

**RESOLUTION #18-0319-10**

**Authorizing Cooperation Agreement with Delaware County for W. Orange Road Improvements**

**WHEREAS**, road improvements, including widening and drainage improvements, have become necessary on W. Orange Road, and

**WHEREAS**, Liberty Township will work cooperatively on this road improvement project with Delaware County, which will significantly reduce the Township's cost burden of completing these necessary improvements.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO** to authorize the attached Cooperation Agreement for W. Orange Road Improvements between Liberty Township and Delaware County.

Motion made by Leneghan and seconded by Gemperline

Vote: N/P Mrs. Eichhorn yes Mr. Gemperline yes Mrs. Leneghan

This Resolution shall be in force and become effective immediately upon its execution.

3-19-18  
Date

Melanie Leneghan  
Melanie Leneghan, Trustee

CERTIFIED BY:

Mike Gemperline  
Mike Gemperline, Trustee

Nancy Denutte  
Nancy Denutte, Fiscal Officer

- not present -  
Shyra Eichhorn, Trustee

## **COOPERATIVE PROJECT AGREEMENT**

### **W. ORANGE ROAD IMPROVEMENTS**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the Delaware County Board of Commissioners ("County"), the Liberty Township Board of Trustees ("Township"), and the Delaware County Engineer ("Engineer").

#### **WITNESSETH:**

WHEREAS, any County, acting under authority of O.R.C. 5555.022, may declare the necessity for improvements to any public road and may order the County Engineer to prepare plans, specifications and estimates for such improvements; and,

WHEREAS, any Township, when acting under authority of O.R.C. 5573.01, may declare the necessity for improvements to any township road and may order the County Engineer to prepare plans, specifications and estimates for such improvements; and,

WHEREAS, O.R.C. 9.482 provides that a board of county commissioners may enter into an agreement with a board of trustees of any township, and a township board of trustees may enter into agreements with the board of county commissioners, whereby either board undertakes, and is authorized by the other board, to exercise any power, perform any function, or render any service, on behalf of the other board, that such board may exercise, perform, or render; and,

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, covenants and obligations hereinafter stated, the parties mutually agree as follows, to wit:

#### **Article 1 – Purpose**

The County and Township enter into this agreement for the purpose of undertaking improvements to W. Orange Road (Township Road 114) as a Joint Project, further defined hereinafter, for the mutual benefit of both parties.

#### **Article 2 – Scope of Work**

The Project shall include minor widening and performing related drainage improvements on W. Orange Road (Township Road 114) extending from the W. Orange Road/Perry Road intersection, terminating at the Orange Township Line on W. Orange Road.

#### **Article 3 – Project Costs**

The Parties agree that the cost for the Project be split as follows:

The County shall pay for any costs for consulting engineers employed to assist the Engineer in preparation of surveys, plans, profiles, cross sections, estimates for the Project and for supervision and testing of the construction of the Project.

The Township shall pay all costs associated with acquiring necessary land, locating or relocating utilities, and constructing the Project.

The Engineer shall keep an accurate record of all project costs and expenses and shall provide documentation of the accounting of such costs and expenses as requested by the County or Township.

The County and Township may pursue jointly or individually with consent of the other Party, any funding assistance available from other sources and shall apply any grants or funding assistance obtained specifically for the Project as estimated by the Engineer.



#### **Article 4 – Preliminary Engineering**

The Engineer shall prepare surveys, plans, profiles, cross sections, estimates and related documents for the Project. If requested by the Engineer, the County shall contract with qualified consulting engineer(s) to assist the Engineer and the County shall pay all costs of such consulting engineer(s).

The Engineer shall coordinate with the township, including furnishing copies of surveys, plans, profiles, cross sections, estimates and related documents during the design to the Township, to make such modifications as are desired by the Township, provided changes as are acceptable to the Engineer and meet the required current standards for roadway design and construction.

#### **Article 5 – Right of Way Acquisition**

The Township shall manage, and pay all costs associated with appraisal, negotiation, closing and purchase of all real property required for the Project. If requested by the Township, the Engineer shall assist with the selection of qualified appraisers or agents to assist the Township with the acquisition of such property.

In the event that contracts for the purchase of property cannot be negotiated with the owners of such property, the Township shall proceed with appropriation of such property in accordance with O.R.C. Chapter 163.

#### **Article 6 – Utility Relocation**

The Engineer shall coordinate for the relocation of necessary utilities for the Improvement.

#### **Article 7 – Construction Contract**

After all necessary real property has been acquired, the Engineer shall complete all necessary plans, specifications and estimates for the Improvement and shall transmit the same to the Township, at which time the Township shall proceed to contract for construction as stated in O.R.C. 5573.06.

#### **Article 8 – Construction Engineering**

The Engineer shall act in general supervision and direction as provided in O.R.C. 5543.09. If requested by the Engineer, the County shall contract with qualified consulting engineer(s) to assist the Engineer in supervising, inspecting and testing construction of the Project.

The Engineer shall coordinate with the Township to provide reasonable access to the work site for the Township representative(s) to monitor the progress of the work and shall cooperate with the Township toward successful completion of the Improvement.

#### **Article 9 – Miscellaneous Terms & Conditions**

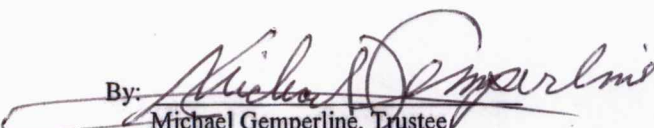
- 9.1 **Entire Agreement:** This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
- 9.2 **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 9.3 **Headings:** The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

- 9.4 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 9.5 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 9.6 Parties Responsible for Their Own Actions: The Parties are governmental entities/political subdivisions and lack authority to indemnify. The Parties, agree to be and shall be individually and solely responsible for their own negligence, actions, inactions, and/or omissions and/or the negligence, actions, inactions, and/or omissions of their respective boards, board members, officials, officers, employees, agents, representatives, and/or volunteers, resulting from the performance of this Agreement.
- 9.7 Termination: Either Party may terminate this Agreement for any or no reason on thirty (30) days advance written notice to the other.
- 9.8 No County/Township Funds: No actual funds are to be exchanged between the Parties in connection with this Agreement.

Board of Trustees of Liberty Township

Date: March 19, 2018

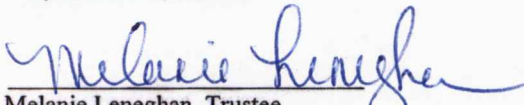
By:

  
Michael Gemperline, Trustee

By:

not present  
Shyra Eichorn, Trustee

By:

  
Melanie Leneghan, Trustee

Board of County Commissioners of Delaware County, Ohio

Date: \_\_\_\_\_

By: \_\_\_\_\_

Gary Merrell, President of the Board  
Pursuant to Resolution Number 11-137  
And Resolution Number 18-\_\_\_\_\_

County Engineer of Delaware County, Ohio

Date: \_\_\_\_\_

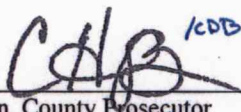
By: \_\_\_\_\_

Chris Bauserman, P.E., P.S., County Engineer

Approved as to Form:

Date: 3-12-18

By:

 /CDB  
Carol O'Brien, County Prosecutor

**AUDITOR/ FISCAL OFFICER'S CERTIFICATION (RC 5705.41(D)):**

No actual funds are to be exchanged between the Parties in connection with this Agreement. No Fiscal Officer's Certification is required.