

ORDINANCE NO. 2014- 10

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A LICENSE AGREEMENT BETWEEN THE FRANKLIN MILLS HOMEOWNERS ASSOCIATION, AND THE CITY OF KENT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent wishes to enter into a License Agreement with the Franklin Mills Homeowners Association, for the purpose of installation, maintenance and if deemed necessary by the City removal of a sign designating the entrance to Franklin Mills neighborhood; and

WHEREAS, time is of the essence to allow for the installation of said sign; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That Council does hereby authorize the City Manager, or his designee, to enter into a License Agreement with the Franklin Mills Homeowners Association, for the purpose of installation, maintenance and if deemed necessary by the City removal of a sign designating the entrance to Franklin Mills neighborhood; in substantial compliance with Exhibit "A" attached hereto and incorporated herein.

SECTION 2. 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 action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City for which reason and other reasons manifest to this Council this ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 02/19/2014
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2014- 10 was duly enacted this 19 day of February, 2014, by the Council of the City of Kent, Ohio.

CLERK OF COUNCIL

CITY OF KENT, OHIO
LICENSE AGREEMENT

THIS AGREEMENT is made by and between the CITY OF KENT, OHIO, hereinafter called "City" and Franklin Mills Home Owners Association, hereinafter called the "Licensee."

The City is the owner, in fee simple, of land, hereinafter known as the "Property." For and in consideration of the covenants, conditions, agreements and stipulations of the License expressed herein, the City does hereby agree the Property may be used by the Licensee for the purpose as outlined in Part 1 below, in accordance with the laws and Charter of the City of Kent. The Property is more particularly described in the attached exhibits listed below.

Exhibit "A" – Legal Description Exhibit "B" – Site Plans, plats showing
exact area being leased.

The parties hereto covenant and agree as follows:

1. NATURE OF INTEREST:

The Licensee understands that by issuing this license, the City has merely granted the Licensee the right to occupy the right-of-way and this license does not grant or convey to the Licensee any interest in the Property.

2. USE:

2.1 The Property shall be used for the purpose of: installation, maintenance and if deemed necessary by the City removal of a sign designating the entrance to Franklin Mills neighborhood and for no other purpose.

2.2 No structural alterations may be made to the City's property without the express written permission of the City of Kent, Director of Public Service.

3. TERM:

The City does hereby agree the Property may be used by the Licensee for a term of one (1) year commencing on May 1, 2014, and ending on April 30, 2015 unless terminated earlier by either party. This license will automatically renew yearly unless one (1) month before expiration either party notifies the other of its intention to terminate per Paragraph 14.

4. NECESSARY LICENSES AND PERMITS:

4.1 Licensee shall be licensed to do business in the State of Ohio and City of Kent, and upon request, Licensee shall demonstrate to the City that any and all such licenses are in good standing. Correspondence shall be addressed as follows:

All correspondence to the City shall be addressed:
Service Director City of Kent 930 Overholt Road Kent,
Ohio 44240

All correspondence to the Licensee shall be addressed:

4.2 Licensee shall secure all necessary permits required in connection with the use of the Property and shall comply with all federal, state and local statutes, ordinances, rules, or regulations which may affect, in any respect, Licensee's use of the Property. Licensee shall, prior to the commencement of any work, obtain and thereafter maintain, at its sole cost and expense, all licenses, permits, etc., required by law with respect to its business use of the Property.

5. STORAGE AND VENDING:

No storage of materials or supplies of any nature will be permitted on the Property except as directly related to the agreed business use of the Property.

6. TAXES:

Licensee agrees to be responsible for and to timely pay all taxes and/or assessments that may be legally assessed on Licensee's interest, or on any improvements placed by Licensee on said Property, during the continuance of the license hereby created, including any real estate taxes. The Licensee must provide written notice to the City, at the address referenced in Paragraph 4.1, within thirty (30) days of payment of all taxes and/or assessments.

7. DIRECTOR OF PUBLIC SERVICE TO ACT FOR CITY:

The granting of this permit shall not be construed as an abridgment or waiver of any rights which the Director of Public Service has in exercising his jurisdictional powers over the City property, easements or right-of-ways. The City Director of Public Service shall act for and on behalf of the City of Kent in the issuance of and carrying out the provisions of this permit.

8. CITY USE OF PROPERTY:

If for any reason the Director of Public Service or his duly appointed representative deems it necessary to order the removal, reconstruction, relocation or repair of the Licensee's changes to the City's property, then said removal, reconstruction, relocation or repair shall be promptly undertaken at the sole expense of the Licensee's thereof. Failure on the part of the Licensee to conform to the provisions of this permit will be cause for suspension, revocation or annulment of this permit, as the Director of Public Service deems necessary.

9. MAINTENANCE OF PROPERTY:

Licensee shall, at its sole expense, keep and maintain the Property free of all weeds, debris, and flammable materials of every description, and at all times in an orderly, clean, safe, and sanitary condition consistent with neighborhood standards. A high standard of cleanliness, consistent with the location of the area as an adjunct of the City, will be required. Defoliant, noxious, or hazardous materials or chemicals shall not be used or stored on the Property.

10. MAINTENANCE OF IMPROVEMENTS:

10.1 Licensee, at Licensee's own cost and expense, shall maintain all of his/her improvements to the Property. Licensee shall take all steps necessary to effectively protect the Property from damage incident to the Licensee's use of such Property, all without expense to the City.

10.2 Licensee shall be liable to, and shall reimburse the City for, any damage to City owned property that in any way results from or is attributable to the use of said Property by the Licensee or any person entering upon the same with the consent of the Licensee, expressed or implied.

11. HOLD HARMLESS:

Licensee shall occupy and use Property at its own risk and expense and shall save the City, its officers, agents, and employees, harmless from any and all claims for damage to property, or injury to, or death of, any person, entering upon same with Licensee's consent, expressed or implied, caused by any acts or omissions of the Licensee.

12. INSURANCE:

12.1 At the time of the execution of this Agreement, Licensee shall, at its own expense, take out and keep in force during the terms of this Agreement:

(a) Liability insurance, in a company or companies to be approved by the City to protect against any liability to the public incident to the use of, or resulting from injury to, or death of, any person occurring in or about, the Property, in the amount of not less than ***Five Hundred Thousand***

Dollars (\$500,000.00), to indemnify against the claim of one person, and in the amount of not less than **One Million Dollars (\$1,000,000.00)** against the claims of two (2) or more persons resulting from any one (1) accident.

(b) Property damage or other insurance in a company or companies to be approved by the City to protect Licensee, and the City against any and every liability incident to the use of or resulting from any and every cause occurring in, or about, the Property, including any and all liability of the Licensee, in the amount of not less than **One Hundred Thousand Dollars (\$100,000.00)**. Said policies shall inure to the contingent liabilities, if any, of the Licensee and the City, and shall obligate the insurance carriers to notify Licensee and the City, in writing, not less than thirty (30) days prior to cancellation thereof, or any other change affecting the coverage of the policies. If said policies contain any exclusion concerning property in the care, custody or control of the insured, an endorsement shall be attached thereto stating that such exclusion shall not apply with regard to any liability of the Licensee and the City.

12.2 A copy of the "Certificate of Insurance" will be submitted to the City at the time of execution of license and annually thereafter.

13. MODIFICATION:

The terms of this Agreement may be modified upon agreement of the parties.

14. REVOCAION AND TERMINATION:

14.1 The City may revoke this license at any time. The Licensee may terminate this Agreement at any time.

14.2 In the event this license is revoked or the Agreement is terminated the Licensee will peaceably and quietly leave, surrender, and yield up to the City the Property. The Property will be restored to its previous condition at the expense of the Licensee and no costs for removal will be reimbursed by the City.

14.3 Upon revocation of the license or upon termination or expiration of Agreement, any personal property, or other appurtenances, including all footings, foundations, and utilities, placed on the City property will be removed by Licensee. If any such appurtenances are not so removed after ninety (90) days written notice from the City to the Licensee, the City may proceed to remove the same and to restore the Property and the Licensee will pay the City, on demand, the reasonable cost and expense of such removal and restoration.

15. RELOCATION:

A Licensee who licenses property from the City shall not be eligible for relocation payments.

IN WITNESS WHEREOF, this Agreement has been executed in duplicate by the parties hereto as of the date herein last written below. Licensee acknowledges receipt of a copy of this Agreement and agrees to comply with the provisions herein contained.

LICENSEE(S):

Signature Signature

Mailing Address

Telephone

Date

CITY OF KENT, OHIO

Director of Public Service Date

Director of Parks & Recreation Date

APPROVED AS TO FORM:

James R. Silver, Law Director
City of Kent

EXHIBIT "A"
LEGAL DESCRIPTION

RECEIVED
JAN 13 2014
BY: _____

LEGAL DESCRIPTION

***FRANKLIN MILLS HOA
SIGN LICENSE
470 Sq. Ft. - 0.0108 Acres***

Situated in the City of Kent, County of Portage, State of Ohio and being part of Lot 27, Township 3 (Original Franklin Township), Range 9 of the Connecticut Western Reserve, and bounded and described as follows:

Commencing at a 5/8-inch rebar found in a monument box with cap number "BLR S-7774" at the intersection of the centerline of Stone Water Drive (60 foot Right-of-Way) with the centerline of Wrens Hollow Circle (60 foot Right-of-Way) as shown on Plat of the Lakes of Franklin Mills Subdivision Phase 4, Plat #2006-71 of the Portage County Recorder's Records; Thence South 45°47'44" West, along the centerline of said Stone Water Drive, a distance of 46.50 feet to a 5/8-inch rebar found in a monument box with cap number "BLR S-7774" at a point of curvature; Thence southwesterly along the centerline of said Stone Water Drive a distance of 108.13 feet along the arc of a curve deflecting to the left, said curve having a radius of 250.00 feet, a Delta of 24°46'55", a Tangent of 54.92 feet, and a chord which bears South 33°24'16" West a distance of 107.29 feet to the point of tangency, referenced by 5/8-inch rebar found in a monument box with cap number "BLR S-7774"; Thence South 21°00'49" West, along the centerline of said Stone Water Drive, a distance of 110.06 feet to a 5/8-inch rebar found in a monument box with cap number "BLR S-7774" at a point of curvature; Thence southwesterly along the centerline of said Stone Water Drive a distance of 127.83 feet along the arc of a curve deflecting to the right, said curve having a radius of 650.00 feet, a Delta of 11°16'04", a Tangent of 64.12 feet, and a chord which bears South 26°38'51" West a distance of 127.62 feet to a point, Thence South 57°43'07" East, a distance of 42.00 feet to a point on the easterly line of a 12 foot utility easement on land conveyed to the City of Kent as recorded in Vol. 1075, Pg. 789 of Portage County Recorder's Records and being the PRINCIPAL PLACE OF BEGINNING of the 0.0108 acre sign license area herein intended to be described;

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LEGAL DESCRIPTION

***FRANKLIN MILLS HOA
SIGN LICENSE***


Thence South 57°43'07" East, a distance of 20.00 feet to a point;

Thence southwesterly a distance of 23.85 feet along the arc of a curve deflecting to the right, said curve having a radius of 712.00 feet, a Delta of 1°55'10", a Tangent of 11.93 feet, and a chord which bears South 33°14'28" West a distance of 23.85 feet to a point;

Thence North 55°47'56" West, a distance of 20.00 feet to a point on the easterly line of said 12 foot utility easement along Stonewater Drive;

Thence northeasterly a distance of 23.18 feet along the arc of a curve deflecting to the left, said curve having a radius of 692.00 feet, a Delta of 1°55'10", a Tangent of 11.59 feet, and a chord which bears North 33°14'28" East a distance of 23.18 feet to the *PRINCIPAL PLACE OF BEGINNING* and containing 0.0108 acres of land, be the same more or less, but subject to all legal highways, and easements of record as determined by a survey performed by Bruce L. Robinson, P.S. No. 7774 of B.L. Robinson Engineering & Surveying, Co. in January 2014.

- Basis of Bearing for this survey is South 45°47'44" West as the centerline of Stone Water Drive and shown in the Lakes of Franklin Mills Phase 2 Subdivision Plat as recorded in Plat Volume 2004-93 of the Portage County Recorders Records.



Bruce L. Robinson, P.S. 7774

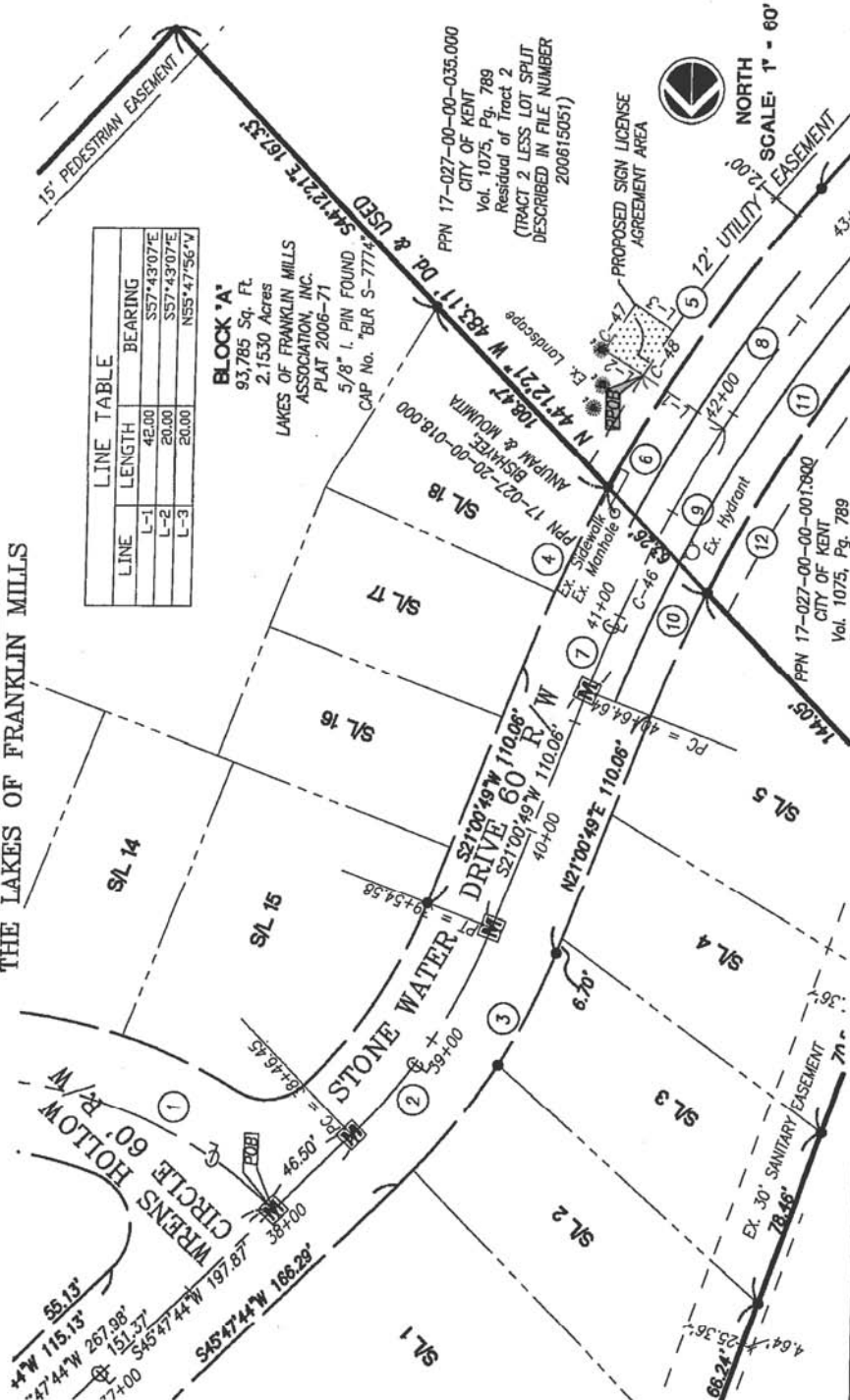
1/10/14

Date



EXHIBIT "B"
SITE PLAN / TAX MAP

EXHIBIT "A"
SIGN LICENSE AGREEMENT
THE LAKES OF FRANKLIN MILLS



LINE TABLE		
LINE	LENGTH	BEARING
L-1	42.00	S57°43'07"E
L-2	20.00	S57°43'07"E
L-3	20.00	N55°47'56"V

BLOCK "A"
93,785 Sq. Ft.
2,153.0 Acres
LAKES OF FRANKLIN MILLS
ASSOCIATION, INC.
PLAT 2006-71
5/8" I. PIN FOUND
CAP No. "BLR S-7774"

CURVE TABLE						
CURVE	LENGTH	RADIUS	CH. BEARING	CH. DISTANCE	DELTA	TANGENT
2	108.13'	250.00'	S33°24'16"V	107.29'	24°46'55"	54.92'
C-46	127.83'	650.00'	S66°38'51"V	127.62'	11°16'04"	64.12'
C-47	23.85'	712.00'	S33°14'28"V	23.85'	1°55'10"	11.93'
C-48	23.18'	692.00'	N33°14'28"E	23.18'	1°55'10"	11.59'

BL ROBINSON ENGINEERING & SURVEYING CO.
P.O. BOX 1105, CUYAHOGA FALLS, OHIO 44223
OFFICE: (330) 856-9687 FAX: (330) 858-9490
JOB NO. A1780 - JAN. 10, 2014