

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2014-84

By Nick Haschka Sponsored By Mayor Cyril M. Kleem

## AN ORDINANCE

**APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BEREA AND THE ROBERT M. COURY TRUST DATED AUGUST 1, 1986 AND ACCEPTING THE GRANT OF A LICENSE FOR THE USE OF AN AREA WITHIN BUILDING 1 OF THE BEREA COMMONS FOR CONTROLS FOR THE IMPROVEMENTS TO MCKELVEY PARK.**

**WHEREAS**, the Robert M. Coury Trust Dated August 1, 1986 is the owner of the property and buildings that make up the Berea Commons; and

**WHEREAS**, the Robert M. Coury Trust Dated August 1, 1986, owners of that property, are willing to grant the City of Berea a License for the use of an area within Building 1 of the Berea Commons buildings to house fixtures and controls for the lighting and plumbing features of the adjacent McKelvey Park; and

**WHEREAS**, the owners have agreed, in a Memorandum of Understanding, to grant a license for the use of that area within Building 1 and the City of Berea agrees to accept responsibilities for the continued and ongoing maintenance of the fixtures and equipment to be installed and located within that space as well as to pay all expenses relating to the features and fixtures and controls to be located in it.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Berea, State of Ohio:

**SECTION 1.** That, subject to the conditions and agreements set forth in the Memorandum of Understanding between the City of Berea and Robert M. Coury Trust Dated August 1, 1986, which Memorandum is attached hereto as Exhibit "A" and incorporated herein, the City of Berea accepts the grant of a License to use that area within Building 1 of the Berea Commons immediately adjacent to the McKelvey Park for installation and maintenance of electrical and plumbing fixtures and controls.

**SECTION 2.** That the License granted herein is to run with the land on which Building 1 of the Berea Commons buildings are located and is not transferrable.

**SECTION 3.** That the Mayor be and he is hereby authorized to execute a Memorandum of Understanding with Robert M. Coury Trust Dated August 1, 1986, in substantially the form which is attached to this Legislation as Exhibit "A" and incorporated herein.

**SECTION 4.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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SECTION 5. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: December 1, 2014

Richard J. Maholtz  
President of Council

ATTEST: Theresa Egan  
Clerk of Council

APPROVED: December 5, 2014  
Carol Kleem  
Mayor

APPROVED AS TO FORM:  
Thomas N. Wilber  
Director of Law

Exhibit "A"  
11-4<sub>2</sub>  
[2014-847]

Memorandum of Understanding  
and  
License Agreement

This Memorandum of Understanding (MOU) is made by and between the City of Berea, an Ohio Municipal Corporation (CITY), and The Robert M. Coury Trust dated August 1, 1986, (OWNER). This Memorandum of Understanding and License Agreement relates to and sets conditions and requirements for, the non-exclusive use by The City of Berea, pursuant to a License granted by the Owner, of a space within Building 1 of the Berea Commons, described on the attached exhibit which is incorporated herein by reference.

In consideration of the grant of the non-exclusive License granted by The Robert M. Coury Trust dated August 1, 1986 to the City of Berea for the use of a space within Building 1 of the Berea Commons, The City of Berea agrees to do the following:

1. Install and maintain electrical and plumbing fixtures and controls to service the improvements located on the McKelvey Park, a public park immediately adjacent to the building in which the space is located..
2. Maintain the electrical and plumbing fixtures and controls by repairing them as necessary from time to time.

The License granted to the City of Berea is non-exclusive and may not be transferred. The Owner may not revoke the License granted to the City of Berea without just cause and without a minimum of one hundred twenty ninety (120) days advance notice given to the City of Berea.

The parties to this Memorandum of Understanding have executed it on the dates set forth herein below for the purposes set forth herein.

CITY OF BEREA

\_\_\_\_\_  
By Cyril M. Kleem, Mayor

The Robert M. Coury Trust dated  
August 1, 1986

\_\_\_\_\_  
By (Trustee)