

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2017 – 174

By: Mayor Perciak and Mr. Daymut

AN ORDINANCE APPROVING AND AUTHORIZING THE GRANT OF A REVOCABLE LICENSE TO PDS PROPERTIES, LTD. DBA CENTERLINE CARSTAR COLLISION FOR USE OF PUBLIC PROPERTY IN CONNECTION WITH A PARKING LOT AREA, FENCING, LANDSCAPING AND APPURTENANCES; AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT IN FURTHERANCE THEREOF; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That this Council hereby approves and authorizes the grant of a revocable license to **PDS PROPERTIES, LTD. dba CENTERLINE CARSTAR COLLISION**, a business within the City of Strongsville, for the use of a portion of public property and right-of-way located near its property at 8000 Pearl Road, for purposes of installation of a parking lot area, fencing, landscaping and appurtenances, upon the terms and conditions set forth in the License Agreement, attached hereto as Exhibit "A" and incorporated herein by reference, which in all respects is approved.

Section 2. That the Mayor be and is hereby authorized to enter into and execute the License Agreement and to do all things necessary to carry out the provisions thereof.

Section 3. 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 any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that the immediate grant of the aforesaid license is necessary to allow the aforesaid parking lot area, fencing, landscaping and appurtenances on the public premises. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

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Kenneth M. Dooner
President of Council

Approved: James B. Bauer
Mayor

Date Passed: October 16, 2017

Date Approved: October 17, 2017

	<u>Yea</u>	<u>Nay</u>
Carbone	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Daymut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DeMio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dooner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schonhut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Short	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Southworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attest: Aimee Pientka
Clerk of Council

ORD. No. 2017-174 Amended: _____
1st Rdg. 10-16-17 Ref: _____
2nd Rdg. Suspended Ref: _____
3rd Rdg. Suspended Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: 10-16-17 Defeated: _____

LICENSE AGREEMENT

Agreement made this 17th day of October, 2017, between the **CITY OF STRONGSVILLE**, County of Cuyahoga, State of Ohio, an Ohio municipal corporation located at 16099 Foltz Parkway, Strongsville, Ohio 44149, herein called "City," and **PDS PROPERTIES, LTD. dba CENTERLINE CARSTAR COLLISION**, an Ohio limited liability company, located at 8000 Pearl Road, Strongsville, Ohio 44136, herein called "Licensee."

SECTION ONE

Grant of License; Description of Premises

City hereby grants to Licensee a license to occupy and use, subject to all of the terms and conditions hereof, the public right-of-way reflected in Exhibit 1, attached hereto and incorporated herein by reference, and as approved by the Planning Commission (the "Premises").

SECTION TWO

Limitation to Described Purpose

The Premises may be occupied and used by Licensee solely for the installation of a parking lot area, fencing, landscaping and appurtenances in, on, over and under the Premises and for incidental purposes related thereto as depicted in Exhibit 1, during the period beginning November 1, 2017 and continuing until this Agreement is terminated as hereinafter provided.

SECTION THREE

Periodic Payments

Licensee shall pay City for this license at the rate of Twelve and No/100 Dollars (\$12.00) per year payable in advance. The first payment shall be made on the date of the beginning of the period specified above. Subsequent payments shall be made in advance on the first day of November of each year thereafter during the continuance of this Agreement.

SECTION FOUR

Improvements

The parking lot area, fencing, landscaping and appurtenances in, on, under and over the Premises shall be constructed, maintained and repaired in accordance with plans and specifications approved by the City; and such parking lot area, fencing, landscaping and appurtenances shall be maintained so that there will be no danger of the same obstructing the view of pedestrian and/or vehicular traffic or otherwise posing a hazard or risk to the safety of the public. All expenses of construction, maintenance, and repairs shall be borne solely by the Licensee.

SECTION FIVE
Maintenance by Licensee

The parking lot area, fencing, landscaping and appurtenances shall be maintained in good repair by the Licensee at its sole cost and expense. In furtherance thereof, Licensee agrees to provide the necessary labor and materials to continuously maintain the parking lot area, fencing, Premises, landscape care, and any and all other related appurtenances in a good, safe and sanitary condition and repair throughout the term of this License. In the maintenance of the Premises and the landscaping therein, no changes shall be made in the approved structures or plantings without the written authorization of the Building Commissioner and such other appropriate body as the circumstances require. If the Building Commissioner finds that the parking lot area, fencing, landscaping and appurtenances obstruct the view of vehicle or pedestrian traffic or otherwise pose a hazard or risk to the safety of the public; or are required by the City to be removed in connection with the construction, reconstruction, maintenance and/or repair of the municipal sewer system, public utility, or the roadway; or if the Premises shall not be maintained by the Licensee as herein required, the City, upon the order of the Building Commissioner with or without notice, may cure the defect, obstruction or safety hazard and/or perform the required maintenance or removal. Should any of the foregoing events occur, Licensee agrees to pay the City, in addition to any other sums required by this Agreement, all reasonable costs and expenses incurred by the City in undertaking such work. Such costs may be assessed by the City, if it elects to do so, to the tax duplicate.

SECTION SIX
Insurance

Licensee, at its sole expense, shall keep in force during the term of this License comprehensive, public liability and property damage insurance issued by responsible insurance companies naming the City and the Licensee as insureds and in a form acceptable to the City for the protection of the City and Licensee against all liabilities, judgments, costs, damages and expenses which may accrue against, be charged to, or recovered from the City by reason of damage to the property of, injury to or death of any person or persons on account of any accident or event which may occur on the Premises in an amount not less than \$1,000,000.00 with respect to any one person, and \$2,000,000.00 with respect to any one accident or disaster, and \$500,000.00 with respect to property damage.

SECTION SEVEN
Indemnification

Licensee agrees, at its expense, to defend, indemnify and hold harmless the City, its officers, agents and employees from and against all liability or loss for injuries to or deaths of persons or damages to property caused by any act or omission to act, or use or occupancy of the Premises by Licensee, its invitees and guests or any other person authorized by Licensee to use the Premises or any portion thereof. Each party

hereto shall give to the other prompt and timely notice of any claim made or suit instituted coming to the knowledge of their respective officers or employees, and both shall have the right to participate in the defense of same to the extent of its own interest. In the event the City shall decide to so defend, such defense shall not be deemed a waiver by the City of any of its rights against Licensee under the foregoing indemnification provisions.

SECTION EIGHT Termination

Either party may terminate this Agreement at any time, without regard to payment periods, by giving written notice to the other, specifying the date of termination, such notice to be given not less than thirty (30) days prior to the date therein specified. Should the parking lot area, fencing, landscaping and/or appurtenances, or any essential part thereof, be totally destroyed by fire or other casualty, this Agreement shall immediately terminate; and in the case of partial destruction, this Agreement may be terminated by either party by giving written notice to the other, specifying the date of termination, such notice to be given within fifteen (15) days following such partial destruction and not less than five (5) days prior to the termination date therein specified. If Licensee shall make an assignment for the benefit of creditors, or be placed in receivership or adjudicated a bankrupt, or take advantage of any bankruptcy or insolvency law, City may terminate this Agreement by giving written notice to the Licensee, specifying the date of termination, such notice to be given not less than ten (10) days prior to the date therein specified. Upon termination by either party, the parking lot area, fencing, landscaping and appurtenances shall be immediately removed from the City right of way at the sole cost of the Licensee; and if not so removed by the Licensee, the parking lot area, fencing, landscaping and appurtenances may be removed by the City, and the cost incurred by the City for the removal shall be charged back to the Licensee. Such cost may be assessed by the City, if it elects to do so, to the tax duplicate.

SECTION NINE General Provisions

A. *Successors and Assigns/No Assignment.* The license privileges hereunder are personal to Licensee and shall not be assignable by Licensee in whole or in part without the advance, written permission of the City which the City is not required to provide. The rights and obligations hereunder shall be binding upon and inure to the benefit of the Licensee and the City and their respective successors and permitted assigns.

B. *Privilege not exclusive.* The permission given herewith is not exclusive; and the City may at any time permit the installation of improvements of a similar or dissimilar nature to those of Licensee.

C. *Public Access.* This license is not a grant of an exclusive use of the Premises to the Licensee for any purpose, and the Licensee shall at all times keep and

maintain the Premises to allow for the free and open use thereof by the public and the City, its officers, agents, employees and others authorized by it.

D. Notices. Any notice mailed, addressed to Licensee at the address listed above, or delivered to Licensee, shall be deemed to be proper notice hereunder to the Licensee. Any notice mailed or delivered to the Mayor shall be notice by Licensee to the City, unless and until City shall designate a different representative or address.

E. Sole Understanding. This Agreement represents the sole understanding of the parties concerning the subject parking lot area, fencing, landscaping and appurtenances, and shall supersede any other prior writings, agreements or understanding, written or oral, regarding the same subject matter.

IN WITNESS WHEREOF, the parties being duly authorized have executed this license at Strongsville, Ohio the day and year first above written.

Signed in the presence of:

CITY OF STRONGSVILLE

Aimee Pientica
Nancy M. Sikorski

By: Thomas P. Perciak
Thomas P. Perciak, Mayor

PDS PROPERTIES, LTD.
dba CENTERLINE CARSTAR COLLISION

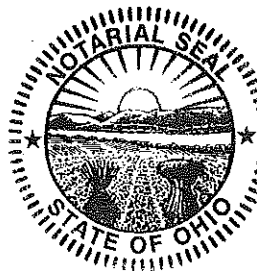
Carl M. Green
Scott DeLong

By: Carl M. Green
Its: PRESIDENT

STATE OF OHIO)
) ss
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named **CITY OF STRONGSVILLE**, by Thomas P. Perciak, its Mayor, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of said municipal corporation.

IN TESTIMONY WHEREOF I have hereunto set my hand and official seal at Strongsville, Ohio, this 17th day of October, 2017.



NANCY M SIKORSKI
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES
03-14-2019

Nancy M. Sikorski
Notary Public

STATE OF OHIO)
) ss
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named **PDS PROPERTIES, LTD. dba CENTERLINE CARSTAR COLLISION**, an Ohio limited liability company, by Paul Strohar, its Resident, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Strongsville, Ohio, this 5th day of September, 2017.



Carol M. Oprea
Notary Public

CAROL M. OPREA
Notary Public, State of Ohio
Recorded in Cuyahoga County
My Comm. Expires July 15, 2021

