

**AN ORDINANCE  
AUTHORIZING THE MAYOR TO ENTER INTO AN  
AGREEMENT WITH THE CUYAHOGA COUNTY  
DEPARTMENT OF PUBLIC WORKS FOR PREVENTIVE  
ROAD MAINTENANCE SERVICES.**

WHEREAS, the Village of Chagrin Falls desires to authorize an agreement that would permit contractors for the Cuyahoga County Department of Public Works to perform certain preventive road maintenance services related to roadways, including, but not limited to, sidewalk and curb ramp repairs, rebuilding catch basins/manholes, pavement stripping, crack sealing, street sweeping and other related services.

**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 and directed to enter into an agreement with the Cuyahoga County Department of Public Works for preventive road maintenance services, a copy of which Agreement is attached hereto as "Exhibit A" and incorporated herein as if 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.

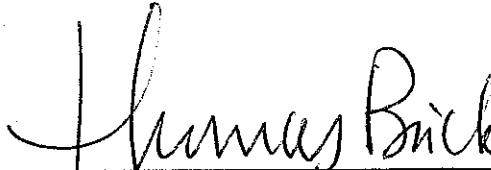
SECTION 4. That this Ordinance shall take effect and be in force after the earliest period allowed by law.

PASSED: June 10, 2013

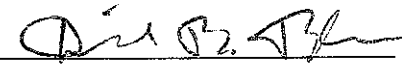
  
\_\_\_\_\_  
Council President

Submitted to the Mayor for  
his approval on this  
11 day of June, 2013

Approved by the Mayor  
June 11, 2013

  
\_\_\_\_\_  
Mayor

I hereby certify that Ordinance No. 2013-36 was duly enacted on the 10 day of June  
          , 2013, 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

## A G R E E M E N T

This AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_ between the County of Cuyahoga, Ohio, hereinafter referred to as "COUNTY", on behalf of Cuyahoga County Department of Public Works (hereinafter referred to as CCDPW), and the Village of Chagrin Falls, hereinafter referred to as "MUNICIPALITY" a municipal corporation of the State of Ohio, pursuant to the authority of Resolution/Ordinance No. \_\_ passed by Council on 6/10/13 for MUNICIPALITY. 2013-36

### WITNESSETH:

WHEREAS, MUNICIPALITY desires to retain CCDPW to perform certain preventive maintenance services related to roadways, including, but not limited to, sidewalk and curb ramp repairs, rebuilding catch basins/manholes, pavement stripping, crack sealing, street sweeping and other related services for the MUNICIPALITY; and,

WHEREAS, MUNICIPALITY desires to have CCDPW direct bill said services; and

NOW THEREFORE, in consideration of the promises and mutual obligations contained herein to be observed and performed by the parties hereto, COUNTY and MUNICIPALITY hereby agree as follows:

### ARTICLE ONE – APPROVAL OF TASK ORDER FOR SERVICES

- a. At the request of MUNICIPALITY, CCDPW will develop a task order of preventive maintenance services that CCDPW is willing to perform for the MUNICIPALITY.
- b. The task order shall include the scope of work to be performed, together with an estimate of the cost of the work prepared by CCDPW.
- c. CCDPW shall present the task order to the Mayor of MUNICIPALITY for approval. If CCDPW receives written approval from the Mayor, CCDPW shall proceed to perform the services set forth in the task order. After completing the services, CCDPW shall send an invoice to MUNICIPALITY for the cost of the services performed, which cost shall not exceed the estimate contained in the task order.
- d. MUNICIPALITY shall pay the invoice within thirty (30) days of receipt of same.
- e. MUNICIPALITY shall be responsible for acquiring and paying for any and all permits, easements and/or rights-of-entry required by COUNTY when performing the services set forth in an approved task order.

### ARTICLE TWO – GENERAL CONDITIONS

This AGREEMENT constitutes the entire AGREEMENT between COUNTY and MUNICIPALITY, and supersedes any prior understanding or representation of any kind preceding the date of this AGREEMENT. There are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this AGREEMENT.

- a. If any provision of this AGREEMENT is invalid or unenforceable for any reason, this AGREEMENT shall be divisible as to such provision and the remainder of this AGREEMENT shall be and remain valid and binding as though such provision was not included herein.

- b. This AGREEMENT may be modified in writing upon the mutual agreement of COUNTY and MUNICIPALITY.
- c. By entering into this AGREEMENT, MUNICIPALITY agrees on behalf of its respective elected officials, officers, employees, subcontractors, subgrantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring COUNTY signatures may be executed by electronic means, and that the electronic signatures affixed by COUNTY to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. MUNICIPALITY also agrees to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of COUNTY.
- d. All COUNTY agreements, including this AGREEMENT, are subject to all applicable COUNTY ordinances, including but not limited to, the Cuyahoga County Ethics ordinance and Cuyahoga County Inspector General Ordinance. MUNICIPALITY agrees that the charter provisions and all ordinances, resolutions, rules and regulations of the COUNTY now or hereafter applicable shall be included in this AGREEMENT for all purposes.
- e. MUNICIPALITY represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24.
- f. This AGREEMENT has been properly authorized pursuant to the required provisions of any and all charter provisions, ordinances, resolutions and regulations of COUNTY and MUNICIPALITY. The individuals signing on behalf of the parties to this AGREEMENT are authorized to execute this AGREEMENT on behalf of COUNTY and MUNICIPALITY. MUNICIPALITY recognizes and agrees that no public official or employee of COUNTY may be deemed to have apparent authority to bind COUNTY to any contractual obligations not properly authorized pursuant to COUNTY'S Contracting and Purchasing Procedures.

### **ARTICLE THREE – INDEMNITY AND INSURANCE**

MUNICIPALITY and COUNTY agree that neither entity can or will indemnify the other as both parties are political subdivisions and are prohibited by law from entering into an indemnification agreement. Accordingly, MUNICIPALITY and COUNTY agree that each will be solely and entirely responsible for its acts, errors, and omissions, and those of its employees and agents, during the performance of this AGREEMENT. MUNICIPALITY and COUNTY further agree that each will maintain and carry sufficient and appropriate liability insurance relative to the duties and obligations under this AGREEMENT.

### **ARTICLE FOUR – TERMINATION**

This AGREEMENT shall remain in full force and effect until terminated as follows:

Either party shall have the right to terminate this AGREEMENT at any time with thirty (30) days advance written notice to the other party.

Any notice of termination shall be by certified mail, addressed to the Director in case of CCDPW or the highest ranking official in case of MUNICIPALITY. Upon termination of the AGREEMENT, MUNICIPALITY shall pay any and all outstanding expenses relating to the performance of this AGREEMENT within thirty (30) days of the receipt of an invoice showing monies owed for services rendered.

#### ARTICLE FIVE – NOTICES

Any notice to be given under this AGREEMENT by either party to the other may be effected either by personal delivery in writing or by certified mail, postage-prepaid, return receipt requested, unless it is a notice of termination which must be certified mail. Notice delivered personally shall be deemed received upon actual receipt; notice sent by certified mail shall be deemed received on the date the return receipt is either signed or refused. Mailed notices shall be addressed to the parties at the addresses appearing below:

To COUNTY:           Attn: Director of Public Works  
                              2100 Superior Viaduct  
                              Cleveland, Ohio 44113

With a copy to:       Attn: Cuyahoga County Director of Law  
                              Cuyahoga County Department of Law  
                              1219 Ontario Street, 4<sup>th</sup> Floor  
                              Cleveland, Ohio 44113

To MUNICIPALITY:   Attn: Benjamin Himes, CAO

#### ARTICLE SIX – GOVERNING LAW AND JURISDICTION

This AGREEMENT shall be governed by and construed under the laws of the State of Ohio without regard to conflicts of law provisions. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this AGREEMENT, and each party consents to the exclusive jurisdiction of such courts.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed on the Day and Year first mentioned above.

VILLAGE OF CHAGRIN FALLS

By: Thomas G. Brick  
Mayor Thomas G. Brick

COUNTY OF CUYAHOGA, OHIO

By: Edward FitzGerald  
Edward FitzGerald, County Executive

The legal form and correctness of this Agreement is hereby approved.

Village of Chagrin Falls

By: Stephen J. By  
Director of Law

Date: 8/7/2013

Cuyahoga County Law Department

By: Auke M. Donz

Date: 9/3/2013