

**ORDINANCE 2016-01**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE VILLAGE ADMINISTRATOR AND/OR MAYOR OF THE VILLAGE OF COMMERCIAL POINT TO ENTER INTO A CONTRACT FOR AN EASEMENT ON BEHALF OF THE VILLAGE OF COMMERCIAL POINT WITH INTELLIWAVE, LLC.**

**WHEREAS**, Intelliwave, LLC wishes to increase its internet services to the Village of Commercial Point; and

**WHEREAS**, the planned increase in services requires the construction at a new site owed by the Village; and

**WHEREAS**, Village Council wishes to accommodate the request of Intelliwave, LLC to increase internet service.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Village of Commercial Point, Ohio that:

**SECTION 1:** The Council of the Village of Commercial Point does hereby grant approval of the contract attached as Exhibit A.

**SECTION 2:** The Village Mayor/Administrator hereby are directed to execute said contract document on behalf of the Village of Commercial Point.

**SECTION 3:** This Ordinance shall become effective upon the earliest date allowed by the laws of the State of Ohio.

Vote on Suspension of Readings:

Motion by: Mr. O'Neil 2<sup>nd</sup> Mr. Geiger

Roll Call:

Yes Mark Geiger  
Yes David Sadler

Yes Ben Townsend  
Yes Brad Laxton

Yes Scott O'Neil  
     Nicole Evans

Vote on Passage of the Ordinance:

Motion by: Mr. O'Neil 2<sup>nd</sup> Mr. Sadler

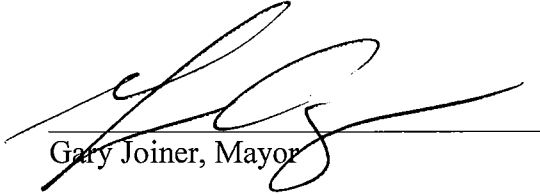
Roll Call:


Yes Mark Geiger  
Yes David Sadler

Yes Ben Townsend  
Yes Brad Laxton

Yes Scott O'Neil  
    Nicole Evans

**PASSED AND ADOPTED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL  
POINT ON THIS 1st DAY OF FEBRUARY, 2016.**

  
\_\_\_\_\_  
Gary Joiner, Mayor

  
\_\_\_\_\_  
Wendy Hastings, Fiscal Officer

Approved as to Form:


  
\_\_\_\_\_  
Michael D. Hess, Law Director

EXHIBIT A

This **EASEMENT** Contract ("Easement") is made by and between Village of Commercial Point, an Ohio Municipal Corporation, 10 West Scioto Street, Commercial Point, Ohio 43116 ("Grantor"), and Intelliwave, an Ohio Company, 145 Columbus Road, #101, Athens, Ohio 45701 ("Grantee"), under the following circumstances:

A. Grantor is the fee owner of certain real estate located in the Village of Commercial Point, Pickaway County, Ohio, more particularly described on **Exhibit A** attached and depicted on **Exhibit B** attached hereto (the "Property"); and

B. Grantee proposes to improve the Property with internet services, together with related and reasonably necessary control devices for the benefit of the general public within the Village of Commercial Point, Ohio; and

C. The parties desire to establish a perpetual easement for the purpose of constructing, reconstructing, altering and maintaining the Easement under, over, along, upon, and across the Property, as set forth in this Easement contract.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purchase Price. The total purchase price to be paid by Grantee to Grantor for the Easement shall be One Thousand Two Hundred Eighty and 00/100 Dollars (\$1,280.00).
2. Payment of Purchase Price.
  - (a) The Grantee shall tender to the Grantor the sum of One Thousand Two Hundred Eighty and 00/100 Dollars (\$1,280.00) on or before March 1, 2016
3. Grant of Easement. Grantor hereby grants and conveys to Grantee a perpetual and non-exclusive easement (the "Easement") on, over, under, and across the Property, for the purpose of constructing, reconstructing, altering, maintaining and using the Easement. Grantee may do and perform all acts necessary to do so pursuant to and in accordance with this Easement. This Easement is a permanent easement.
4. Use of Property.
  - (a) Grantee shall submit all engineering plans for the Easement to the Property pursuant to this Easement to Grantor for its approval, which approval shall not be unreasonably withheld or delayed. Grantee shall perform all work on the Property in a good and workmanlike manner, using qualified labor and quality materials. Grantee shall coordinate and schedule all such work with Grantor. Grantor may inspect such work to assure conformance to the Grantor's standards. Grantee

shall be responsible, at its sole cost, for maintaining all improvements to the Property made pursuant to this Easement after approval and acceptance to standards approved by Grantor.

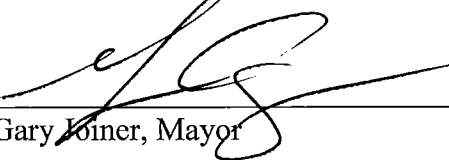
- (b) Grantor agrees not to use the Property for any purpose inconsistent with, or to otherwise interfere with, the rights granted by this Easement. Grantor shall retain the right of ingress and egress over any portion of the Property used for a driveway. Grantor agrees that no building, structure, or sign shall be placed in, on or within the Property without the prior consent of Grantee, which may be withheld by Grantee in its sole discretion.
5. Indemnity. Grantee shall indemnify and save Grantor harmless from and against any and all claims, liabilities, losses, damages, causes of action, costs and expenses, including attorney fees, which Grantor may incur as a result of or in any way connected with the activities of Grantee, its officers, employees, agents, contractors, and invitees in connection with this Easement, or in connection with the acts or negligence of Grantee, its agents, employees or contractors.
6. Attested Accounts. Neither Grantor nor Grantee shall permit any attested accounts to be filed against the Property in connection with any construction, maintenance or repair work alleged to have been done by or through Grantor or Grantee. In the event that any such attested accounts shall be filed of record, the party alleged to have ordered the work for which the attested accounts shall have been recorded shall cause such lien to be removed of record by payment, bonding, or other lawful procedure within thirty (30) days after receipt of written notice of such attested accounts from the other party.
7. Failure to Maintain. If Grantee shall fail to repair or maintain the Property in accordance with the provisions of this Easement, and if such failure shall continue for thirty (30) days after Grantor gives notice thereof to Grantee, such thirty (30) day period to be extended as reasonably required if Grantee shall be acting with due diligence, Grantor shall have the right to go upon the Easement Parcel to perform such maintenance and repair. Grantee shall reimburse Grantor for the reasonable costs incurred as the result thereof within thirty (30) days following receipt of invoice. If any amounts owed to Grantor pursuant to this Easement shall not be paid within ten (10) days after they are due, Grantor shall be entitled to interest at the rate of eight percent (8%) per annum from the date such payment was due until the date received by Grantor.
8. Lawful Owner. Grantor covenants with Grantee, its successors and assigns, that Grantor is the true and lawful owner of the Easement Parcel, and is well seized of the same in fee simple, and has good right and full power to convey the easement set forth in this instrument.
9. Notices. Any notices required to be given to Grantor or Grantee shall be given by certified mail, return receipt requested, or by a national delivery service which obtains a receipt for delivery, at the address set forth in the first paragraph of this Easement, or to

- such other address as a party may designate from time to time by giving notice to the other party.
10. Successors and Assigns. The terms and conditions of this Easement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
  11. Covenant Running With the Land. The terms and conditions of this Easement shall constitute a covenant running with the land, subject to any and all matters of record which affect title to the Property.
  12. Abandonment of Easement. If, for any reason, the Grantee would cease use of the Easement for a six (6) month period of time the Easement shall be deemed abandoned and ownership will revert back to the Grantor. Grantee agrees to cooperate and sign any and all documents necessary to terminate the Easement.
  13. Miscellaneous. This Easement constitutes the entire agreement among the parties. The parties do not rely upon any statement, promise, or representation not herein expressed. This Easement may be amended only by an instrument in writing signed by the parties hereto. This Easement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument. This Easement is governed by the laws of the State of Ohio.


IN WITNESS WHEREOF, this instrument is executed this 1<sup>st</sup> day of March, 2016.

**GRANTOR:**

**VILLAGE OF COMMERCIAL POINT**

By:   
Gary Joiner, Mayor

And Approved as to Form:

  
\_\_\_\_\_  
Solicitor for the Village of Commercial Point

**GRANTEE:**

**INTELLIWAVE**

By: \_\_\_\_\_

\_\_\_\_\_

**Legal Description of a 20' x 20' Site Easement  
Including a 10' Wide Access Easement**

Situated in the State of Ohio, County of Pickaway, Township of Harrison, the Village of Commercial being part of 2.709 acre tract as conveyed to The Village of Commercial Point in Deed Volume 269, Page 65; herein referred to as Grantor, all records herein are from the Recorder's Office, Pickaway County, Ohio and being more particularly described as follows;

Beginning for reference at a Found Mag Nail in the centerline of Walker Road at the Northeasterly corner of said 2.709 acre tract;

Thence Southerly with said centerline South 14°20'00" East a distance of 60.04 feet to a point at the Southwesterly corner of said 2.709 acre tract;

Thence Easterly leaving said centerline and going with the Southerly line of said 2.709 acre tract North 73°46'00" East a distance of 18.01 feet to a Set 5/8" Rebar with cap in the Easterly right-of-way line of Walker Road being the TRUE POINT OF BEGINNING of the herein described easement;

Thence Northerly with said right-of-way line North 16°15'43" West a distance of 6.54 feet to a point;

Thence leaving said right-of-way line and going with eleven (11) new lines through said 2.709 acre tract the following calls;

- North 35°12'24" East a distance of 23.95 feet to a point;
- Thence North 73°56'25" East a distance of 79.95 feet to a point;
- Thence with a curve to the right a distance of 144.90 feet having a radius of 241.93 feet and a chord of which bears South 88°14'02" East 142.74 feet distant to a point;
- Thence North 21°31'09" East a distance of 12.55 feet to point;
- Thence North 68°28'51" West a distance of 10.00 feet to a point;
- Thence North 21°31'09" East a distance of 20.00 feet to a point;
- Thence South 68°28'51" East a distance of 20.00 feet to a point;
- Thence South 21°31'09" West a distance of 42.30 feet to a point;
- Thence with a curve to the left a distance of 148.40 feet having a radius of 231.93 feet and a chord of which bears North 87°02'49" West 145.88 feet distant to a point;
- Thence South 73°56'25" West a distance of 76.38 feet to a point;
- Thence South 35°12'24" West a distance of 18.39 feet to a point in the Southerly line of said 2.709 acre tract;

Thence Westerly with said Southerly line South 73°46'00" West a distance of 7.83 feet to the TRUE POINT OF BEGINNING terminating the herein described easement.

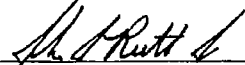
Subject to all easements, rights-of-way or restrictions of record.

This description was prepared by Ackison Surveying, LLC. (614-766-4000) under the direct supervision of John J Rutter Jr. Registered Surveyor No. 7958 from an actual field survey of the premises in November of 2015. And a Plat of survey is attached hereto and made a part hereof.

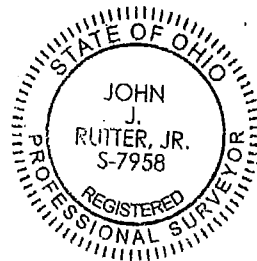
Basis of Bearings is the centerline of Walker Road as South 14°20'00" East and is determined through G.P.S. observation utilizing the O.D.O.T. VRS Network (NSRS2007) and should be used to denote angles only.

Deed References and Documents as Recorded in the Pickaway County, Ohio Recorder's Office.

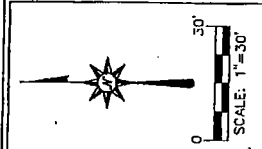
All Iron Pins set are 5/8" X 30" rebar with a 1-1/2" yellow plastic cap reading Ackison Surveying.

  
John J Rutter Jr.      PS. 7958

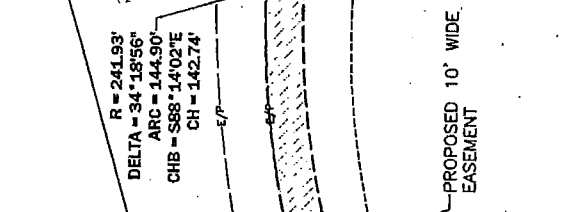
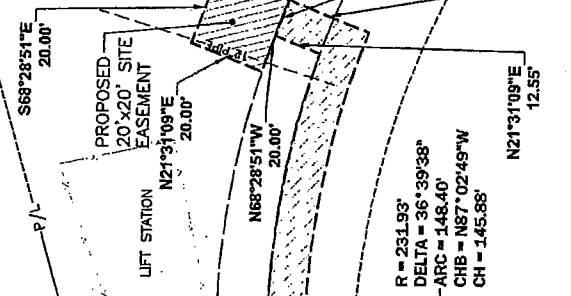
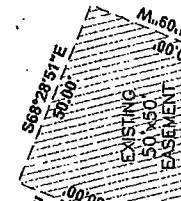
January      22, 2016



**EXHIBIT 'A'**  
**10' WIDE STRIP EASEMENT AND A 20'x20' SITE EASEMENT**



VILLAGE OF COMMERCIAL POINT  
 2.709 ACRES  
 D.V. 269, Pg. 65

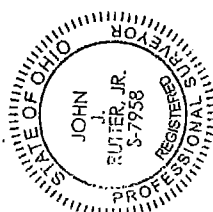
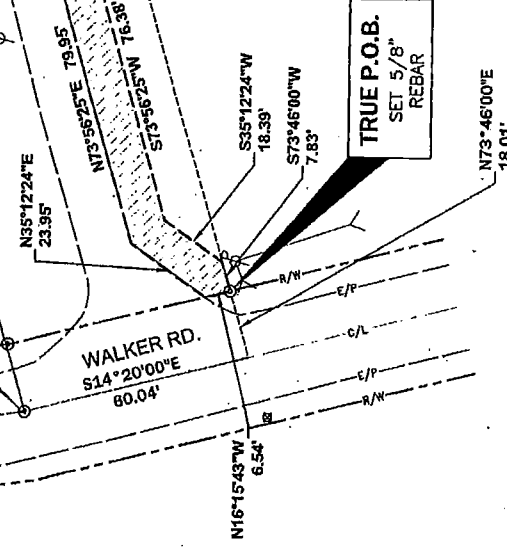


**P.O.C.**  
 FOUND MAG  
 NAIL

**TRUE P.O.B.**  
 SET 5/8"  
 REBAR

R = 241.93'  
 DELTA = 34°18'56"  
 ARC = 144.90'  
 CHB = S88°14'02"E  
 CH = 142.74'

R = 231.93'  
 DELTA = 36°39'38"  
 ARC = 148.40'  
 CHB = N87°02'49"W  
 CH = 145.88'



I HEREBY CERTIFY THAT THE ATTACHED PLAT WAS PREPARED FROM INFORMATION OBTAINED FROM AN ACTUAL FIELD SURVEY OF THE PREMISES AND THAT SAID PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE

REGISTERED SURVEYOR NO. 7958  
 JOHN J. RUTLER, JR.

JANUARY 22, 2016  
*John J. Rutler, Jr.*

**ACKISON SURVEYING**  
 Office: 614-766-4000  
 Cell: 614-207-6214  
 www.ackisonsurveying.com

SHEET 1 OF 1