

**To:** Members of Dublin City Council  
**From:** Marsha I. Grigsby, City Manager  
**Date:** June 20, 2013  
**Initiated By:** Paul A. Hammersmith, P.E., Director of Engineering/City Engineer  
**Re:** **Ordinance 57-13 - Sawmill Hard Center LLC Easement Dedication**

## Background

On March 18, 2004, the Dublin Planning and Zoning Commission approved the revised preliminary development plan (rezoning) application for the NE Quad PUD Retail, Subareas 5A and 5B – Kroger Center – Sawmill Road (west side, north of Hard Road). The approval, as documented by the staff certified Record of Action, was done so by the Planning and Zoning Commission with twenty seven (27) conditions. The seventh condition of approval required “that a bike path (shared-use path) be provided along the Sawmill Road frontage, as approved by the City of Dublin and the City of Columbus.” Additionally, the approved zoning text provided the required bike path be installed per City (Dublin) standards, to the satisfaction of the City Engineer, and that easements for all utilities be recorded at a later date, to the satisfaction of the City Engineer.

In April of 2006, the Kroger Center construction was completed, and the eight-foot wide bike path along Sawmill Road was installed as required. Although originally intended to be constructed within the existing right-of-way of Sawmill Road, the final placement of the path was to the west of the existing right-of-way. As a result, an easement was necessary for the bike path. Furthermore, in order to improve the Sawmill Road/Hard Road intersection, an existing gas line must be relocated along the west side of Sawmill Road. This relocation requires that a utility easement be located within the same area as the needed bike path easement.

In August of 2012, the owner of the Kroger Center, Sawmill Hard Center, LLC, was notified that the easement for the bike path had not been executed or recorded. In addition, a utility easement was necessary to relocate an existing gas line for the intersection improvement. An updated easement, with an amended legal description and exhibit, was created and provided to the managers of the Sawmill Hard Center, LLC property for their review and execution.

## Summary

As a result of the previously documented requirements, Sawmill Hard Center, LLC is dedicating to the City of Dublin a 1.330 acres, more or less, 40-foot wide perpetual easement for utilities, grading and a multi-use (bike) path from their property located within Franklin County. The easement dedication is from Franklin County Auditor Parcel Nos. 273-011339 and 273-011340.

The adoption of Ordinance No. 57-13 will authorize the City Manager to accept the easement dedication. In order to continue the advancement of the Sawmill Road/Hard Road intersection improvement project, which is being done cooperatively with the City of Columbus, expedited adoption by Council would allow the project to continue in a timely manner.

Ord. 57-13 - Sawmill Hard Center LLC Easement Dedication  
June 20, 2013  
Page 2 of 2

**Recommendation**

Staff recommends adoption of Ordinance No. 57-13 at the July 1 Council meeting.

# RECORD OF ORDINANCES

**57-13**

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY CONVEYANCE DOCUMENTATION TO ACCEPT THE DEDICATION OF 1.330 ACRES, MORE OR LESS, 40-FOOT WIDE PERPETUAL EASEMENT FOR UTILITIES, GRADING AND A MULTI-USE (BIKE) PATH FROM SAWMILL HARD CENTER, LLC.**

**WHEREAS**, on March 18, 2004, the Dublin Planning and Zoning Commission approved the revised preliminary development plan (rezoning) application for the NE Quad PUD Retail, Subareas 5A and 5B – Kroger Center – Sawmill Road (west side of Hard Road); and

**WHEREAS**, the seventh condition of approval required that a bike path (shared-use path) be provided along the Sawmill Road frontage, and the zoning text provided that easements for all utilities be recorded at a later date to the satisfaction of the City Engineer; and

**WHEREAS**, the City of Dublin, in cooperation with the City of Columbus, desires to improve traffic safety, operations and efficiencies at the Sawmill Road and Hard Road intersection; and

**WHEREAS**, an easement is necessary for the constructed bike path as presently located and to relocate an existing gas line for the intersection improvement; and

**WHEREAS**, Sawmill Hard Center, LLC has agreed to dedicate 1.330 acres, more or less, 40-foot wide perpetual easement for utilities, grading and a multi-use path (shared-use path) from their property located within Franklin County.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Dublin, \_\_\_\_\_ of its elected members concurring, that:

Section 1. The City Manager is hereby authorized to execute all necessary conveyance documentation to accept the dedication of an approximate 1.330 acres, more or less, 40-foot wide perpetual easement for utilities, grading and multi-use (bike/shared-use) path from Sawmill Hard Center, LLC, as set forth in the legal description attached herewith.

Section 2. This Ordinance shall be effective upon the earliest date permitted by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Mayor - Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of Council

**40 FOOT WIDE PERPETUAL EASEMENT FOR  
UTILITIES, GRADING, AND A MULTI-USE PATH**

THIS EASEMENT FOR MULTI-USE PATH, DRAINAGE AND GRADING AND TEMPORARY CONSTRUCTION (the "Easement") is made and entered into this 14<sup>th</sup> day of February, 2013, by and between **Sawmill Hard Center, LLC** ("Grantor") and the City of Dublin, Ohio, an Ohio municipal corporation ("Grantee"), whose mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017.

**BACKGROUND INFORMATION**

WHEREAS, Grantor owns the real property known as Franklin County Auditor's Parcel Nos. 273-011339 and 273-011340 (collectively, the "Grantee Property");

WHEREAS, Grantee desires a perpetual easement over those portions of the Grantor's Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "Easement Area") for the purpose of constructing and maintaining a multi-use path and drainage facilities (collectively, the "Facilities") thereon; and,

WHEREAS, Grantor desires to grant easements over the Easement Area for the benefit of Grantee, upon the terms and conditions set forth in this Easement.

**STATEMENT OF AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing Background Information and as follows:

1. Grant of Easement. Grantor grants to Grantee, its agents, employees, independent contractors, and successors and assigns, a perpetual, non-exclusive easement in, through, over and under the Easement Area for the following purposes: (i) to construct, operate, maintain, repair and replace the Facilities and to perform such grading work as Grantee deems necessary in connection therewith; and (ii) of ingress and egress over those portions of Grantors' Property reasonably necessary to facilitate Grantee's use of the Easement Area as permitted hereby. Grantee, as soon as reasonably practicable after construction of the Facilities, including any alterations and repairs thereto, and completion of the grading work shall cause the Easement

Area and Grantor's Property to be restored to their former condition as nearly as is reasonably practicable. Grantee shall have the right to remove any and all vegetation growing within the Easement Area as is reasonably necessary to facilitate Grantee's use thereof as permitted by this Easement. Grantor has the right to enter on the Easement Area for any purpose whatsoever provided such entry by Grantor does not in any way impair or hinder the rights granted to Grantee in this Easement.

2. All improvements to the Easement Area shall be at the sole discretion and cost of the Grantee.

3. Grantor shall be afforded all the rights, protections, privileges and immunities of a property owner under the Ohio Recreational User Statute, Ohio Revised Code § 1533.181. Accordingly, Grantor owes no duty to a recreational user to keep the Easement Area safe for entry, Grantor extends no assurance to a recreational user, through the act of giving permission, that the Easement Area is safe for entry or use, and Grantor assumes no responsibility nor does Grantor incur liability for any injury to person or property caused by any act of a recreational user.

4. Grantee shall be responsible for maintaining the Shared-use path in a clean and safe condition at all times.

5. Grantor reserves the right to utilize the Easement Area to maintain and repair existing telephone, electric, water, wells, or other utility lines or mains already serving the Grantee's Property. If such repairs and maintenance are required, upon the completion of any necessary repairs and/or maintenance, Grantor shall restore the Easement Area to its condition prior to such repair or maintenance.

6. Relationship to Parties. Nothing contained herein shall be deemed or construed by the parties or by any third party as creating the relationship of principal and agent, of partnership or of joint venture between the parties, it being understood and agreed that no provision contained herein or any act of the parties hereto shall be deemed to create any relationship other than Grantee and grantee of the rights and easements set forth herein.

7. Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach of the other party of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

8. Severability. In the event any provision of this Easement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

9. Captions and Pronoun Usage. The captions and section numbers in this Easement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number and gender appropriate under the circumstances at any given time.

10. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of Ohio.

11. Modification. This Easement, or any easement or covenant set forth herein, may not be amended, terminated, rescinded or otherwise modified, in whole or in part, except by a written instrument executed by the parties hereto and recorded with the Recorder's Office, Franklin County, Ohio with reference made to this Easement.

12. Benefit. This Easement shall run with the land and inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns.

13. Authority. Grantor represents and warrants that it has the full right and authority to enter into this Easement and grant the rights hereby conveyed to Grantee.

(Signatures on the following page)

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date set forth above.

GRANTOR:

Sawmill Hard Center, LLC

By: *[Signature]*  
Print Name: Laurence G. Ruben  
Its: Co-Manager

GRANTEE:

City of Dublin, Ohio,  
an Ohio municipal corporation

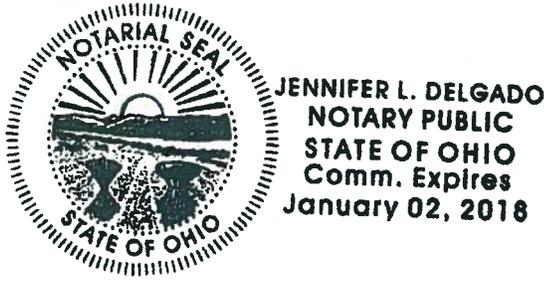
By: *[Signature]*  
Marsha Grigsby, City Manager

STATE OF OHIO            )  
  )ss.  
FRANKLIN COUNTY        )

BE IT REMEMBERED, that on this 14<sup>th</sup> day of May, 2013, before me, the subscriber, a Notary Public in and for said county and state, personally came Marsha Grigsby the City Manager of the City of Dublin, Ohio, an Ohio municipal corporation, who acknowledged the signing thereof to be her free act and deed for and on behalf of the municipal corporation.

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

*[Signature]*  
Notary public



STATE OF OHIO            )  
  )ss.  
FRANKLIN COUNTY        )

BE IT REMEMBERED, that on this 30<sup>th</sup> day of April, 2013, before me, the subscriber, a Notary Public in and for said county and state, personally came Laurence G. Ruben, Co-Manager of Sawmill Hard Center, LLC, who acknowledged the signing thereof to be his free act and deed for the purpose stated therein.

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

Sonya L. Barlow  
Notary public

This Instrument Prepared By:  
Ice Miller LLP  
250 West Street  
Columbus, Ohio 43215



**SONYA L BARLOW**  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission  
Expires  
April 25, 2016

**EXHIBIT A**

**PARCEL 1-PE  
1.330 ACRE PARCEL  
SAWMILL ROAD / HARD ROAD INTERSECTION IMPROVEMENT  
CITY OF DUBLIN, OHIO  
SAWMILL HARD CENTER LLC  
40 FOOT WIDE PERPETUAL EASEMENT FOR  
UTILITIES, GRADING, and a MULTI-USE PATH**

Situated in the State of Ohio, County of Franklin, City of Dublin, located in Section 2, Township-2-North, Range-19-West, United States Military Lands, being a part of that 18.052 acre tract and that 9.985 acre tract conveyed to Sawmill Hard Center LLC, by deed of record in Instrument Number 200507190142118 and Instrument Number 200503220052696, respectively, records of the Recorder's Office, Franklin County, Ohio, and being more particularly described as follows;

**Beginning for Reference** at Franklin County Monument #7772 at the intersection of the existing right-of-way centerline of Hard Road (County Road 61) with the existing construction centerline of Sawmill Road (County Road 70), being 0.00 feet left of Sawmill Road Station 100+00.00, as shown on the plans for "SAWMILL ROAD / HARD ROAD INTERSECTION IMPROVEMENTS" (2351 Dr. E) on file with the City of Columbus, (06-003-CIP) on file with the City of Dublin;

Thence North 02°34'54" East, a distance of 88.50 feet along the existing construction centerline of Sawmill Road to a point in said centerline being 0.00 feet left of Sawmill Road Station 100+88.50;

Thence North 87°25'06" West, a distance of 67.50 feet perpendicular to the existing construction centerline of Sawmill Road, to a southeasterly corner of said Sawmill Hard Center LLC 18.052 acre tract, and in the existing westerly right-of-way line of Sawmill Road, as shown on the record plat for SAWMILL ROAD as recorded in Plat Book 107, Page 11, being 67.50 feet left of Sawmill Road Station 100+88.50, and being the **Point of True Beginning**;

Thence South 47°34'56" West, a distance of 29.70 feet along the southeasterly line of said Sawmill Hard Center LLC 18.052 acre tract, and along the existing northerly right-of-way line of Hard Road, as shown on the record plat for HARD ROAD as recorded in Plat Book 78, Page 11, to an iron pin set at the intersection with the proposed northerly right-of-way line of Hard Road, being 67.50 feet left of Hard Road Station 199+11.50;

Thence North 87°25'06" West, a distance of 19.00 feet across said Sawmill Hard Center LLC 18.052 acre tract, and along the proposed northerly right-of-way line of Hard Road, to a point being 67.50 feet left of hard road station 198+92.50;

Thence North 02°34'54" East, a distance of 1461.32 feet across said Sawmill Hard Center LLC 18.052 acre and 9.985 acre tracts, parallel to, and 107.50 feet westerly of, as measured at right angles, the existing construction centerline of Sawmill Road, to the intersection with the northerly line of said Sawmill Hard Center LLC 9.985 acre tract, being 107.50 feet left of Sawmill Road Station 115+28.82;

Thence South 87°25'06" East, a distance of 25.00 feet along the northerly line of said Sawmill Hard Center LLC 9.985 acre tract, and along the southerly line of that 8.773 acre tract (remainder) as conveyed to Sawmill Partners Investment Company No. II by deed of record in Official Record 7883 E06, to an iron pin set in the northerly line of said Sawmill Hard Center LLC 9.985 acre tract, in the existing westerly right-of-way line of Sawmill Road, being 82.50 feet left of Sawmill Road Station 115+28.82;

Thence South 02°34'54" West, a distance of 19.02 feet across said Sawmill Hard Center LLC 9.985 acre tract, and along the existing westerly right-of-way line of Sawmill Road, to an iron pin set at an angle point in the existing westerly right-of-way line of Sawmill Road, being 82.50 feet left of Sawmill Road Station 115+09.80.

Thence South 87°25'06" East, a distance of 15.00 feet across said Sawmill Hard Center LLC 9.985 acre tract, and along the existing westerly right-of-way line of Sawmill Road, to an iron pin set in the easterly line of said Sawmill Hard Center LLC 9.985 acre tract, in the existing westerly right-of-way line of Sawmill Road, being 67.50 feet left of Sawmill Road Station 115+09.80;

Thence South 02°34'54" West, a distance of 1421.30 feet along the easterly line of said Sawmill Hard Center LLC 18.052 acre and 9.985 acre tracts, and along the existing westerly right-of-way line of Sawmill Road, to the **Point of True Beginning**, containing 1.330 acres, more or less, of which the present road occupies 0.000 acres, more or less.

Of the above described area, 0.452 acres are contained within Franklin County Auditor's parcel 273-011339.

Of the above described area, 0.878 acres are contained within Franklin County Auditor's parcel 273-011340.

All iron pins set are 3/4 inches in diameter by 30 inches long with a 2" aluminum cap, bearing the name STANTEC.

The bearing datum of the afore-described parcel is based on the bearing of North 02°34'54" East, for the centerline of Sawmill Road from an adjusted field survey using G.P.S. Methods from Franklin County Monument #7772 to Franklin County Monument #7771, based on the Ohio State Plane Coordinate System, South Zone, North American Datum 1983, (1986 adjustment).

This description was based upon a survey of Hard Road and Sawmill Road by R.D. Zande & Associates, Inc., in September 2004, and prepared December 4, 2012, by Tim A. Baker, Registered Surveyor 7818.

Grantor claims title by the instrument of record in Instrument Number 200507190142118 and Instrument Number 200503220052696, of the Recorder's Office, Franklin County, Ohio.

A drawing of this description is attached hereto and made part thereof.



STANTEC CONSULTING SERVICES, INC.

*Tim Baker* 12-4-12  
REGISTERED SURVEYOR NO. 7818      DATE

0-71-L  
Split  
1.330 Acre  
out of  
(273)  
11340



