

RESOLUTION G2018-31

**RESOLUTION AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO
ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF
TRANSPORTATION (ODOT) TO MAINTAIN CERTAIN STATE RIGHTS OF
WAY LOCATED WITHIN SYMMES TOWNSHIP**

WHEREAS, the Ohio Department of Transportation (ODOT) owns and maintains certain rights-of-way throughout Symmes Township; and

WHEREAS, Section 5501.03(A)(3) of the Ohio Revised Code provides that ODOT may coordinate its activities with those of other appropriate state departments, public agencies, and authorities, and enter into any contracts with such departments, agencies, and authorities as may be necessary to carry out its duties, powers and functions; and

WHEREAS, Section 5501.11(A)(4) states the department of transportation with respect to highways shall cooperate with the counties, municipal corporations, township, and other subdivisions of the state in the establishment, construction; and

WHEREAS, the Township and ODOT agree that is in the public interest to maintain State Route 22/3 (Montgomery Road from Cornell Road to Fields Ertel Road), Interstate ROW areas at I-71 (north bound ramp) at Fields Ertel and I-275 (both ramps and median) at Loveland Madeira Road; and

WHEREAS, the purpose of the attached agreement is to establish respective responsibilities of the parties with regard to the general maintenance of the roadways; and

WHEREAS, the Symmes Township Trustees have determined that they desire to establish an agreement whereby the Township will assume the entire maintenance of the areas of rights-of-way along Montgomery Road (from Cornell Road to Fields Ertel Road) which incorporates the grass areas of land on either side of the ROW, Interstate 71 at Fields Ertel (northbound ramp on the Symmes township side), and Interstate 275 at Loveland Madeira Road (both ramps and median) and ODOT will continue to assume the maintenance of road pavement and longitudinal pavement markings, provide snow and ice removal and erect regulatory and warning signs for the those same routes within the Township.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Symmes Township, Hamilton County, Ohio:

Section 1. The Symmes Township Trustees hereby authorizes the Township Administrator to enter into an agreement with the Ohio Department of

Transportation (ODOT) for the purpose of maintaining rights-of-ways located within Symmes Township.

Section 2. Symmes Township agrees to maintain the grass and/or landscaped areas along Montgomery Road from Cornell Road to Fields Ertel Road, I-71 at Fields Ertel Road (northbound ramp), and I-275 at Loveland Madeira Road (both ramps and median).

Section 3. Upon majority vote does hereby dispense with the requirement that this Resolution be read on two separate days and hereby authorizes the adoption of this Resolution upon its first reading.

Section 4. It is hereby certified that all formal actions of the Board of Trustees of Symmes Township, Hamilton County, Ohio relating to the adoption of this Resolution were taken in an open meeting of the Board and that all deliberations of the Board were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. This Resolution shall take effect and be enforced from and after the earliest period allowed by law.

ADOPTED MARCH 6, 2018 – RESOLUTION G2018-31

Vote Record: Mr. Bryant ____ Mr. Beck ____ Ms. Leis ____

BOARD OF TRUSTEES:

Kenneth N. Bryant, President

Philip J. Beck, Vice President

Jodie L. Leis, Trustee

ATTEST:

Carol A. Sims, Fiscal Officer

APPROVED AS TO FORM:

Kevin McDonough, Law Director

ODOT AGREEMENT NO. 19366

AGREEMENT

BETWEEN THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION AND TOWNSHIP TO MAINTAIN CERTAIN RIGHTS-OF-WAYS AT STATE ROUTE 22/3, I-71 RAMP AT FIELDS ERTEL AND I-275 RAMPS AND MEDIAN AT LOVELAND MADEIRA ROAD LOCATED WITHIN SYMMES TOWNSHIP

This Agreement is made by and between the State of Ohio, acting by and through the Director of the Department of Transportation (hereinafter referred to as the "ODOT"), 1980 West Broad Street, Columbus, Ohio 43223 and Symmes Township in Hamilton County (hereinafter referred to as the "TOWNSHIP"), acting by and through the Township Trustees, 9323, Union Cemetery Road, Loveland, Ohio 45140.

1. PURPOSE

- 1.1 Section 5501.03(A)(3) of the Ohio Revised Code (ORC) provides that ODOT may coordinate its activities with those of other appropriate state departments, public agencies, and authorities, and enter into any contracts with such departments, agencies, and authorities as may be necessary to carry out its duties, powers, and functions.
- 1.2 ORC § 5501.11(A)(4) states the department of transportation with respect to highways shall cooperate with the counties, municipal corporations, townships, and other subdivisions of the state in the establishment, construction.
- 1.3 It is desirable to establish an agreement whereby the TOWNSHIP will assume the entire maintenance of such rights-of-way and ODOT will assume the maintenance of maintenance, snow and ice removal and longitudinal pavement markings and erect regulatory and warning signs for State Route 22/3, I-71 at Fields Ertel Road and I-275 at Loveland Madeira Road within the TOWNSHIP.
- 1.4 The TOWNSHIP and ODOT agree that it is in the public interest to maintain the grass/landscaped areas along State Route 22/3 (Cornell Road to Fields Ertel), I-71 at Fields Ertel (north bound ramps) and I-275 at Loveland Madeira Road (both ramps and median) as needed.
- 1.5 The purpose of this Agreement is to establish the respective responsibilities of the parties with regard to the general maintenance of the rights-of-way.

2. OBLIGATIONS OF THE TOWNSHIP

- 2.1 The TOWNSHIP shall perform and be responsible for all general maintenance of the rights-of-ways (grass/landscaped areas) for State Route 22/3 from Cornell Road to Fields Ertel Road, I-71 at Fields Ertel (north bound ramp area), and I-275 at

Loveland Madeira Road (both ramps and median) in the TOWNSHIP.

3. OBLIGATIONS OF THE STATE

- 3.1 ODOT agrees to grant any necessary permits to the TOWNSHIP to use and occupy the rights-of-way along SR 22/3 from Cornell Road to Fields Ertel Road, I-71 at Fields Ertel north bound ramp, and I-275 at Loveland Madeira both ramps and median for purposes of general maintenance of the rights-of-way (grass and landscaped areas only).

4. NOTICE

- 4.1 Notice under this Agreement shall be directed as follows:

Symmes Township
9323 Union Cemetery Road
Loveland, Ohio 45140
Attn: Kimberly Lapensee

Ohio Department of Transportation
District 8
505 South SR 741
Lebanon, Oh 45036
Attn: District Deputy Director

5. DEFAULT AND BREACH OF CONTRACT

- 5.1 Neglect or failure of the TOWNSHIP to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, shall be an event of default, unless such failure or misrepresentation are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions (EXCEPT THOSE REASONABLY FORESEEABLE IN CONNECTION WITH THE USES CONTEMPLATED BY THIS AGREEMENT), or any other cause not reasonably within the TOWNSHIP'S control. The TOWNSHIP, however, shall remedy as soon as possible each cause preventing its compliance with this Agreement.
- 5.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the TOWNSHIP shall have thirty (30) days from the date of such notification to remedy the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the TOWNSHIP to remedy the default shall result in termination of this Agreement by ODOT.
- 5.3 Upon a termination of this Agreement by ODOT, ODOT shall conduct an inspection of the rights-of-way to determine whether the facility has been maintained in an acceptable condition. If the rights-of-ways is not maintained to an acceptable degree and condition, then ODOT may take any measures necessary to maintain the rights-of-ways. The TOWNSHIP shall be held responsible for full

restitution of all expenses incurred in maintaining the rights-of-ways.

- 5.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the TOWNSHIP shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

6. GENERAL PROVISIONS

- 6.1 The signing of the Agreement does not in any way abridge the right of the Director of Transportation in his jurisdiction over the state highway system. If, at any time, it becomes necessary, in the opinion of the Director of Transportation to order the removal, reconstruction, relocation, or repair of the rights-of-ways, said removal work shall be completed wholly at the expense of the TOWNSHIP, and be made as directed by the Director of Transportation.
- 6.2 This Agreement constitutes the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement.
- 6.3 Neither this Agreement nor any rights, duties, or obligation described herein shall be assigned by any party hereto without the prior express written consent of the other parties. Any change to the provisions of this Agreement must be made in a written amendment executed by all parties.
- 6.4 This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.
- 6.5 The District Deputy Director of District 8 shall have full authority to ensure the full compliance of the provisions of this Agreement.
- 6.6 The signing of the Agreement or the doing of any work thereunder shall constitute an agreement by the TOWNSHIP to comply with all of the conditions and restrictions written herein.
- 6.7 The TOWNSHIP shall be responsible for all suits, actions or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect or on account of any wrongful act or omission on the part of the TOWNSHIP as a result of the maintenance of said rights-of-ways.
- 6.8 The TOWNSHIP shall comply with the Air Pollution requirements of Rule 3745-

17-08 of the Ohio Administrative Code Promulgated and enforced by the Ohio Environmental Protection Agency.

6.9 This agreement may be terminated by either party upon ninety (90) days written notice to the other party. Upon mutual written consent of the parties, this agreement can be renewed for periods of one year.

7. SIGNATURES

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

STATE OF OHIO
Department of Transportation

SYMMES TOWNSHIP

By: _____
Jerry Wray, Director

By: _____
Kimberly Lapensee, Township
Administrator

Date: _____

Date: _____