

*fully executed***ORDINANCE NO. 148-15****AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH CLOVER COMMUNITIES MEDINA, LLC.****BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

- SEC. 1:** That the Mayor is hereby authorized and directed to execute a Memorandum of Understanding with Clover Communities Medina, LLC relative to increasing the size of the storm sewer between 699 North Huntington Street and Birch Hill Drive.
- SEC. 2:** That a copy of the Memorandum of Understanding is marked Exhibit A, attached hereto and incorporated herein, and is subject to the Law Director's final approval.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage 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 the law.
- SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

**PASSED:** November 23, 2015**SIGNED:** John M. Coyne, III  
President of Council**ATTEST:** Kathy Patton  
Clerk of Council**APPROVED:** November 24, 2015**SIGNED:** Dennis Hanwell  
Mayor

## MEMORANDUM OF UNDERSTANDING

between

The City of Medina

and

Clover Communities Medina, LLC

### I. Introduction:

This Memorandum of Understanding (MOU) between the City of Medina, Ohio (further know as the City) and Clover Communities Medina, LLC (further known as Clover) with principal offices located at 348 Harris Hill Rd., Williamsville, NY 14221, sets forth the agreement for the cost for upsizing of storm sewer to be installed by the City of Medina on North Huntington Street in the City of Medina, Ohio.

### II. Purpose:

Clover, through their engineering consultant has prepared improvement plans for the construction of the Medina Senior Apartments at 699 North Huntington Street (PPN 028-19A-17-001, Medina City Lot #1967). As part of these plans, a site plan including grading and drainage improvements was prepared. This site plan includes changing the primary outlet for storm water drainage from the existing location (north side of the property toward Birch Hill Drive), to a new location to the east of the property (toward North Huntington Street).

The City does not object to this modification, however the City acknowledges that the size of the existing storm sewer pipe on North Huntington is not sufficient to carry the additional volume of storm water. In order for the City to permit this change in primary drainage outlet location, approximately 203 lineal feet of existing storm sewer of various sizes must be upsized.

The City of Medina will be completing a reconstruction of N. Huntington Street between West Homestead Street and Birch Hill Drive in 2016. As part of that project, new storm sewers will be installed. The storm sewers located between Clover's proposed project and Birch Hill Drive will be replaced as part of the City's reconstruction project. In order to allow for the site drainage plan proposed by Clover, these storm sewers will be upsized. The City will pay for the cost to replace the storm sewer without upsizing, Clover shall be responsible for the difference in cost to install the larger storm sewers to accommodate the additional runoff generated by Clover's development.

This MOU outlines the understanding that the City will furnish and install the upsized sewers when the City completes the N. Huntington Street Reconstruction project. Clover will be responsible for the actual documented difference in cost to install the larger storm sewers not to exceed \$5,000.

### III. Scope of the Project (the 'Work'):

The entire N. Huntington Street project includes installing new water pipe, storm sewer and concrete pavement. This MOU pertains only to the upsizing of storm sewer from Clover's project at 699 North Huntington Street to Birch Hill Drive. A total of 203 lineal feet of storm sewer will be upsized; this includes the following:

- Upsize 26 lineal feet of 12 inch diameter sewer to 15 inch diameter
- Upsize 112 lineal feet of 15 inch diameter sewer to 18 inch diameter
- Upsize 65 lineal feet of 18 inch diameter sewer to 24 inch diameter

The City estimates that the total cost to upsized the storm sewers as referenced above will be \$3,500.

**IV. Responsibilities of the Parties:**

**A. Responsibilities of the City**

1. Modify the plans and bid documents for the North Huntington Street Reconstruction project to include the upsizing of storm sewer pipes as necessary to accommodate the additional storm water runoff generated due to the change in the location of the storm sewer outlet associated with Clover's Medina Senior Apartments project.
2. Advertise, bid, and award the North Huntington Street Reconstruction project.
3. Manage and inspect the North Huntington Street Reconstruction project; verify that the upsized storm sewer pipe is installed per City specifications.
4. Complete the North Huntington Street Reconstruction project by November 15, 2016.
5. Complete an accounting of actual costs for the upsizing of the storm sewer pipe. Provide the accounting to Clover for their review. If the amount submitted is greater than the amount of the actual cost, the City shall reimburse Clover for the difference. If the amount submitted is less than the amount of the actual cost, the City shall submit an invoice to Clover for the balance of funds due, which amount shall not exceed \$5,000.

**B. Responsibilities of Clover**

1. Submit payment in the amount of \$3,500 to the City of Medina to cover the estimated cost to upsize the storm sewer pipe.
2. If the amount submitted proves to be less than the actual cost to upsize the pipe, Clover will submit the balance due to the City within 30 days after receipt of an invoice for same from the City, which amount shall not exceed \$5,000.

**V. Period of the Agreement:**

This MOU will become effective on the date that all required signatures to the MOU have been executed. The term for this MOU will be until November 15, 2016.

**VI. Dispute Resolution:**

Clover and the City shall make reasonable efforts to resolve any disputes that arise pursuant to this MOU. If a dispute or disputes cannot be resolved, Clover and/or the City may respectively file whatever action or take whatever other steps they respectively believe to be necessary so as to resolve the dispute. All actions brought as against Clover and/or the City pursuant to this MOU shall be brought and venued in a court of competent subject matter jurisdiction in Medina County, Ohio.

**VII. Signatures:**

In witness whereof, authorized representatives of the parties to this agreement, indicating their party's approval of the terms herein, have signed as of the dates set forth below:

**CLOVER COMMUNITIES MEDINA, LLC**  
**By: Clover Communities GP, LLC, its Manager**

By: \_\_\_\_\_ Date: 12-2-15  
Michael L. Joseph  
Manager  
348 Harris Hill Rd.  
Williamsville, NY 14221

WITNESSES to the Clover Communities Medina, LLC Signature:

1. \_\_\_\_\_  
Print Name: TEIA MARIE BUI

2. \_\_\_\_\_  
Print Name: Andrea McCarthy

**CITY OF MEDINA, OHIO**

By: \_\_\_\_\_ Date: 11-24-2015  
Dennis T. Hanwell  
Mayor  
City of Medina  
132 N. Elmwood Avenue  
Medina, OH 44256

WITNESSES to the City of Medina Signature:

1. \_\_\_\_\_  
Print Name: Kathy Patton, Clerk of Council

2. \_\_\_\_\_  
Print Name: Dawn Conwill