

**VILLAGE OF YELLOW SPRINGS, OHIO
RESOLUTION 2023-12**

**Final Resolution Authorizing PID No. : 113724
County/Route/Section : GRE Yellow Springs Multi-Modal FY23
Agreement No: 35530**

WHEREAS, the following comprises the Final Resolution enacted by the Village of **Yellow Springs**, hereinafter referred to as the Legislative Authority or Local Public Agency (LPA), in the matter of the stated described project; and,

WHEREAS, on the **2nd day of May, 2022**, the LPA enacted legislation proposing cooperation with the Director of Transportation for the project described below:

The project consists of reconstructing a multimodal path along Dayton Street from East Enon Road to Stafford Street, including drainage, pavement, and traffic control updates, lying within the Village of Yellow Springs; and

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

The Village agrees to assume and bear one Hundred percent (100%) of the entire cost of the improvement within the Village limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation; and,

WHEREAS, in view of the fact that the LPA's share of the project is now estimated in the amount of **Zero and 00/100 Dollars, (\$0.00)**, therefore, the Village will not be required to deposit any funds at this time. The LPA's ultimate share of the cost will be determined when final actual costs and allocations are determined; and,

WHEREAS, the Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of same to this legislative authority; and,

WHEREAS, this legislative authority desires the Director of Transportation to proceed with the aforesaid highway improvement.

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO
HEREBY RESOLVES THAT:**

Section 1. The LPA hereby requests the Director of Transportation to proceed with the aforesaid highway improvement known as PID No. : 113724.

Section 2. The LPA is authorized to enter into a contract with the State, and the **Village Manager** be, and is hereby authorized to execute said contract for the described project in a form substantially similar to the attached Exhibit A.

Section 3. The LPA shall transmit to the Director of Transportation a fully executed copy of this Resolution.

Section 4. Village Council hereby certifies that the Clerk of Council has compared the attached copy of Resolution 2022-29 with the original record thereof, found in the record of the proceedings of the LPA, and which Resolution was duly passed by the LPA on the 2nd day of May, 2022, and is here attached as Exhibit B, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

Section 5. Village Council hereby further certifies that said Resolution and the action of said LPA thereon is recorded in the official Record of the Proceedings of Council for the Village of Yellow Springs as maintained by the Clerk of Village Council.

Signed: _____
Brian Housh, President of Council

Passed: 3-6-2023

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL:

Brian Housh _Y_ Kevin Stokes _Y_ Marianne MacQueen __Y__
Carmen Brown __Y__ Gavin DeVore Leonard __Y__

Exhibit A to Resolution 2023-12

C O N T R A C T
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the Village of **Yellow Springs**, (hereinafter referred to as the Legislative Authority or Local Public Agency (LPA).

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment (if applicable) of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: **RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: **PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: **LEGAL REFERENCES**

This contract is established pursuant to Chapter 5521 of the Ohio Revised

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

The project consists of reconstructing a multimodal path along Dayton Street from East Enon Road to Stafford Street, including drainage, pavement, and traffic control updates, lying within the Village of Yellow Springs.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed (if applicable) by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. In view of the fact that the LPA's share of the project is now estimated in the amount of **Zero and - - - 00/100 Dollars (\$0.00)**, therefore, the Village will not be required to deposit any funds at this time. The LPA's ultimate share of the cost will be determined when final actual costs and allocations are determined.
5. **The Village agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the village limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.
7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;

- B. To maintain for the PROJECT in accordance with the provisions of the statutes relating thereto, including, but not limited to, Title 23, U.S.C., Section 116;
- C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
- D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;
- E. To place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows

**Village of Yellow Springs
100 Dayton Street
Yellow Springs, Ohio
45387**

Ohio Department of Transportation
Office of Contract Sales & Estimating
1980 West Broad Street, 1st Floor
Columbus, Ohio 43223

SECTION X: FEDERAL REQUIREMENTS

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, or age (40 years or older), sexual orientation, or military status (past, present, future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, future). If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

SECTION XI: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE.

Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.

6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

SECTION XII: SIGNATURES

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL

(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

**LOCAL PUBLIC AGENCY
Village of Yellow Springs**

Director of Transportation

Village Manager

Date

Approved:
Dave Yost
Attorney General

By: _____
Corinna Efke
Unit Coordinator, Transportation
Executive Agencies Section

Exhibit B to Resolution 2023-12

PRELIMINARY LEGISLATION
(LPA-ODOT-Let Project Agreement)
(PARTICIPATORY)

Village of Yellow Springs, Ohio
Resolution 2022-29

PID No. : 113724
County/Route/Section : GRE Yellow Springs Multi-Modal FY23
Agreement No: 35530

WHEREAS, the Village of Yellow Springs, Ohio (LPA) has determined the need for the described project:

Reconstruct a multimodal path along Dayton Street in Yellow Springs from East Bnon Road to Stafford Street. Curb extensions and high-visibility markings for major street crossings at Dayton/King, Dayton/High, Dayton/Stafford, Dayton/Winter, Xenia/Davis and Xenia/LMST. Install solar powered RRFBs at Dayton/Winter, Dayton/LMST, Xenia/LMST, and sign upgrades at Dayton/King and Dayton/Stafford.

NOW THEREFORE, be it Resolved by Council for the Village of Yellow Springs of Greene County, Ohio that,

SECTION I – Consent Statement

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project as detailed in the LPA-ODOT-Let Agreement entered into between the parties, if applicable.

SECTION II – Cooperation Statement

The LPA shall cooperate with the Director of Transportation in the development and construction of the above described project and shall enter into a LPA Federal ODOT Let Project Agreement, if applicable, as well as any other agreements necessary to develop and construct the Project.

The LPA agrees to pay 100% of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

The LPA further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order

or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

The LPA further agrees to pay 100% of the cost to install and/or repair curb ramps at all necessary intersections to ensure compliance with the Americans with Disabilities Act.

The LPA agrees that if Federal Funds are used to pay the cost of any consultant contract, the LPA shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further the LPA agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The LPA agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The LPA agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

SECTION III Authority to Sign

The LPA hereby authorizes Josue Salmeron of said Village of Yellow Springs to enter into and execute contracts with the Director of Transportation which are necessary to develop plans for and to complete the above-described project; and to execute contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project.

Upon request of ODOT, the Village Manager is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the Village of Yellow Springs to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

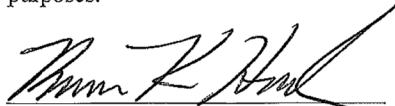
SECTION IV – Utilities and Right-of-Way Statement

The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.

The LPA agrees that all utility accommodation, relocation and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

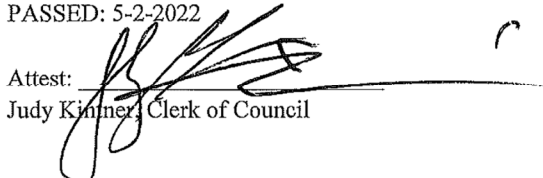
SECTION V – Maintenance

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.



Brian Housh, President of Council

PASSED: 5-2-2022



Attest:
Judy Kinner, Clerk of Council

ROLL CALL:

Brian Housh__Y__ Marianne MacQueen__Y__ Kevin Stokes__Y__
Lisa Kreeger__Y__ Carmen Brown__Y__

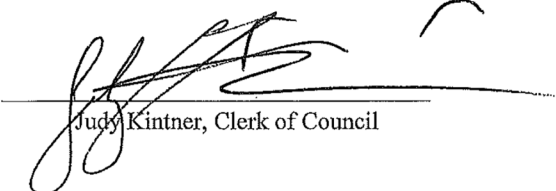
**CERTIFICATE OF COPY
STATE OF OHIO**

**Village of Yellow Springs of Greene County, Ohio
(LPA)**

I, Judy Kintner, Clerk of Council for the Village of Yellow Springs
(LPA)
of __ Greene __ County, Ohio, do hereby certify that the foregoing is a true and correct copy of
Resolution 2022-29 adopted by the Legislative Authority of the said
Village of Yellow Springs __ on the __ 2nd __ day of __ May __, 2022 __.
(LPA)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official
seal, if applicable,
this __ 2nd __ day of __ May __ 2022 __.

SEAL



Judy Kintner, Clerk of Council

Village of Yellow Springs __ of __ Greene __ County, Ohio
(LPA)

I, Judy Kintner, Clerk of Council, do hereby certify this to be a true and exact copy

Of Resolution # 2022-29 passed by Village Council on 5-2-2022

Attest: 