

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2016-25

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 ECHO BEREA ASSOCIATES, LLC, AND ACCEPTING THE GRANT OF A LICENSE FOR THE USE OF UP TO FOUR (4) PARKING SPACES LOCATED AT PERMANENT PARCEL NUMBERS 364-09-017 AND 364-09-018 FOR THE DURATION OF THE WEST CENTER STREET BRIDGE PROJECT.

WHEREAS, Echo Berea Associates, LLC is the owner of a parking lot located at Permanent Parcel Numbers 364-09-017 and 364-09-018 which is adjacent to Pucher's; and

WHEREAS, Echo Berea Associates, LLC, owners of the above referenced parcels, are willing to grant the City of Berea a License for the non-exclusive use of up to four (4) parking spaces to provide ingress and egress to Pucher's for the duration of the West Center Street Bridge Project; and

WHEREAS, the owners have agreed, in a Memorandum of Understanding, to grant a License for the use of that area, and the City of Berea agrees to pay Echo Berea Associates, LLC one-hundred dollars (\$100.00) per space, per month, and further agrees to provide any signage necessary for directions and/or safe vehicular traffic.

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 Echo Berea Associates, LLC, which Memorandum is attached hereto as Exhibit "A" and incorporated herein, the City of Berea accepts the grant of a non-exclusive License for the purpose of providing ingress and egress to customers of, and deliveries to, Pucher's, for the duration of the West Center Street Bridge Project.

SECTION 2. That the License granted herein is to run with the land and is not transferrable.

SECTION 3. That the Mayor be and he is hereby authorized to execute a Memorandum of Understanding with Berea Echo Associates, LLC 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.

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

PASSED: March 21, 2016

ATTEST: Nick Haschka
Clerk of Council

APPROVED AS TO FORM:

Bruce A. [Signature]
Director of Law

[Signature]
President of Council
APPROVED: March 23, 2016
Cyril M. Kleem
Mayor

MEMORANDUM OF UNDERSTANDING AND LICENSE AGREEMENT

This Memorandum of Understanding (MOU) and License Agreement (this "Agreement") is made by and between the City of Berea (the "City"), an Ohio Municipal Corporation and Echo Berea Associates, LLC, a Delaware limited liability company ("Owner"). This Agreement sets forth the conditions and requirements upon which Owner grants to the City, for the sole benefit of Pucher's Decorating Center ("Pucher's"), a non-exclusive license for the use of up to and including four (4) parking spaces located at PP#364-09-017, 018, as shown on the attached drawing, (the "Licensed Area"). In consideration of such non-exclusive license, the City hereby agrees to the following:

- 1. The term of this Agreement (the "Term") shall be for the duration of the project commonly referred to as the "West Center Street Bridge Project", which is anticipated to last 12-18 months from the start of construction. Notwithstanding the foregoing, Owner may terminate this Agreement if the non-exclusive license granted herein affects Owner's plans to redevelop, sell or modify the larger property of which the Licensed Area is a part.
2. The City shall pay, for the duration of the Term, a monthly fee of One Hundred Dollars (\$100.00) per parking space for the term of this License Agreement
3. The City of Berea shall pay the cost of any signage deemed necessary by the parties.
4. The City accepts the Licensed Area in "AS-IS" condition and Owner shall not obligated to make any installments, do any work, make any alterations, repairs, replacements or improvements to the Licensed Area. The City shall be responsible for the maintenance of the Licensed Area and any adjoin property that may be effected by the granting of the non-exclusive license during the Term, at no cost or expense to Owner.
5. The City will indemnify and hold Owner, its officers, directors, agents, employees and affiliates harmless from any and all claims and/or damages to persons and property on or about the Licensed Area and the acts of the City, its employees, agents, invitees or any others (including Pucher's) utilizing the Licensed Area. During the Term, the City agrees to maintain in full force and effect a policy or policies of commercial liability insurance in an amount equal to at least One Million Dollars (\$1,000,000) combined single limit for bodily injury (including death) and property damage in any one occurrence, and a policy of worker's compensation insurance in statutory limits, covering the Licensed Area. All such insurance must name Owner and ECHO Real Estate Services Company as additional insureds, and certificates of such insurance shall be delivered to Owner prior to the City occupying the Licensed Area.

This license granted to the City pursuant to this Agreement is non-exclusive, non-transferrable and shall run with the land and shall be binding on future owners of the property, unless terminated pursuant to the terms of this Agreement.

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

CITY OF BEREA

ECHO BEREA ASSOCIATES, LLC

By: ECHO Portfolio I LLC, its sole member

Cyril M. Kleem, Mayor

By: _____
Print Name: _____

DATE: _____

DATE: _____