

ORDINANCE NO. 2018-72
INTRODUCED BY: MR. NEWELL

4147

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A
SANITARY SEWER AND WATERLINE EASEMENT
WITH THE VILLAGE OF MORELAND HILLS AND
DECLARING AN EMERGENCY.**

WHEREAS, Chagrin Boulevard River Development, LLC (“Developer”) requested that the Village enter into a Sanitary Sewer Development Agreement in order to provide sanitary sewer service to the Chagrin Bluffs Subdivision (“Subdivision”); and

WHEREAS, the Developer previously requested that the Village extend water mains from the Village limits to the Subdivision and the Developer constructed such water mains and turned over ownership of the water mains to the Village; and

WHEREAS, the Village, the Developer and the Village of Moreland Hills entered into the Sanitary Sewer Development Agreement which required the Village and the Village of Moreland Hills to enter into a Sanitary Sewer Agreement and as a result of the water main extension previously made by the Developer, the two Villages determined that a waterline easement should also be granted at the same time; and

WHEREAS, the Village has agreed to approve the extension of sanitary sewers to the Subdivision and it is necessary now to obtain an easement for the extension of the sanitary sewers and water main located on Chagrin Boulevard and the water mains located on Addison Lane in the Subdivision.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. That the Mayor is hereby authorized to enter into a Sanitary Sewer and Waterline Easement Agreement with the Village of Moreland Hills for waterlines and sewer mains that have been and will be extended on Chagrin Boulevard and Addison Lane within the Village of Moreland Hills all as more fully set forth in the Sanitary Sewer and Waterline Easement Agreement and exhibits thereto which are attached hereto and made a part hereof as EXHIBIT “A”. The Mayor may alter or amend the Easement in any manner not materially adverse to the Village’s interest. Execution of the Easement shall not be construed to extend to the construction or installation of any other improvement of any sort other than the sanitary sewer force main and the water main already constructed to and in the Subdivision and no further extension of such sanitary sewer force mains, gravity lines, waterlines or other appurtenances shall be allowed other than as approved in the Sanitary Sewer Development

ORDINANCE NO. 2018-72
INTRODUCED BY: MR. NEWELL

Agreement previously executed by the Village, the Village of Moreland Hills and the Developer.

SECTION 2. The Sanitary Sewer and Waterline Easement Agreement attached hereto as EXHIBIT "A" shall become effective upon approval by the adoption of an Ordinance by the Village of Moreland Hills' Council authorizing the Mayor of Moreland Hills to enter into the Easement and such Mayor has so executed the Easement. The Developer shall record the Sanitary Sewer and Waterline Easement Agreement at its cost as required by the terms contained in the Sanitary Sewer Development Agreement.

SECTION 3. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 4. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 5. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that the sanitary sewer lines will shortly be constructed and it is necessary for the Village to have access to the sewer mains and waterlines within the right-of-way of Chagrin Boulevard and Addison Lane as set forth in Exhibits "A" and "B" to the Easement Agreement attached hereto as EXHIBIT "A"; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: November 12, 2018


Karl Maersch, Council President


Submitted to the Mayor for
his approval on this

13 day of November, 2018
Approved by the Mayor

November 13, 2018


Mayor William Tomko

I hereby certify that Ordinance No. 2018-72 was duly enacted on the 12th day of November, 2018, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.


Clerk of Council

TRANSFER NOT REQUIRED

NOV 16 2018

CUYAHOGA COUNTY FISCAL OFFICE

CUYAHOGA COUNTY
OFFICE OF FISCAL OFFICER - 9
DEEA 11/16/2018 11:19:25 AM
201811160515

SANITARY SEWER AND WATERLINE EASEMENT AGREEMENT

THIS SANITARY SEWER AND WATERLINE EASEMENT AGREEMENT ("Agreement") is entered into by and between the VILLAGE OF MORELAND HILLS, OHIO, a municipal corporation of the State of Ohio, 4350 SOM Center Road, Moreland Hills, Ohio 44022 (hereinafter "Grantor") and the VILLAGE OF CHAGRIN FALLS, OHIO, a municipal corporation of the State of Ohio, 21 West Washington Street, Chagrin Falls, Ohio 44022 (hereinafter "Grantee").

RECITALS:

- A. Grantor is the owner of certain land situated in the Village of Moreland Hills, Ohio, specifically the public right-of-way along Chagrin Boulevard; and
- B. Grantor, Grantee, and a developer, Chagrin Boulevard River Development, LLC, entered into a Sanitary Sewer Development Agreement recorded in the Cuyahoga County records at AFN 201810030836, by which the developer is constructing a new sanitary sewer force main and related appurtenances within the public right-of-way along Chagrin Boulevard from a point approximately seventy feet (70') south of the Chagrin Falls/Moreland Hills' line to a point approximately one thousand three hundred eighty-five feet (1,385')

northwesterly of said Chagrin Falls/Moreland Hills' line at the intersection of Addison Lane (hereinafter the "Sanitary Sewer Facilities"); and

C. The Sanitary Sewer Development Agreement provides that the Sanitary Sewer Facilities shall be owned by Grantor, but operated and maintained by Grantee; and

D. The Sanitary Sewer Development Agreement provides that Grantor shall grant an easement to Grantee for the maintenance, operation, repair, replacement, and removal of the Sanitary Sewer Facilities; and

E. Grantor desires to grant Grantee a non-exclusive perpetual easement for the purpose of maintaining, operating, repairing, replacing and removing the Sanitary Sewer Facilities in the area described and depicted in Exhibit A, attached hereto and incorporated herein by reference (the "Chagrin Boulevard Easement Area").

F. In 2016, the Grantee and Chagrin Boulevard River Development, LLC ("Developer") entered into an agreement whereby Developer extended waterlines within the Chagrin Boulevard Easement Area into the Chagrin Bluffs Subdivision and within the right-of-way of Addison Lane, a dedicated road therein as described and depicted in Exhibit B attached hereto and incorporated herein by reference (the "Addison Lane Easement Area"); and whereas the Grantor and Grantee have determined that the Grantor should grant to Grantee a non-exclusive perpetual easement for the purpose of maintaining, operating, repairing, replacing and removing the eight (8) inch water main and related appurtenances ("Waterline Facilities") that are located within the Chagrin Boulevard Easement Area and the Addison Lane Easement Area.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration received to the full satisfaction of Grantor and in further consideration of the covenants, promises and agreements set forth herein, the parties agree as follows:

1. Grantor, for itself, its successors, legal representatives and assigns, and upon the terms and subject to the conditions of this Agreement, gives, grants and conveys unto Grantee, its successors, legal representatives and assigns, a perpetual non-exclusive easement upon, under and across the Chagrin Boulevard Easement Area to maintain, operate, repair, replace and remove the Sanitary Sewer Facilities in accordance with the terms and conditions of the Sanitary Sewer Development Agreement recorded in the Cuyahoga County records at AFN 201810030836.

2. Grantor, for itself, its successors, legal representatives and assigns, and upon the terms and subject to the conditions of this Agreement, gives, grants and conveys unto Grantee, its successors, legal representatives and assigns, a perpetual non-exclusive easement upon, under and across the Chagrin Boulevard Easement Area and in the Addison Lane Easement Area in the Chagrin Bluffs Subdivision to maintain, operate, repair, replace and remove the Waterline Facilities in order to continue to provide a potable water supply to the residents of the Chagrin Bluffs Subdivision and any property owner located on Chagrin Boulevard who is permitted to connect to the Waterline Facilities.

3. Grantee shall, at no expense to Grantor, upon maintaining, operating, repairing, replacing and removing the Sanitary Sewer Facilities and/or Waterline Facilities, restore the surface of the Chagrin Boulevard Easement Area and/or the Addison Lane Easement Area and

replace and repair any driveways, curbs, sidewalks, fences, landscaping, lawns and the like to substantially the same condition as existed before any such work was performed.

4. Grantee agrees to obtain all permits, if any, required by applicable law in connection with maintaining, operating, repairing, replacing and removing the Sanitary Sewer Facilities and/or Waterline Facilities. Permits will be obtained at no cost to Grantor.

5. Grantee agrees to provide Grantor with reasonable advanced notice prior to commencing any work in the Chagrin Boulevard Easement Area and/or the Addison Lane Easement Area.

6. Grantor may not, without the prior written consent of Grantee, construct buildings, structures, improvements, landscaping or fences on, over or under the Chagrin Boulevard Easement Area and/or the Addison Lane Easement Area.

7. In addition to the purposes described in paragraphs 1 and 2 of this Agreement, Grantee shall have the right to use the easement for any and all purposes which are consistent with the rights granted in this easement.

8. Any notice which may be or is required under this Agreement shall be personally delivered, sent by certified or registered mail, by overnight delivery service, or by electronic mail as follows:

If to Grantor:

Susan C. Renda, Mayor
4350 SOM Center Road
Village of Moreland Hills, Ohio
srenda@morelandhills.com

With a copy to:

Aimee W. Lane, Law Director
Walter Haverfield LLP
1301 East Ninth Street, Suite 3500
Cleveland, Ohio 44114
alane@walterhav.com

If to Grantee:

William Tomko, Mayor
21 West Washington Street
Chagrin Falls, Ohio 44022
mayortomko@chagrin-falls.org

With a copy to:

Dale Markowitz, Law Director
Thrasher, Dinsmore & Dolan LPA
100 7th Avenue, Suite 154
Chardon, Ohio 44024
dmarkowitz@tddlaw.com

Grantee, Village of Chagrin Falls, Ohio

9. This Agreement shall bind and inure to the benefit of the parties hereto, their respective successors, representatives and assigns. Each person executing this Agreement in a representative capacity warrants their authority to do so.

10. The easement herein granted and all covenants and agreements herein shall run with the land.

[INTENTIONALLY LEFT BLANK]

AGREEING TO BE BOUND, the parties hereto have executed this Sanitary Sewer and Waterline Easement Agreement as of the dates set forth below.

“Grantor”

VILLAGE OF MORELAND HILLS, OHIO

By: Susan C Renda

Name: Susan C Renda

Title: Mayor

Date: 11/14/18

Approved as to legal form:

Aimee W. Lane

Aimee W. Lane, Law Director
Village of Moreland Hills

“Grantee”

VILLAGE OF CHAGRIN FALLS, OHIO

By: William A. Tomko

Name: William A. Tomko

Title: Mayor

Date: November 13, 2018

Approved as to legal form:

Dale H Markowitz

Dale Markowitz, Law Director
Village of Chagrin Falls

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the Village of Moreland Hills, Ohio by Susan C. Renda, its duly elected Mayor, who acknowledged that she did sign the foregoing instrument and that the same was her free act and deed as the Mayor of the Village and the free act and deed of the Village of Moreland Hills, Ohio.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 14th day of November, 2018.



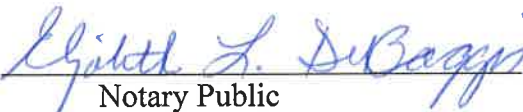
Notary Public

AIMEE W. LANE, Atty
Notary Public State of Ohio
My Commission Has No Expiration Date
Section 147.03 O.R.C.

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the Village of Chagrin Falls, Ohio by William Tomko, its duly elected Mayor, who acknowledged that he did sign the foregoing instrument and that the same was his free act and deed as the Mayor of the Village and the free act and deed of the Village of Chagrin Falls, Ohio.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 13 day of November, 2018.



Notary Public

ELIZABETH L. DEBAGGIS
Notary Public - State of Ohio
Recorded in Cuyahoga County
My Commission Expires April 25, 2021

This instrument prepared by:

Aimee W. Lane, Esq.
WALTER & HAVERFIELD LLP
The Tower at Erieview
1301 East Ninth Street, Suite 3500
Cleveland, OH 44114-1821

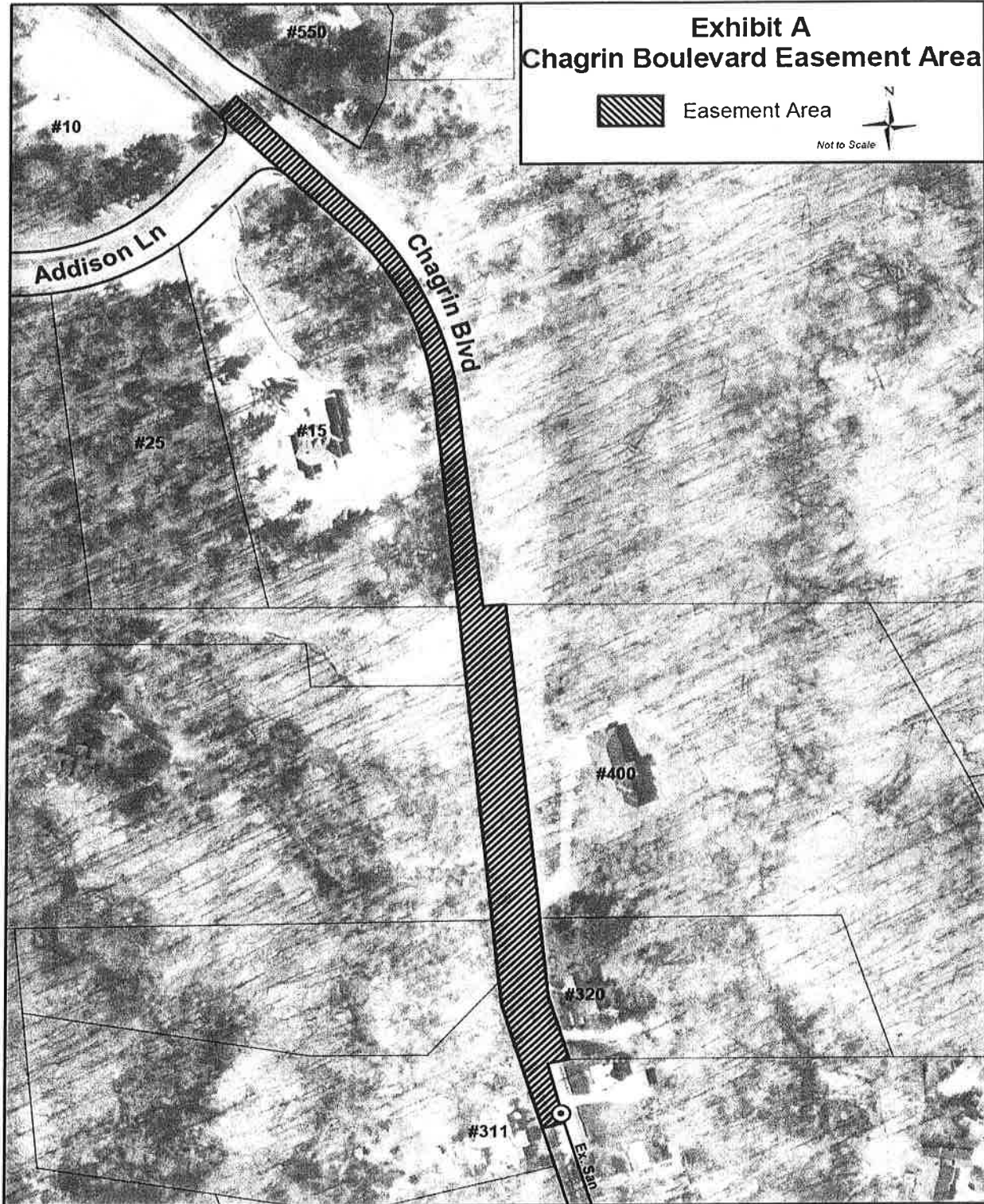
Exhibit A Chagrin Boulevard Easement Area



Easement Area



Not to Scale



**Exhibit B
Addison Lane Easement Area**



Easement Area



Not to Scale

