

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ACCEPT A TEMPORARY
CONSTRUCTION EASEMENT AND A PERMANENT
EASEMENT FROM SPILLWAY, LLC, AND DECLARING AN
EMERGENCY.**

WHEREAS, Spillway, LLC, owns certain real property on Cleveland Street, known as Permanent Parcel No. 931-15-031 ("Spillway property"); and

WHEREAS, the Village needs a temporary easement and a permanent easement over the Spillway property for the purpose of the establishment, construction, reconstruction, widening, repair or maintenance of a public road; and

WHEREAS, Spillway, LLC, has executed a Temporary Easement and an Easement granting the Village such access; and

WHEREAS, this Council desires to authorize the Mayor to accept the easements.

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

SECTION 1. That the Mayor be and is hereby authorized to accept the Temporary Easement and Easement that have been granted Spillway, LLC. Copies of the easements are appended hereto and incorporated herein by reference.

SECTION 2. 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 3. 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 4. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of this Village and for the further reason that this Ordinance must be immediately effective so that the Village may provide for the immediate acceptance of the easements and thereby grant the Village access to the property that is subject to the easements for the purpose of the establishment, construction, reconstruction, widening, repair or maintenance of a public road; wherefore, provided it receives the requisite number of affirmative votes of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: September 24, 2012



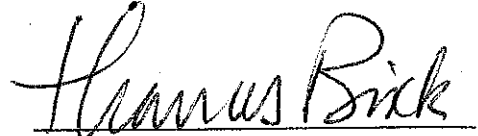
Council President

ORDINANCE NO.: 2012- 44
INTRODUCED BY: MRS. EVANS

2

Submitted to the Mayor for
his approval on this
25 day of September, 2012

Approved by the Mayor
September 25, 2012



Mayor

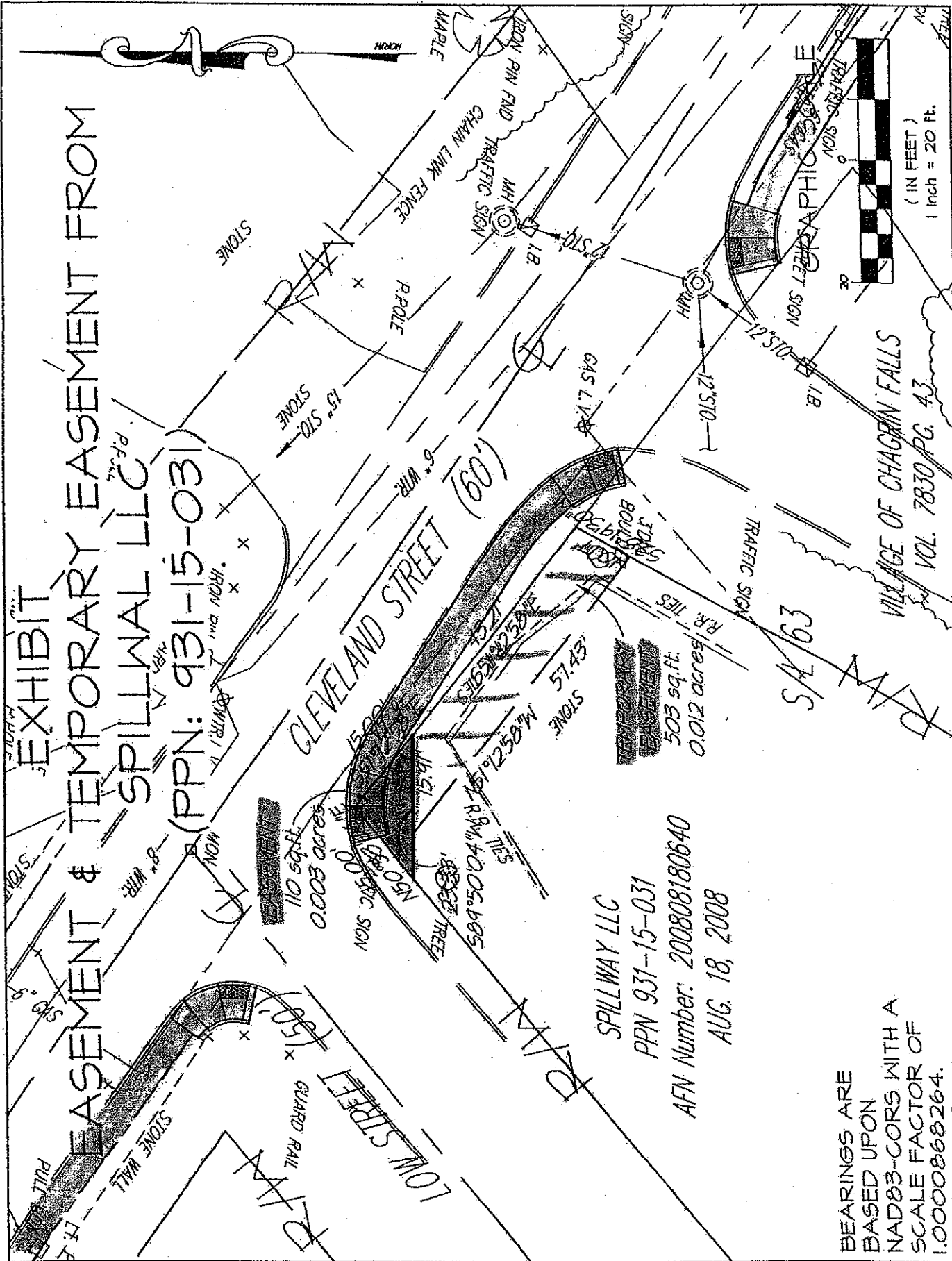
I hereby certify that Ordinance No. 2012- 44 was duly enacted on the 24 day of September
 , 2012, by the Council of the Village of Chagrin Falls and posted in accordance with Section
113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council

EXHIBIT EASEMENT & TEMPORARY EASEMENT FROM SPILLWAY LLC

(PPN: 931-15-031)



SPILLWAY LLC
PPN 931-15-031
AFN Number: 200808180640
AUG. 18, 2008

BEARINGS ARE
BASED UPON
NAD83-CORS WITH A
SCALE FACTOR OF
1.0000868264.

CT Consultants

EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Spillway, LLC, the Grantor(s) herein, in consideration of the sum of \$0, to be paid by Village of Chagrin Falls, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns forever, an easement, which is more particularly described in Exhibit A attached hereto, within the following described real estate:

PARCEL(S): 4SH

PID No. 88290

SEE EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Prior Instrument Reference: Document No. 200808180640, Cuyahoga County Recorder's Office.

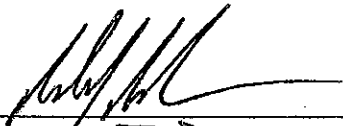
And the said Grantor(s), for themselves and their successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that they are the true and lawful owner(s) of said premises, and lawfully seized of the same in fee simple, and have good right and full power to grant, bargain, sell, convey and release the same in the manner aforesaid, and that the same are free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable; and that Grantor(s) will warrant and defend the same against all claims of all persons whomsoever.

The property conveyed herein is being acquired by Grantee for a public purpose, namely the establishment, construction, reconstruction, widening, repair or maintenance of a public road.

In the event that the Grantee decides not to use the property conveyed herein for the above-stated purpose, the Grantor(s) have a right under Section 163.211 of the Revised Code to repurchase the property for its fair market value as determined by an independent appraisal made by an appraiser chosen by agreement of the parties or, if the parties cannot agree, an appraiser chosen by an appropriate court. However, this right to repurchase will be extinguished if any of the following occur: (A) Grantor(s) decline to repurchase the property; (B) Grantor(s) fail to repurchase the property within sixty days after Grantee offers the property for repurchase; (C) Grantee grants or transfers the property to any other person or agency; or (D) Five years have passed since the property was appropriated or acquired by Grantee.

IN WITNESS WHEREOF Spillway, LLC has caused its name to be subscribed by
ROBERT DARDEN, its duly authorized MEMBER Spillway
and it duly authorized agent on the 1st day of August, 2012.

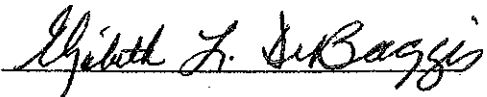
SPILLWAY, LLC

By: 
ROBERT J. DARDEH
MEMBER SPILLWAY LLC

STATE OF OHIO, COUNTY OF CUYAHOGA SS:

BE IT REMEMBERED, that on the 1st day of August, 2012,
before me the subscriber, a Notary Public in and for said state and county, personally came the
above named ROBERT DARDEN, who acknowledged being the
Member Spillway and duly authorized agent of Spillway, LLC, and who
signed or acknowledged the signing of the foregoing instrument to be the voluntary act and deed
of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official
seal on the day and year last aforesaid.



NOTARY PUBLIC
My Commission expires: April 25, 2016

ELIZABETH L. DEBAGGIS
NOTARY PUBLIC • STATE OF OHIO
Recorded in Geauga County
My commission expires Apr. 25, 2016

This document was prepared by: CT Consultants for The Village of Chagrin Falls

TEMPORARY EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Spillway, LLC, the Grantor(s) herein, in consideration of the sum of \$0, to be paid by Village of Chagrin Falls, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns, a temporary easement to exclusively occupy and use for the purposes mentioned in Exhibit A the following described real estate:

PARCEL(S): 4T
PID No. 88290

SEE EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Prior Instrument Reference: Document No. 200808180640 , Cuyahoga County Recorder's Office.

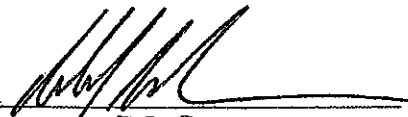
To have and to hold said temporary easement, for the aforesaid purposes and for the anticipated period of time described below, unto the Grantee, its successors and assigns.

The duration of the temporary easement herein granted to the Grantee is 12 months immediately following the date on which the work described above is first commenced by the Grantee, or its duly authorized employees, agents, and contractors.

The temporary easement interest granted herein is being acquired by Grantee for a public purpose, namely the establishment, construction, reconstruction, widening, repair or maintenance of a public road.

IN WITNESS WHEREOF Spillway, LLC has caused its name to be subscribed by ROBERT DARDEN, its duly authorized Member Spillway, and it duly authorized agent on the 1st day of August, 20 12.

SPILLWAY, LLC

By: 
ROBERT J. DARDEN
MEMBER SPILLWAY LLC

STATE OF OHIO, COUNTY OF CUYAHOGA SS:

BE IT REMEMBERED, that on the 1st day of August, 20 12 before me the subscriber, a Notary Public in and for said state and county, personally came the above named ROBERT DARDEN, who acknowledged being the MEMBER Spillway and duly authorized agent of Spillway, LLC, and who signed or acknowledged the signing of the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.



NOTARY PUBLIC
My Commission expires: April 25, 2016
ELIZABETH L. DEBAGGIS
NOTARY PUBLIC • STATE OF OHIO
Recorded in Geauga County
My commission expires Apr. 25, 2016

This document was prepared by: CT Consultants for the Village of Chagrin Falls



CT Consultants
engineers | architects | planners
Since 1922

Exhibit "A"

**DESCRIPTION OF PERMANENT RIGHT-OF-WAY EASEMENT
FOR
SPILLWAY LLC**

Situated in the Village of Chagrin Falls, County of Cuyahoga, State of Ohio, and known as being a permanent Right-Of-Way easement over and through a part of Sublot Nos 63 in Bliss and Mayhew's Allotment of part of Original Russell Township Lot Nos 18 and 19, Champion Tract as shown by plat recorded in Volume 2, Page 37 & 38 of Cuyahoga County Deed Records and is bounded and described as follows.

Beginning in the southerly line of Cleveland Street, 60 feet in width, at its intersection with the easterly line of Low Street, 50 feet in width as shown by said plat;

COURSE I Thence South $51^{\circ}12'58''$ East along said southerly line of Cleveland Street a distance of 15.00 feet to a point;

COURSE II Thence South $89^{\circ}50'04''$ West a distance of 23.33 feet to the aforesaid easterly line of Low Street;

COURSE III Thence North $50^{\circ}53'06''$ East along said easterly line of Low Street a distance of 15.00 feet to the point of beginning and containing 0.003 acres (110 square feet) of land as calculated and described in November, 2011 by CT Consultants, Inc.;

SPILLWAY LLC, grantor(s) herein, claim(s) title by or through instrument dated August 18, 2008 and recorded in AFN Number 200808180640 of the Cuyahoga County Records;

Bearings contained herein are based upon the North American Datum of 1983 (NAD83(CORS)).

The above described easement burdens a portion of property designated as Cuyahoga County Auditor's Permanent Parcel No. 931-15-031.

H:\2010\1015502\SURVEY\DESC\931-15-031 Easement.Doc

Exhibit "A"

**DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT
FOR
SPILLWAY LLC**

Situated in the Village of Chagrin Falls, County of Cuyahoga, State of Ohio, and known as being a temporary construction easement over and through a part of Sublot Nos 63 in Bliss and Mayhew's Allotment of part of Original Russell Township Lot Nos 18 and 19, Champion Tract as shown by plat recorded in Volume 2, Page 37 & 38 of Cuyahoga County Deed Records and is bounded and described as follows.

Beginning in the southerly line of Cleveland Street, 60 feet in width, at its intersection with the easterly line of Low Street, 50 feet in width as shown by said plat;

Thence South $51^{\circ}12'58''$ East along said southerly line of Cleveland Street a distance of 15.00 feet to the principal point of beginning;

COURSE I Thence South $51^{\circ}12'58''$ East continuing along said southerly line of Cleveland Street a distance of 43.21 feet to the easterly line of land conveyed to Spillway LLC through instrument dated August 18, 2008 and recorded in AFN Number 200808180640 of the Cuyahoga County Records;

COURSE II Thence South $28^{\circ}19'30''$ West along said easterly line of Spillway LLC a distance of 10.17 feet to a point;

COURSE III Thence North $51^{\circ}12'58''$ West by a line which is parallel with said southerly line of Cleveland Street and distant 10.00 feet southerly by normal measure therefrom, a distance of 57.43 feet to a point;

COURSE IV Thence North $89^{\circ}50'04''$ East a distance of 15.91 feet to the principal point of beginning and containing 0.012 acres (503 square feet) of land as calculated and described in November, 2011 by CT Consultants, Inc.;

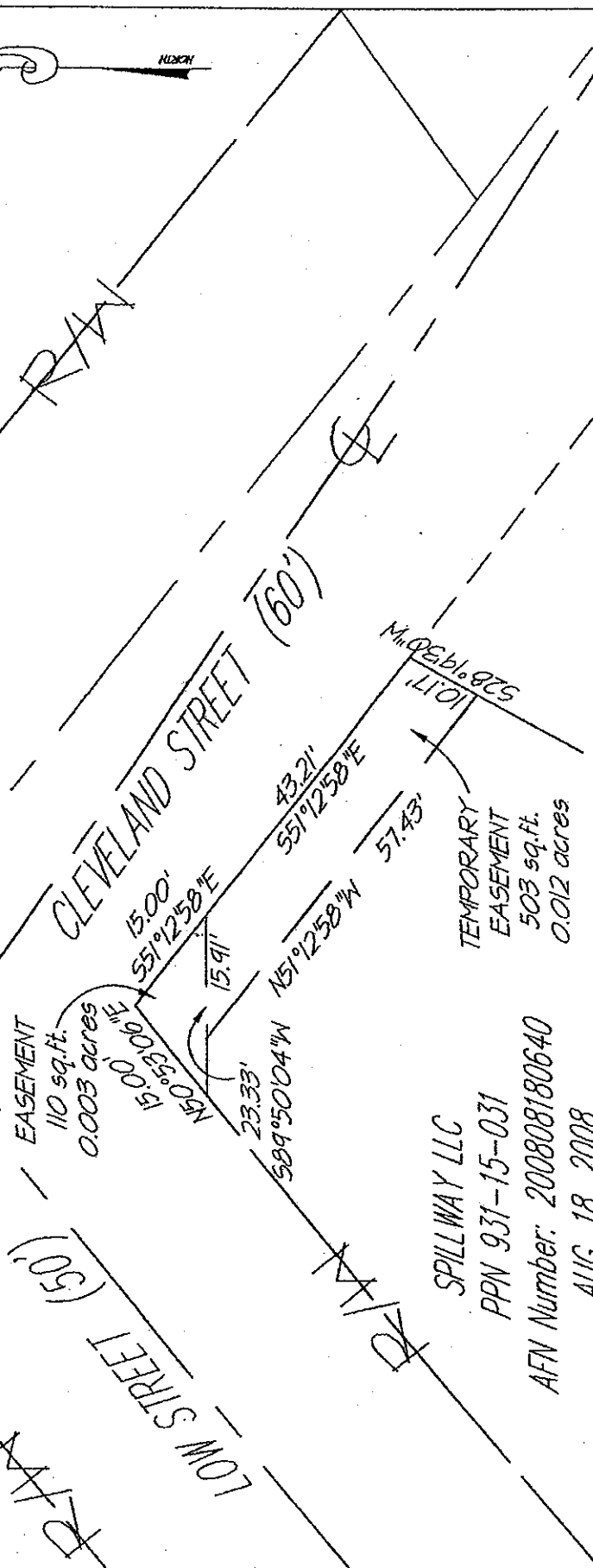
SPILLWAY LLC, grantor(s) herein, claim(s) title by or through instrument dated August 18, 2008 and recorded in AFN Number 200808180640 of the Cuyahoga County Records;

Bearings contained herein are based upon the North American Datum of 1983 (NAD83(CORS)).

The above described temporary easement burdens a portion of property designated as Cuyahoga County Auditor's Permanent Parcel No. 931-15-031.

EXHIBIT "B"
 EASEMENT & TEMPORARY EASEMENT FROM
 SPILLWAY LLC

(PPN: 931-15-031)



SPILLWAY LLC
 PPN 931-15-031
 AFN Number: 200808180640
 AUG. 18, 2008

S/L 63



VILLAGE OF CHAGRIN FALLS
 VOL. 7830 PG. 43

BEARINGS ARE
 BASED UPON
 NAD83-CORS WITH A
 SCALE FACTOR OF
 1.00000868264.

CT Consultants

Copyright - Nov 01, 2011 - 10pm CT Consultants, Inc. Project: 931-15-031 pg. 004

LPA
Rev. 01/2010

DONATION LETTER

November 8, 2011

Spillway, LLC
P.O. Box 252
Chagrin Falls, Ohio 44022

Re: Cleveland Street Sidewalk Project
CUY - Chagrin Falls Sidewalks
4SH, 4T
PID No. 88290

Dear Spillway or DPTA LLC:

Your real property is needed by the Village of Chagrin Falls for a transportation improvement project. As such, you are hereby advised that you have the right to have your property appraised by a competent appraiser and you have the right to accompany the appraiser on the inspection of your property. You have the right to be provided a written offer for the full amount of the fair market value as determined by the agency based upon the appraisal. You have the right to negotiate with the agency and if an acceptable agreement cannot be reached, the right to have the value determined by a court of law. You also have the right to be paid the full amount of the fair market value before being required to surrender possession of your property. Notwithstanding these rights, we understand you are willing to waive all or any part of your rights noted and willingly agree to donate the property needed for the transportation project. The property is described in the attached Exhibit A which is incorporated herein.

Please be advised that if you desire to use the donation for a tax deduction, you should seek advice from the Internal Revenue Service or a tax expert regarding the current rules for appraisal valuation

The undersigned hereby acknowledges that they has been fully advised by a Village of Chagrin Falls representative of their rights reflected above and agrees to: 1) Waive the right to receive just compensation for the property, (2) Release the Village from obtaining an appraisal of the acquired property and (3) Execute the necessary conveyance instrument to transfer said property to Village of Chagrin Falls.

Respectfully,

Benjamin Himes
Chagrin Falls Village
Chief Administrative Officer



Property owner signature

8/1/12

Date

ROBERT J. DARDEN, MEMBER

Print name SPILLWAY LLC

Property owner signature

Date

Print name