee, its successors and assigns, a non-exclusive perpetual right of way and easement on, over, under, and across that portion of the Property as more particularly described on Exhibit B (metes and bounds) & Exhibit C (plat drawing), attached hereto and incorporated herein (such area being referred to herein as, the "Easement Area") for the purposes of permitting Grantee, its affiliates, contractors, sub-contractors, licensees, and sub-licensees (collectively, its "Agents") to construct, reconstruct, operate, maintain, repair, replace and remove underground, on-grade and above ground boxes, cabinets, structures, conduits, fiber, grounding systems, buried cables, electric and telecommunication lines and all other necessary or incidental facilities and equipment (the foregoing referred to herein as, the "Facilities") for the transmission and distribution of electrical energy and for telecommunications purposes using any technology (collectively, the "Easement").

3. Easement Use.
 - (a) Grantee shall have the right to keep the Easement Area free and clear of all trees, overhanging branches, bushes and other obstructions which, in the opinion of the engineers of the Grantee, its successors or assigns, may endanger the safety of or interfere with the construction, reconstruction, operation, maintenance, repair, replacement or removal of the Facilities.

 - (b) Grantor hereby grants to Grantee the non-exclusive right of ingress and egress over the Property. to access the Easement Area over any and all of the parts of said Property including, but not by way of limitation, the right to use any and all driveways and parking areas for the purpose of constructing, reconstructing, maintaining, repairing, replacing and removing said Facilities, and the right to pile dirt and materials and to operate equipment on the surface of the land, both within the Easement Area and immediately adjacent thereto, during periods of construction, reconstruction, operation, maintenance, repair, replacement or removal of said Facilities.

 - (c) Grantor hereby covenants with Grantee that no building or other structure shall be erected within the Easement Area, and that no trees or deep rooted planting shall be placed or permitted to grow within the Easement Area. Grantor agrees that no cutting or filling will be done within Easement Area after the installation of the Facilities and that Grantor shall not construct, or permit to be constructed, driveways, sidewalks, parking areas and utilities within the Easement Area.

 - (d) Grantee agrees to plant and maintain within the Easement Area, as more specifically depicted in the Landscape Plan attached hereto as Exhibit D, and at its own expense, landscape materials ("Landscaping") that meet the city ordinance for screening of utility cabinets. Grantee

agrees to maintain the grounds of the Easement Area by planting, mowing and trimming as needed. If the Landscaping falls into disrepair, Grantor shall send Grantee a 30 day notice to cure. If Grantee fails to cure within that 30 days, Grantor may perform any Landscaping work and invoice Grantee for the cost of the maintenance and repair of the Landscaping. Grantee shall pay Grantor's invoice immediately upon receipt.

4. Damage; Insurance and Indemnification.

(a) Excluding the removal of vegetation and obstructions as provided herein, any physical damage to the surface area of the Easement Area and the adjoining land of Grantor's Property resulting from the exercise of the rights granted herein to Grantee, shall be promptly paid by Grantee, or repaired or restored by Grantee to the condition it was in prior to the damage, all to the extent such damage is caused by Grantee and its Agents. Grantor hereby agrees to pay Grantee for the repair of any damage to the Facilities caused by Grantor, its agents, contractors, and licensees.

(b) Grantee shall obtain and maintain in full force and effect, at its own expense, Workers Compensation Coverage, in accordance with applicable state law where the Property is located, and Commercial General Liability insurance in the form and amount as Grantee deems appropriate and naming Grantee as an additional insured. Grantor acknowledges that Grantee may retain, self insure or maintain deductibles in amounts to be determined by Grantee in its sole discretion.

(c) Grantee shall indemnify and hold harmless Grantor from and against any expense or damage incurred or suffered by the Grantor which is caused by the negligent act or omission of Grantee, and its Agents in the installation, construction, operation, maintenance, repair, replacement, removal or use of its Facilities from or within the Easement Area, except where such damage was caused by the negligence of the Grantor.

5. Notices. Any notices, demands, requests, consents, approvals, and other communications sent pursuant to this Agreement shall be in writing and will be conclusively deemed to have been received by a party hereto and to be effective if delivered personally to such party, or sent by facsimile transmission or other electronic means (if followed by recognized overnight mail service), by recognized overnight courier service, or by certified or registered U.S. mail, return receipt requested, postage prepaid, addressed to such party at its address listed in the first paragraph of this Agreement or to such other address as either party may give to the other in writing for such purpose.

6. Binding Effect. The benefits and burdens set out herein constitute covenants running with the land, and shall be appurtenant thereto, with the effect that any person or entity which acquires a fee title interest in the Property or any portion thereof, shall be entitled to the benefits of and be bound by the burdens hereof.

7. Entire Agreement; Amendments. This Agreement reflects the entire agreement between the parties with respect to the subject matter hereof. Neither this Agreement nor any provision hereof may be changed, waived, discharged, modified, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, modification, or termination is sought.

8. Construction. This Agreement shall be governed by the laws of the State where the Property is located. Time is of the essence of this Agreement. The captions of each paragraph of this Agreement and the particular pronouns used herein are intended only to be used as a convenience in reference and must not be construed to limit or change the meaning of the language of this Agreement taken by paragraph or as a whole.

9. Severability. Wherever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

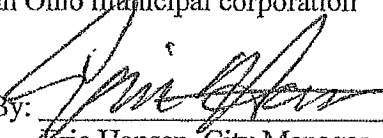
10. Authority. Grantor and Grantee represent and warrant to the other that it is not, by law or by agreement with others, prohibited from entering into this Agreement, that each party has obtained any approvals or consents in advance of executing this Agreement, and that the persons executing the Agreement on behalf of each party are authorized to execute the same.

11. Recording. Grantee, at its expense, may record this Agreement in the land records of WARREN County, OHIO.

[signatures begin on next page]

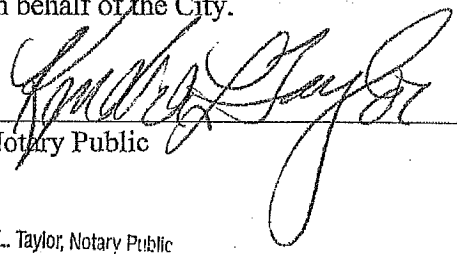
IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement effective as of the date first written above.

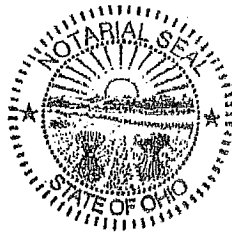
Grantor:
CITY OF MASON, OHIO
an Ohio municipal corporation

By: 
Eric Hansen, City Manager

STATE OF OHIO)
) SS:
COUNTY OF WARREN)

The foregoing instrument was acknowledged before me, a notary public, this 22nd day of December, 2016, by Eric Hansen, City Manager of THE CITY OF MASON, OHIO an Ohio municipal corporation, as duly authorized and on behalf of the City.

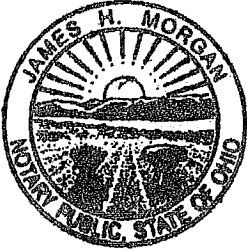

Notary Public



Kendra L. Taylor, Notary Public
In and for the State of Ohio
My Commission Expires June 30, 2020

Grantee:

**CINCINNATI BELL TELEPHONE
COMPANY LLC**, an Ohio limited liability company



JAMES H. MORGAN

**NOTARY PUBLIC
STATE OF OHIO**

My Commission Expires
November 22, 2021

By: David Williamson
Name: David Williamson
Title: Supervisor

STATE OF OHIO)
) SS:
COUNTY OF WARREN)

The foregoing instrument was acknowledged before me, a notary public, this 22ND day of DECEMBER, 2016, by DAVID WILLIAMSON, the duly authorized MANAGER of **Cincinnati Bell Telephone Company LLC**, an Ohio limited liability company, on behalf of the company.

Notary Public

APPROVED AS TO FORM:

Jeffrey D. Forbes

Prepared by:
Patrick M. Crotty, Esq.
Corporate Counsel
Cincinnati Bell Inc.
221 East Fourth Street
Suite 103-1090
Cincinnati, Ohio 45202
2393599.1

16-36-277-003



EXHIBIT A

Description of the Property

Situated in the County of Warren, State of Ohio, and in the City of Mason, and being Lot #57, as know and designated on the record of Plat of said city. Said lot being part of the Real Estate conveyed to Albert E. Dawson from Nimrod P. Dawson, deceased, Nov. 4, 1926, recorded in Vol. 113, page 612, Warren Co., Deed records.

PLAT BOOK I / PAGE 220 ~~113~~



Pt. 16-36-277-003 E/O

EXHIBIT B

Proposed Utility Easement

Situate in Lot 57 of The Plat of Mason as recorded in Book 1, Page 220, of the Warren County Ohio Recorder's Office and being more particularly described as follows:

Beginning at a point in the north line of Church Street at the southeast corner of Lot 57 of The Plat of Mason, thence running with the north line of Church Street North 83° 59' 40" West, 106.00 feet to a set iron pin and the True Point of Beginning:

- 1) Thence leaving the north line of Church Street, North 06° 00' 20" East, 37.02 feet to a set iron pin;
- 2) Thence South 50° 54' 56" West, 52.28' feet to a set iron pin in the north line of Church Street;
- 3) Thence South 83° 59' 40" East, 36.91' feet to a set iron pin and the true point of beginning.

Containing 683.2797 square feet or 0.0157 acres of land.

EXHIBIT C

Proposed Utility Easement

683,2797 S.F. or 0.0157 Acres

on

Lot 57

The Plat of Mason

Book 1 - Page 220

City of Mason

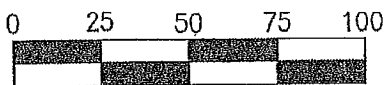
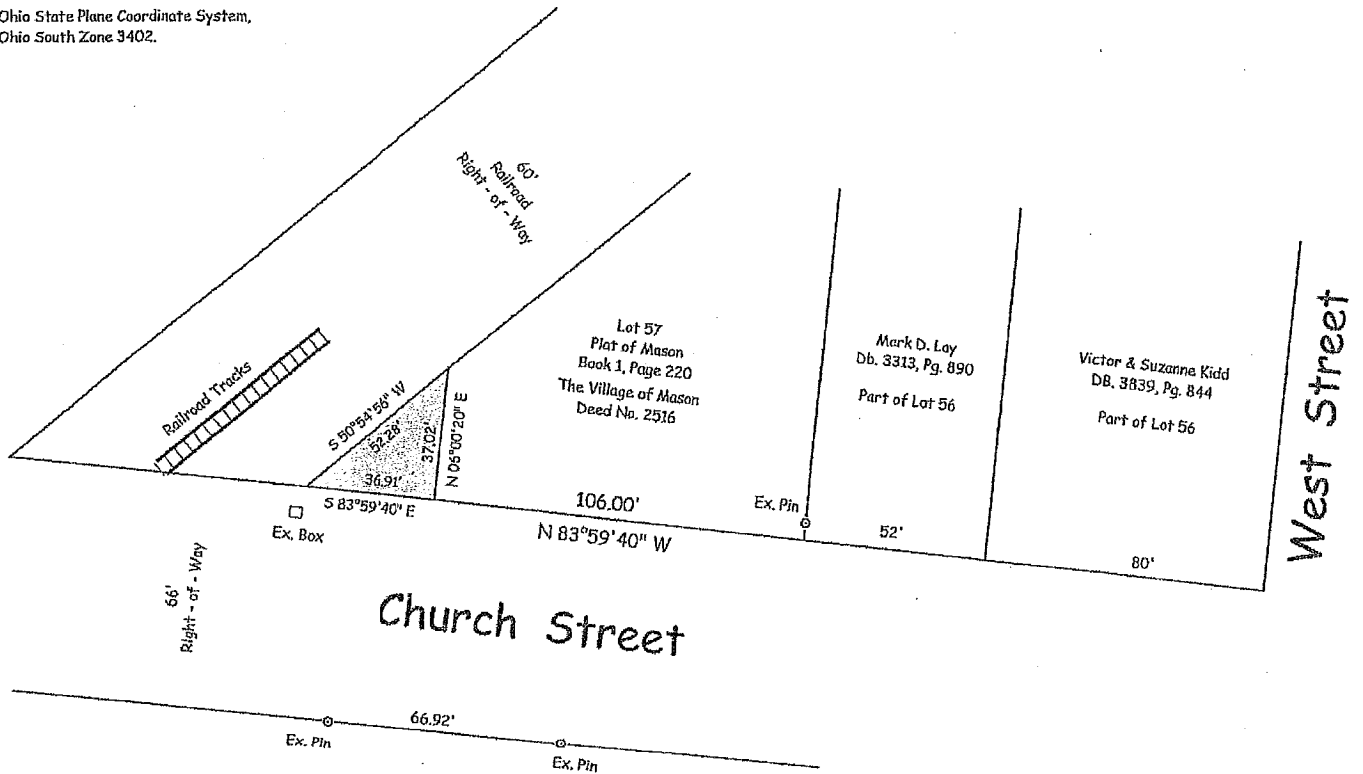
Warren County, Ohio.



North

Basis of Bearings :

Ohio State Plane Coordinate System,
Ohio South Zone 3402.



Graphic Scale: 1"=50'



Kenneth E. Lankester

PROFESSIONAL SURVEYING SERVICES, INC.

Ohio - Kentucky - Tennessee

6050 Colter Avenue

Cincinnati, Ohio 45230-1717

Phone: (513) 232-6939, Fax: (513) 231-7582

E-Mail: orders@pss-ohio.com

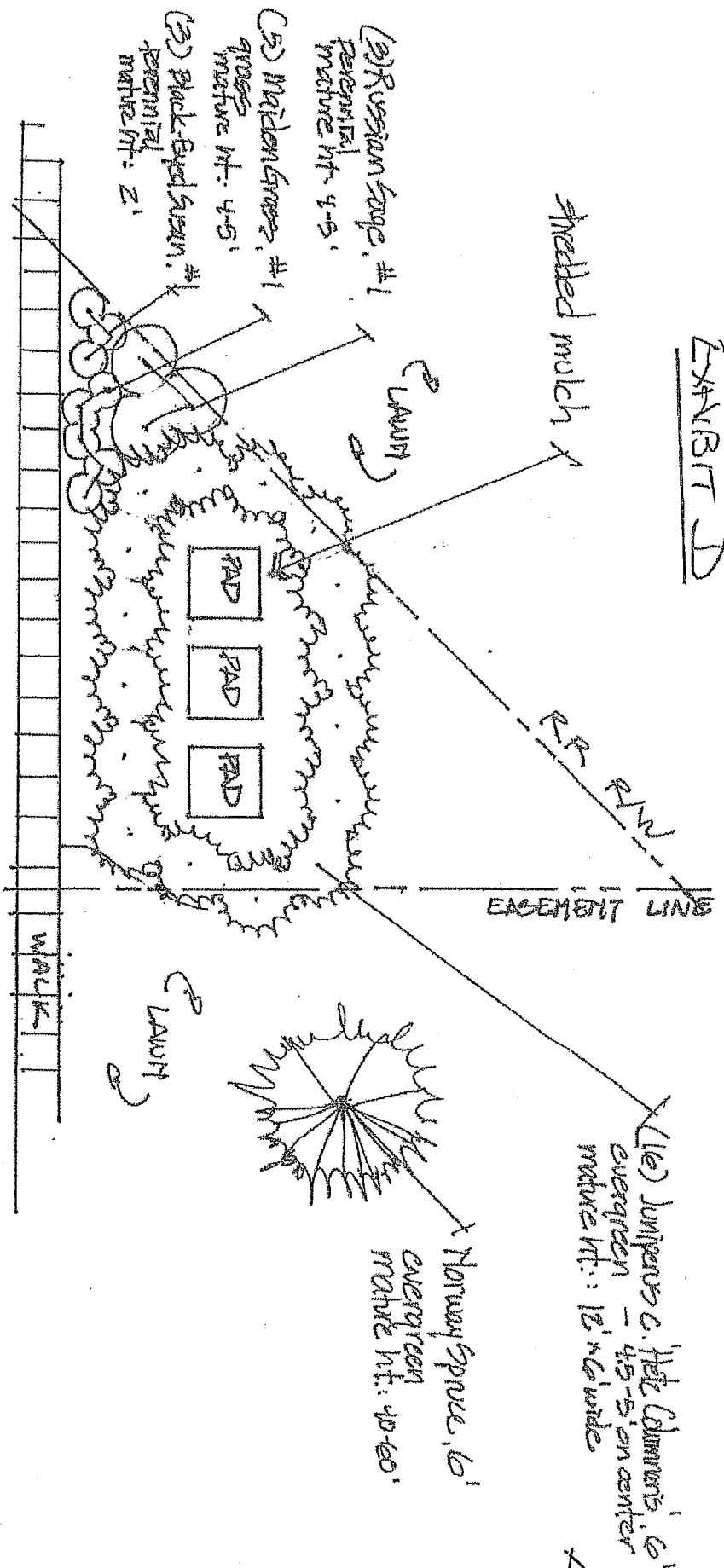
Date: December 15, 2016

EXHIBIT

A

PAGE 9 OF 10

EXHIBIT D



W. C H U R C H S T .

MAEON, O

CBT CABINETS

LANDSCAPE PLAN PAD#

VIOR SERVICES 4-14-16

