

CITY OF NAPOLEON

ENGINEERING DEPARTMENT
255 West Riverview Avenue, P. O. Box 151, Napoleon, OH 43545
Chad E. Lulfs, P.E., P.S., City Engineer
Telephone: 419/592-4010 Fax: 419/599-8393
www.napoleonohio.com

LETTER of TRANSMITTAL

To *Mr. Joseph T. Caruso*

Date *January 14, 2013*

Regarding
Easements

We are sending you:

Attached Under separate cover via _____

The following items:

Shop Drawings Prints Plans Copy of Letter
 Specifications Contract Application for Payment
 Change Order Other *Recorded easements*

No. of Copies	Date	Description
1	1-14-13	Wireline Crossing & Utility Pole Easement
1	1-14-13	Pipeline Crossing Easement
1	1-14-13	Railroad Crossing Easement
1	1-14-13	Check in the amount of \$450.00

These are transmitted as checked below:

For Approval Approved as Submitted Resubmit ___ Copies for Approval
 For Your Files Approved as Noted As Requested
 For Signature For Review and Comment

Remarks:

Enclosed are copies of the easements that were recorded on December 18, 2012. The easements were returned to our office today. Also enclosed is the check in the amount \$450.00 for the easements. If you have any questions or need anything additional, please contact me.

Copy to:

By: 
Chad E. Lulfs, P.E., P.S.; Director of Public Works

If enclosures are not as noted, kindly notify us at once.

AUDITORS OFFICE
NOT TRANSFERRED

DEC 18 2012

Kevin Garninger
Henry County Auditor

201200093093 OR 274 683

201200093093
Filed for Record in
HENRY COUNTY OHIO
SARA L MYLES, RECORDER
12-18-2012 At 03:36 pm.
EASEMENT 84.00
OR Volume 274 Page 683 - 691

201200093093
CITY OF NAPOLEON
PICK UP

Agreement No. DF-77040a

RAILROAD CROSSING EASEMENT

RMW Ventures, LLC and Maumee & Western Railroad Corporation (severally and collectively "Grantor") for the sum of \$1.00 and other good and valuable consideration paid by the City of Napoleon, Ohio (the "Grantee"), receipt of which is hereby acknowledged, does hereby grant to the Grantee a surface Easement and right-of-way on and across the described portion of the servient estate (the "Easement"), the width of which shall not exceed 80 feet when measured perpendicular to the centerline of Scott Street, as is set forth in Exhibit A (attached hereto and made a part hereof by reference.)

It is the intention of the parties that the Easement granted be an Easement appurtenant to Scott Street (or its successor in name), and that the Easement benefit the use and enjoyment of Scott Street by affording a Public At Grade railroad crossing for Scott Street (the "Roadway Crossing" or the "Crossing") over and across the property, right-of-way and railroad tracks of Grantor.

The Easement shall exist for so long as Scott Street remains a public road. This agreement is made expressly for the benefit of and shall be binding on, the heirs, personal representatives, successors in interest and permitted assigns of the respective parties.

The Easement shall be used only for the following purposes:

1. Placing, constructing, operating, repairing, maintaining, rebuilding, replacing, and removing Scott Street over and across the property and railroad tracks of Grantor to provide normal vehicular ingress and egress between Grantee's paved sections of Scott Street, excluding vehicles exceeding 80,000 lbs. gross vehicle weight, with Grantee agreeing to post appropriate signage to note such restriction;
2. Placing, constructing, operating, repairing, maintaining, rebuilding, replacing, and removing concrete or asphalt walkways adjacent to Scott

Street over and across the property and railroad tracks of Grantor to provide pedestrian ingress and egress between Grantee's concrete walkway sections adjacent to Scott Street.

The Easement, rights and privileges granted herein are not exclusive and are subject to preexisting Easements or occupancies. However, Grantor covenants not to convey any other Easement rights within the area covered by this grant which will preclude the use of Scott Street as herein set forth.

Grantor also retains, reserves rights to and shall continue to enjoy the use of the surface, subsurface and aerial rights of the property and land subject to this Easement, for any and all purposes, including the provision of railroad and associated services. Grantor's retained rights include, but are not limited to:

the right to or allow others to build on, in, over, under and about and use the surface, subsurface and aerial rights of the Easement for railroad and related facilities and uses, and include the right to install or allow others to install, construct, locate, maintain, repair and renew any fiber optic and other types of communication lines, telephone lines, electric transmission lines, pipelines, and associated structures and any other similar facilities, or facilities related thereto, in, upon, over, under or across the Easement, and the right to maintain, repair, renew, operate, use, relocate and derive income from the same as in the sole judgment of Grantor may be requisite or advisable. Provided, however, that Grantor's exercise of the rights reserved in this sub-paragraph shall not prevent, nor unduly impair the rights herein granted to Grantee.

Grantor, subject to the limitations set forth herein, hereby dedicates this Easement for use as a public surface street.

Grantee shall have the duty to construct, repair and maintain all of its public roadway surfaces, facilities and signage on the property and shall at all times keep the Easement property free and open for the benefit of Grantor and any other concurrent user. Grantee shall have the right to keep access to the Easement open by removing vegetation and by cutting or trimming trees or vegetation that may be on or encroach upon the Easement property. Grantee shall dispose of all such cuttings and trimmings by hauling them away from the Easement premises. Grantee shall have right of ingress and egress to perform or undertake its obligations hereunder, so long as Grantee complies, at all times, with Grantor's reasonable safety requirements and with all laws and regulations applicable to railroad operations at or near public road crossings. Grantee will, during the entire actual physical presence of the proposed Roadway Crossing over or on Grantor's right-of-way and tracks, be solely responsible for all costs associated with the maintenance, repair, replacement, and improvement of the roadway surface and substructure, including the Roadway Crossing located on and between the rails of Grantor. Grantee will assume and pay the costs and be

responsible for maintaining the road surface and subsurface of the Roadway Crossing. After the installation of the Roadway Crossing, Grantor will assume and pay the cost and be responsible for maintaining the railroad facilities, including but not limited to, the track structure. Grantor and Grantee will coordinate and give each other 24 hours advance notice of any maintenance activities in the vicinity of the Crossing, and Grantee and each of Grantee's employees, contractors and agents shall comply with Grantor's reasonable safety and notification requirements.

Once the Roadway Crossing is installed, Grantor shall have the duty to repair and maintain all railroad tracks and railroad facilities, subject to the Easement and, shall keep the railroad facilities and track free and open for the benefit of Grantee and any other concurrent user(s), except as may be necessary for the provision of railroad and related service.

In addition to the Easement rights and privileges, Grantee, with prior notice to Grantor, shall have the right to use as much of the surface of the servient estate as may be reasonably necessary to construct and install within the Easement the railroad-highway crossing facilities contemplated by this Easement. Upon completion of construction and installation, Grantee shall, or shall cause, with prior approval from Grantor, replacement and restoration of all railroad tracks, signals, signs and related structures that have been relocated, damaged, destroyed or removed during construction, all at Grantee's sole cost and expense.

The rights and privileges granted under this Easement shall terminate if the purposes of the Easement cease to exist or are abandoned by Grantee, or if the Roadway Crossing shall be conveyed to any other party which is not a governmental unit, or if the Roadway Crossing ceases to be a public roadway crossing.

The consideration recited herein shall constitute full and final payment for said Easement and all damages sustained and/or claimed by the Grantor, their heirs, executors, administrators, successors, and assigns, except for any damages to or, destruction of any railroad or other facilities arising or related to the installation, construction, maintenance, repair, operation, use, removal, improvement or like activity of or associated with or arising from the Roadway Crossing, which occurs during the existence of this Easement or of the physical facilities contemplated herein to be placed in, on, or about the Easement by or on behalf of Grantee.

To have and to hold said Easement, together with all rights and privileges belonging thereto unto the Grantee and its successors and assigns. This Easement, together with all agreements, covenants and other provisions recited herein, shall constitute a covenant running with the land for the benefit and use of the Grantee, its successors and permitted assigns for so long as the public

Roadway Crossing shall exist and be in normal use by Grantee. Except as noted herein, the provisions of this Easement will inure to the benefit of and bind the heirs and/or permitted assigns of the respective parties to it. Said Easement may be assigned by Grantee to any governmental unit or agency, subject to Grantor's prior approval.

RMW Ventures, LLC hereby covenants that it is the true and lawful owner of the above described real estate and has full power and authority to convey the same.

Grantor claims title to this property evidenced by a deed recorded in Volume 73, Page 731 of the Henry County deed records.

Any oral representation or modification concerning this instrument shall be of no force and effect. Any modification of this agreement must be signed by all parties.

Remainder of this page intentionally left blank.

In Witness hereof, this instrument is executed on this 11th day of December 2012.

Spencer Wendel
RMW Ventures, LLC, Grantor

[Signature]
WITNESS

STATE OF _____

COUNTY OF _____

Before me, a notary public in and for said county and state, personally appeared the named RMW Ventures, LLC by and through its Manager, the Grantor, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

(SEAL)

Stacy M. Spencer

NOTARY PUBLIC
MY COMMISSION EXPIRES:



SEAL

In witness hereof this instrument is executed on this 11th day of December, 2012.

Spencer Wendler
Maumee & Western Railroad Corporation, Grantor

[Signature]
WITNESS

STATE OF _____

COUNTY OF _____

Before me, a notary public in and for said county and state, personally appeared the named Maumee & Western Railroad Corporation by and through its CEC, the Grantor, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

(SEAL)

Stacy M Spencer
NOTARY PUBLIC



MY COMMISSION EXPIRES:

In witness hereof this instrument is executed on this 11th day of December, 2012.

This instrument was prepared by:

Trevor M. Hallger
Trevor M. Hallger
Law Director City of Napoleon, OH

This Easement is accepted by the City of Napoleon, Ohio, by having its duly authorized and empowered representative or officer having executed below:

For City of Napoleon, an incorporated Ohio municipality, Grantee, by its:

City Manager _____; John A. Bisher _____
Title Name

STATE OF Ohio

COUNTY OF Henry

Before me, a notary public in and for said county and state, personally appeared the named (John Bisher) City of Napoleon by and through its City Manager, the Grantee, who acknowledged that he did sign the foregoing instrument and that the same is his free, clear and duly authorized act and deed.

(SEAL)

Roxanne Dietrich

NOTARY PUBLIC
MY COMMISSION EXPIRES:



ROXANNE DIETRICH
NOTARY PUBLIC
FOR THE
STATE OF OHIO
My Commission Expires
June 23, 2017

In witness hereof this instrument is executed on this 7th day of December, 2012.

EXHIBIT A

Page 1 of 2

LPA RX 871 SH

Rev. 06/09

Ver. Date 12/22/10

PID 86846

**PARCEL 20-SH
SCOTT STREET
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF NAPOLEON, HENRY COUNTY, OHIO**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the City Of Napoleon, Henry County, Ohio, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Henry, City of Napoleon, being in the northwest quarter of Section 13, Town 5 North, Range 6 East, and also being on the left and right side of the centerline of right of way of Scott Street (State Route 108), as shown on a Right of Way Acquisition Plat made in 2010, for the City of Napoleon titled "Contract No. 2010-01, Scott Street Improvements" and bounded and described as follows:

BEGINNING at a the intersection of the northerly right of way line of the Maumee & Western Railroad with the easterly right of way line of Scott Street (SR 108), also being the southwesterly corner of E. S. Dodd's First Addition to Napoleon and being 41.25 feet right of Station 860+50.24;

1. thence South 37 degrees 05 minutes 24 seconds East a distance of 101.02 feet, parallel to the centerline of said Scott Street, to a point on the southerly right of way line of said Maumee & Western Railroad, also being the northerly right of way line of Railroad Street and being 41.25 feet right of Station 859+49.22;
2. thence South 61 degrees 02 minutes 55 seconds West a distance of 83.34 feet, along said southerly right of way line of the Maumee & Western Railroad to a point 41.25 feet left of Station 859+61.02;
3. thence North 37 degrees 05 minutes 24 seconds West a distance of 101.02 feet, parallel with the centerline of said Scott Street to a point on the northerly right of way line of said Maumee & Western Railroad, also being the southerly line of Lot 1 of Mary Dodd's First Addition to Napoleon and being 41.25 feet left of Station 860+61.99;

EXHIBIT A

Page 2 of 2

LPA RX 871 SH

Rev. 06/09

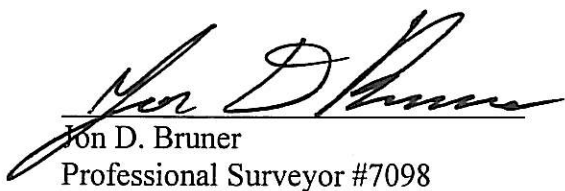
- 4. thence North 61 degrees 02 minutes 55 seconds East a distance of 83.34 feet, along said northerly right of way line of the Maumee & Western Railroad, to the TRUE POINT OF BEGINNING.

The above described area contains a gross take of 0.191 acres more or less of which the present road occupies 0.191 acres more or less.

This description was prepared by Jon D. Bruner, Professional Surveyor Number 7098 of The Mannik & Smith Group, on October 21, 2010.

This description is based on a survey made in 2010 by The Mannik & Smith Group, Inc. under the direction and supervision of Jon D. Bruner, Professional Surveyor Number 7098.

The bearings are based on the Ohio State Plane Coordinate System, North Zone, and North American datum of 1983 (1986 Adjustment) as established from a GPS survey tied to a network of control monuments established by the City of Napoleon.



Jon D. Bruner
 Professional Surveyor #7098
 The Mannik and Smith Group, Inc.
 1800 Indian Wood Circle
 Maumee, Ohio 43537

12-14-12
 Date

