

**ORDINANCE NO. 05-2013**

**INTRODUCED BY: Mayor Robert Blomquist**

**AN ORDINANCE ACCEPTING AND APPROVING A  
PARKING EASEMENT AGREEMENT FOR USE BY  
THE CITY AND ITS INVITEES FOR PARKING  
PURPOSES FROM THE CUYAHOGA COUNTY  
PUBLIC LIBRARY.**

**WHEREAS,** The Cuyahoga County Public Library as Grantor has executed a Parking Easement on Library property to provide parking on Library property for the City and its invitees; and

**WHEREAS,** upon recommendation of the City Engineer, the City of Olmsted Falls desires to accept the aforesaid Parking Easement Agreement. Now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, COUNTY OF CUYAHOGA, STATE OF OHIO, THAT:**

**SECTION 1.** The City hereby approves and accepts the Parking Easement Agreement from the Cuyahoga County Public Library, which Easement is attached hereto, marked Exhibit A for identification, and fully incorporated herein.

**SECTION 2.** The Director of Law shall include in such Parking Easement Agreement all terms necessary to protect the interests of the city, and the Mayor is not authorized to execute the Parking Easement Agreement without the Director of Law's approval as to form.

**SECTION 3.** Council hereby authorizes the Mayor to execute said Easement and to cause the fully executed original to be recorded in the Cuyahoga County Records.

**SECTION 4.** The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 5.** This Ordinance shall take effect at the earliest time allowed by law.

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*Garry Thompson, President of Council*

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
*Mayor Robert Blomquist* *Date*

APPROVED AS TO FORM: \_\_\_\_\_  
*Paul T. Murphy, Director of Law*

ATTEST: \_\_\_\_\_  
*Angela Mancini, Clerk of Council*

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

**ADOPTED 02/12/2013**

	Yea	Nay
Thompson	_____	_____
Ferderbosch	_____	_____
Donegan	_____	_____
Sculac	_____	_____
Stibich	_____	_____
Garrity	_____	_____
Pulice	_____	_____

**PARKING EASEMENT AGREEMENT**

THIS PARKING EASEMENT AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day of July, 2012, by and between the **CUYAHOGA COUNTY PUBLIC LIBRARY**, located at 2111 Snow Road, Parma, Ohio 44134 ("Grantor"), and **THE CITY OF OLMSTED FALLS**, an Ohio municipal corporation, located at 26100 Bagley Road, Olmsted Falls, OH 44138 ("Grantee").

**RECITALS**

WHEREAS, Grantor is the owner of certain real property in Olmsted Falls, situated in the County of Cuyahoga and State of Ohio, more particularly described and identified on **Exhibit "A"**, attached hereto and incorporated herein ("Grantor's Property");

WHEREAS, Grantee owns property contiguous to Grantor's Property, more particularly described and identified on **Exhibit "B"**, attached hereto and incorporated herein ("Grantee's Property"), and requires an easement upon Grantor's Property for purposes of parking upon Grantor's Property; and

WHEREAS, in order to allow for additional parking to benefit Grantee's Property, Grantor desires to grant to Grantee, and Grantee desires to obtain from Grantor, a certain nonexclusive perpetual easement upon a parking lot to be constructed on Grantor's Property, as depicted on **Exhibit "C"**, attached hereto and incorporated herein (the "Easement Area"), upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) paid by Grantee and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

**1. Grant of Easement.** Grantor hereby grants, gives and conveys to Grantee, for the benefit of Grantee's Property, a nonexclusive, perpetual parking easement for parking purposes in the Easement Area (the "Easement").

2. **Duration.** The Easement is granted in perpetuity and shall run with the land so as to be forever binding upon the parties hereto and their respective successors and assigns.

3. **Construction.** Grantor shall construct the improvements in the Easement Area. Grantee shall reimburse Grantor thirty-five percent (35%) of the total cost of construction of the improvements in the Easement Area ("Grantee's Percentage").

4. **Maintenance and Repair.** Grantor shall perform all ordinary and routine maintenance of the Easement Area, including the removal of snow ("Maintenance"). Grantor shall also perform all repair and replacement of the paved, concrete or gravel areas located in the Easement Area ("Repairs"). The total cost of any and all Repairs shall be shared by Grantor and Grantee, with Grantor paying sixty-five percent (65%), and Grantee paying Grantee's Percentage, of the total cost. Grantee shall reimburse Grantor for Grantee's Percentage of the total cost within thirty (30) days of the completion of the Maintenance or Repairs in question.

5. **Rights Retained.** Except for the rights expressly conveyed to Grantee hereunder, Grantor reserves to Grantor, Grantor's successors and assigns, all other rights arising out of ownership of the Easement Area, including without limitation, the right to engage in, or permit or invite others to engage in, all uses of Grantor's Property and the Easement Area not expressly prohibited herein and that are not inconsistent with the terms of this Agreement, including, again without limitation, a right-of-way on, over and across the Easement Area for purposes of ingress, egress, construction of a roadway and placement of underground utilities for the benefit of Grantor's Property.

6. **Comprehensive General Liability Insurance.** Grantee agrees to purchase and maintain during the term of this Agreement, Comprehensive General Liability Insurance, including contractual liability, with minimum limits of \$1,000,000 per occurrence, combined single limit for bodily injury and property damage. Grantor shall be included as an additional insured. A Certificate of Insurance evidencing coverage shall be available upon written request by Grantor.

7. **Notices.** All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

If to Grantor: Cuyahoga County Public Library  
2111 Snow Road  
Parma, Ohio 44134  
Attention: Executive Director

If to Grantee: The City of Olmsted Falls  
26100 Bagley Road  
Olmsted Falls, OH 44138  
Attention: Mayor

Any such notices shall be either (a) sent by U.S. certified mail, return receipt requested in which case notice shall be deemed to have been given upon confirmed receipt; or (b) sent by recognized courier service, in which case the notice shall be deemed to have been given upon confirmed receipt. All parties shall have the right from time to time to designate by written notice to all other parties any other address or place where such notice, demand or request be addressed.

8. **Legal Authority.** Each of the parties hereto, by their authorized agent, represents that it has the requisite legal authority to enter into this Agreement, be bound by the terms and conditions hereof, and to perform the obligations as set forth herein.

9. **Recording.** Parties agree that this Agreement shall be recorded, and the cost of recording this Agreement shall be borne by Grantee.

10. **Enforcement.** This Agreement may be enforced by any means or remedy available at law or in equity, including the remedy of specific performance, and shall be governed by the laws of the State of Ohio.

11. **Acceptance.** By its signature set forth herein below, Grantee accepts the foregoing grant of the Easement subject to the terms and conditions herein contained.

12. **Binding Effect.** This Agreement extends to and is binding upon the parties and their respective successors and assigns.

[Remainder of page intentionally left blank. Signature page follows.]

ADOPTED 02/12/2013

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first written above.

Signed in the presence of:

WITNESSES:

GRANTOR:

**CUYAHOGA COUNTY PUBLIC LIBRARY**

ROBERT W. VARLEY  
(Printed Name)

BY: Robert W. Varley  
ROBERT W. VARLEY

EDWARD H. BLAKEMORE  
(Printed Name)

AND: Edward H. Blakemore  
EDWARD H. BLAKEMORE

STATE OF OHIO        )  
  ) ss  
CUYAHOGA COUNTY    )

BEFORE ME, a Notary Public in and for said County and State, personally appeared Robert W. Varley, President, and Edward H. Blakemore, Secretary of the Cuyahoga County Public Library who acknowledged that they did sign the foregoing Access Easement Agreement and the same is their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at PARMA Ohio, this 24 day of July, 2012.

Martha M. Sheedy  
Notary Public

My commission expires: MARTHA M. SHEEDY, Notary Public  
in and for the State of Ohio  
My Commission Expires Dec. 2, 2015

[Signatures continue on the following page.]

Signed in the presence of:

WITNESSES:

GRANTEE:

THE CITY OF OLMSTED FALLS

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

STATE OF OHIO            )  
  ) ss  
CUYAHOGA COUNTY        )

Before me, a Notary Public in and for said County and State, personally appeared The City of Olmsted Falls, Ohio, by \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, who acknowledged that they did sign the foregoing Access Easement Agreement and the same is their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, Director of Law

This Instrument prepared by:

Roetzel & Andress  
1375 East Ninth Street  
Suite 900  
Cleveland, Ohio 44114

ADOPTED 02/12/2013

**EXHIBIT A**

**GRANTOR'S PROPERTY**

Situated in the City of Olmsted Falls, County of Cuyahoga and State of Ohio, and known as being all of Parcel "B" in the Lot Split Plat for the Cuyahoga County Library Olmsted Falls Branch, and also being part of Original Township Lot 1, Tract 2, as shown by the recorded plat Volume \_\_\_\_ of Maps, Page \_\_\_\_ of Cuyahoga County Records, and containing 1.653 acres, 71,992 Square Feet of land, according to a survey by Atwell, LLC dated May 5<sup>th</sup>, 2012 and being the same more or less and being subject to all legal highways and easements.

**ADOPTED 02/12/2013**



**EXHIBIT B  
GRANTEE'S PROPERTY**

**ADOPTED 02/12/2013**

**EXHIBIT C**

**EASEMENT PROPERTY**

Situated in the City of Olmsted Falls, County of Cuyahoga, and State of Ohio, and known as being part of Original Olmsted Township Lot No. 1, Tract 2, and being more fully bounded and described as follows:

Beginning at the centerline intersection of Bagley Road, width varies, and Mapleway Drive, 60 feet wide, thence North  $0^{\circ}19'16''$  West along said centerline of Mapleway Drive a distance of 254.70 feet to a point; thence South  $89^{\circ}22'45''$  West, a distance of 30.00 feet to a point on the Westerly right of way of said Mapleway Drive; thence continuing South  $89^{\circ}22'45''$  West, a distance of 174.93 feet to a point, said point also being the Principal Place of Beginning for the easement herein described.

Course No.1 thence South  $89^{\circ}22'45''$  West, a distance of 70.61 feet to a point;

Course No.2 thence North  $0^{\circ}37'15''$  West, a distance of 292.93 feet to a point;

Course No.3 thence North  $89^{\circ}40'44''$  East, a distance of 52.14 feet to a point;

Course No.4 thence South  $0^{\circ}19'16''$  East, a distance of 150.08 feet to a point;

Course No.5 thence North  $89^{\circ}40'44''$  East, a distance of 20.00 feet to a point;

Course No.6 thence South  $0^{\circ}19'16''$  East, a distance of 142.47 feet to the Principal Place of Beginning, containing 0.411 acres, 17,891 square feet of land according to a survey by Atwell, LLC dated May 5<sup>th</sup>, 2012, and being the same more or less and being subject to all legal highways and easements

ADOPTED 02/21/2013