

*Olmsted Township Resolution 133-2021*

**ODOT AGREEMENT NO.**

**MAINTENANCE AGREEMENT  
BETWEEN THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION AND  
OLMSTED TOWNSHIP TO MAINTAIN STATE ROUTE 252 LOCATED WITHIN  
OLMSTED 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 Olmsted Township in Cuyahoga County (hereinafter referred to as the "TOWNSHIP"), acting by and through the Township Trustees, 26900 Cook Road, Olmsted Township, Ohio

**1. PURPOSE**

- 1.1 Whereas, Sections 5501.11(D) and 5501.31 of the Ohio Revised Code provides that ODOT may cooperate with municipal corporations in the establishment, construction, reconstruction, and improvement of public roads and bridges.
- 1.2 Whereas, Section 5501.03(A)(3) of the Ohio Revised Code provides that the Director of Transportation may coordinate the activities of ODOT with other appropriate public authorities and enter into contracts/agreements with such authorities as necessary to carry out its duties, powers and functions.
- 1.3 Whereas, it is desirable to establish an agreement whereby the TOWNSHIP will perform the snow and ice control on State Route 252 from the south Olmsted Township corporation line (MM 2.3) to the north Olmsted Township corporation line (MM 3.6) for 1.3 miles (totaling 2.6 lane miles) using its own forces, equipment, and materials with reimbursement from the STATE in the amount of \$10,500.
- 1.4 Whereas, TOWNSHIP and ODOT agree that it is in the public interest to maintain State Route 252 as needed.
- 1.5 The purpose of this Agreement is to establish the respective responsibilities of the parties regarding the general snow and ice maintenance of the roadway.

**2 OBLIGATIONS OF THE TOWNSHIP**

- 2.1 The TOWNSHIP shall perform and be responsible for all of the plowing of snow and placing abrasives for ice control on State Route 252 in the TOWNSHIP.
- 2.2 The TOWNSHIP will invoice ODOT for the routine maintenance of SR 252 each July for the annual payment of ten thousand five hundred dollars. (\$10,500)

**3 OBLIGATIONS OF THE STATE**

- 3.1 ODOT agrees to grant any necessary permits to the TOWNSHIP to use and occupy the SR 252

right-of-way for purposes of plowing of snow and placing abrasives for ice control.

- 3.2 All other maintenance, including, but not limited to, pothole patching, guardrail and fence repair, litter removal, pavement markings, and sign maintenance, as well as the disposition of any special problems, will remain the responsibility of the STATE.
- 3.3 ODOT will pay ten thousand five hundred dollars (\$10,500) annually to the TOWNSHIP for routine maintenance of snow and ice on SR 252 after the invoice is received.

#### **4 NEGLIGENCE, DEFAULT, AND DISPUTE RESOLUTION**

- 4.1 Neglect or failure of the TOWNSHIP to perform snow and ice removal or 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 is 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, 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.
- 4.2 If notified by ODOT, in writing, that any portion of the maintenance of snow and ice is unsatisfactory, or 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 default or, if the remedy will take in excess of thirty (30) days to complete, the TOWNSHIP shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty days and failure by the TOWNSHIP to remedy, or to satisfactorily commence the remedy of, the default shall result in ODOT, at its discretion, terminating this Agreement.
- 4.3 The TOWNSHIP, upon receiving a notice of termination from ODOT for default, shall terminate all contracts and other agreements it has entered into relating to such covered maintenance.
- 4.4 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.

#### **5 TIME OF PERFORMANCE**

- 5.1 This agreement shall commence on July 1, 2021 and shall expire on June 30, 2022.

#### **6 NOTICE**

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

Township of Olmsted  
26900 Cook Road  
Olmsted Township, Ohio 44138  
Attn. Township Trustees

Ohio Department of Transportation  
5500 Transportation Blvd.  
Garfield Heights, Ohio 44125  
Attn. District Deputy Director

## **7 DEFAULT AND BREACH OF CONTRACT**

- 7.2 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.
- 7.3 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.
- 7.4 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.

## **8 GENERAL PROVISIONS**

- 8.1 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 facility, said work shall be completed as directed by the Director of Transportation.
- 8.2 This Agreement constitutes the entire Agreement between the parties regarding the project. All prior discussions and understandings between the parties are superseded by this Agreement.
- 8.3 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.
- 8.4 This Agreement shall be construed and interpreted, and the rights of the parties determined in accordance with the laws of the State of Ohio.
- 8.5 The District Deputy Director of District 12 shall have full authority to ensure the full compliance of the provisions of this Agreement.
- 8.6 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.

- 8.7 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 facility.
- 8.8 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.
- 8.9 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.
- 8.10 It is expressly understood by the Parties that all financial obligations of the State of Ohio 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 ODOT. If the Ohio General Assembly fails at any time to continue funding for maintenance and inspection projects hereunder, this Agreement is hereby terminated as of the date that the funding expires without further obligation of ODOT or THE TOWNSHIP.

## 9 SIGNATURES

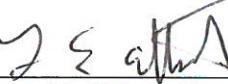
- 9.1 Any person executing this agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this agreement on such principal's behalf.
- 9.2 Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or email. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

**STATE OF OHIO**  
**Department of Transportation**

By: \_\_\_\_\_  
Jack R. Marchbanks, Director

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

**TOWNSHIP OF Olmsted**

By:   
Laurence E. Abbott, Township Trustee

Date: 12/15/2021

By:   
Jeanene Kress, Township Trustee

Date: 12-15-2021

By:   
Lisa Zver, Township Trustee

Date: 12/15/2021