ORDINANCE NO. 19-16

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT ONE (1) EASEMENT NECESSARY FOR THE NORTH HUNTINGTON STREET RECONSTRUCTION PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized to accept one (1) Easement necessary for the North Huntington Street Reconstruction Project, City Job #978.

SEC. 2: That the Easement marked Exhibit A, attached hereto and incorporated herein, is on the property located at 246 W. Homestead Street, Permanent Parcel No. 028-19A-17-089, part of Medina City Lot 1698.

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: February 8, 2016

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: February 9, 2016

SIGNED: Dennis Hanwell
Mayor

Effective date – March 9, 2016

Ord. 19-16
Exh. A

Perpetual Highway Easement and Right of Way

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of *(SIXTY THREE and 22/100)* Dollars ($63.22) and other good and valuable consideration recited herein given to *BRIAN D. HILBERG* and *MARY S. HILBERG* hereinafter "Grantor(s)" by the *CITY OF MEDINA*, Ohio, hereinafter "Grantee", the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell, transfer and convey unto the Grantee, its successors and assigns, a perpetual right-of-way and easement for the purpose of erecting, constructing, installing and thereafter using, operating, inspecting, maintaining, repairing, replacing and removing *ROADWAY PAVEMENT, SIDEWALK, UTILITES AND APPURTENANCES* under, across, and through certain land of the Grantor(s) situated in the City of Medina, County of Medina and State of Ohio and more particularly described as follows:

Situated in the City of Medina, County of Medina and State of Ohio, also known as being part of Medina City Lot 773 and being part of lands conveyed to Brian D. and Mary S. Hilberg by deed recorded on March 14, 2008 as recorded in Document No. 2008OR005527 of Medina County Recorder's Records further bounded and described as follows:

Commencing at the Northwest corner of said lands conveyed to Hilberg and the Northwest corner of said Medina City Lot 773, the same being the point of intersection of the Eastern line of North Huntington Street having a variable width Right-of-Way with the Southern line of West Homestead Street having a 50-foot wide Right-of-Way and the TRUE PLACE OF BEGINNING of the easement herein described;

Thence along the Northern line of said lands conveyed to Hilberg and the Northern line of said Medina City Lot 773 and the Southern line of said West Homestead Street, bearing South 89° 26' 41" East, a distance of 20.19 feet to a point thereon;

Thence along a curve to the left with a radius of 20.00 feet, a tangent length of 20.19 feet, the chord which bears South 45° 16' 40" West, for a distance of 28.42 feet, along said arc for a distance of 31.61 feet to a point in the Western line of said lands conveyed to Hilberg and the Western line of said Medina City Lot 773 and the Eastern line of said North Huntington Street;

Thence along the Western line of said lands conveyed to Hilberg and the Western line of said Medina City Lot 773 and the Eastern line of said North Huntington Street, bearing North 00° 00' 00" East, a distance of 20.19 feet to the TRUE PLACE OF BEGINNING, containing 0.0020 acres of land (88 square feet), more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

The statement iron pin set refers to a 5/8" X 30" iron bar set vertically with surveyor's I.D. cap marked "Rolling-Hocevar".

This legal description was prepared based on a survey under the supervision of Andrew G. Planet, P.S. No. S-7802 by Rolling & Hocevar, Inc. in October 2015.

together with the right of reasonable ingress and egress over the immediately adjacent lands of the Grantor(s) for the purpose and use of said easement.

As additional consideration for this easement and right-of-way, the Grantee covenants and agrees as follows:

1. Grantee shall repair any and all damage arising from the installation or subsequent repair, maintenance or reconstruction of *ROADWAY PAVEMENT, SIDEWALK, UTILITES AND APPURTENANCES*.
2. Grantee shall replace any driveway, lawn, shrubbery, or other improvement which may be damaged as a result of construction.
3. Within a reasonable time after completion of construction, and in no event later than forty-five (45) days, Grantee will return the ground to its original condition.
4. Grantee will secure and protect all permanent structures within the construction zone.
5. Grantee will pay for all costs of surveying, recording of documents, filing and transfer fees, escrow costs and title expenses, if any.

Grantor(s) covenant and agrees as follows:

1. Grantor will not install, erect or maintain any structure, fixture or device upon the easement which could in any way interfere with Grantee's use of the easement and right-of-way; however, Grantor retains the right to use the surface of the easement area provided said use does not interfere with the uses granted to Grantee.
2. Authorize the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof to enter upon the property designated as *246 W. Homestead Street, Permanent Parcel No. 028-19A-17-089, Medina City Lot Nos. 773* with the necessary equipment to *remove grass,vegetation and brush as necessary to allow for the proposed grading for the sidewalk and curb ramp installation; to install sidewalk and a curb ramp; to complete grading as necessary; to restore the affected areas with topsoil, seed, fertilizer, and mulch;* in accordance with the plans and/or specifications as prepared by the City of Medina or its agents during the period of time commencing with the breaking of ground for the above described proposed work and terminating when the work has been completed and/or accepted by the City; and
3. Release the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof, from claims of damage, of compensation by reason of the above described work as called for by the said plans and/or specifications provided that the property designated as *246 W. Homestead Street, Permanent Parcel No. 028-19A-17-089, Medina City Lot Nos. 773* is restored to the condition before construction or as close as reasonably possible in conformance with the plans and/or specifications and/or proposed work described above.

All the terms and conditions of this Easement and Right-of-way shall be binding upon and inure to the benefit of the Grantor(s), the Grantee, their heirs, executors, administrator, successors and assigns.

The grant of this Easement and Right-of-way shall constitute a covenant running with the land for the benefit of the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 22nd day of December, 2015.

Grantor:

Brian D. Hilberg

Signature: [signature]

Print Name: Brian Hilberg

State of Ohio)

County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, **Brian D. Hilberg**, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this 22nd day of December, 2015.

Notary Signature: Kimberly A. Walter

Print Name: Kimberly A. Walter

My Commission Expires: Kimberly A. Walter Notary Public State of Ohio My Comm Expires Aug. 3, 2018

Notary Seal:

IN WITNESS WHEREOF, the undersigned has executed this instrument this 21st day of December, 2015.

Grantor:

Mary S. Hilberg

Signature: Mary S. Hilberg

Print Name: Mary S. Hilberg

State of Ohio)

County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, **Mary S. Hilberg**, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this 21st day of December, 2015.

Notary Signature: Kimberly A. Walter

Print Name: Kimberly A. Walter

My Commission Expires: Kimberly A. Walter Notary Public State of Ohio My Comm Expires Aug. 3, 2018

Notary Seal:

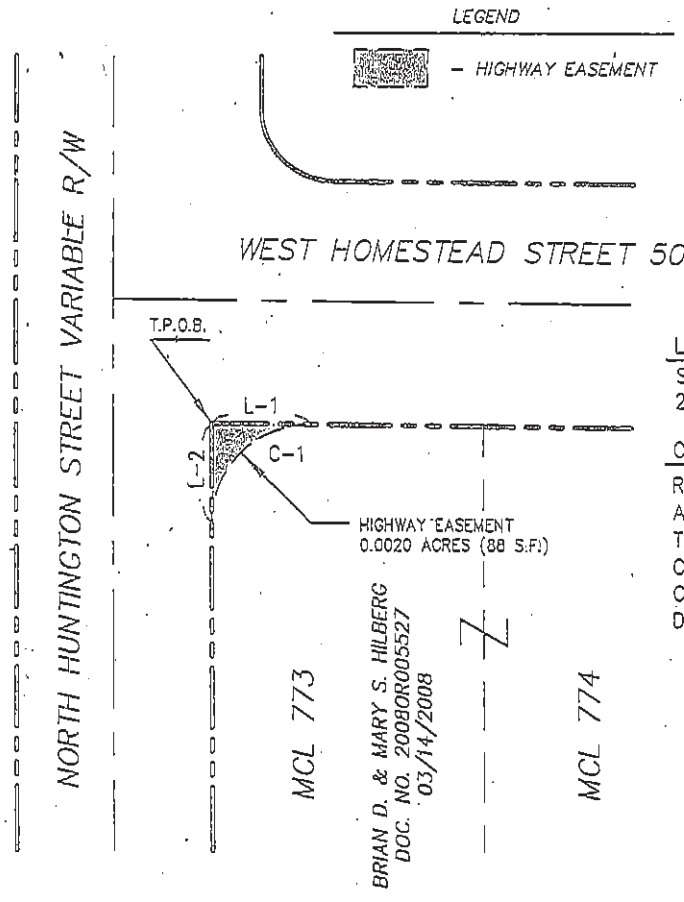
This instrument was prepared by:

Gregory Huber, Law Director, City of Medina, Ohio
132 N. Elmwood Avenue
Medina, OH 44256

SKETCH OF EASEMENT

CREATING A HIGHWAY EASEMENT

SITUATED IN THE CITY OF MEDINA, COUNTY OF MEDINA AND STATE OF OHIO, ALSO KNOWN AS BEING PART OF MEDINA CITY LOT 773.



L-1	L-2
S 89°26'41" E	N 00°00'00" E
20.19'	20.19'

C-1

RADIUS = 20.00'
ARC = 31.61'
TANGENT = 20.19'
CHORD = 28.42'
CHORD BEARING = S 45°16'40" W
DELTA = 90°33'19"

NOTE: BEARINGS ARE BASED ON AN ASSUMED MERIDIAN AND ARE USED TO DENOTE ANGLES ONLY.

0 30 60

SCALE: 1" = 30'

OCTOBER 2015

NORTH

STATE OF OHIO
ANDREW G. PLANET
S-7802
REGISTERED PROFESSIONAL SURVEYOR
10-5-2015

ROLLING & HOCEVAR, INC
A Geo Innovation Group Affiliate
CIVIL ENGINEERING & SURVEYING
257 SOUTH COURT STREET
SUITE 6
MEDINA, OHIO 44256
PHONE: (330)723-1828
FAX: (330)723-6537

PROJECT No. 31,639