

First Reading: January 15, 2015
Second Reading: dispensed

RESOLUTION 2015- 10

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE STATE OF OHIO,
DEPARTMENT OF TRANSPORTATION FOR A JOBS AND COMMERCE
ECONOMIC DEVELOPMENT GRANT, AND DISPENSING WITH THE SECOND
READING**

WHEREAS, the Board of Township Trustees has received a grant equal to the lesser of ten percent (10%) of construction costs or \$135,000 for improvements to be made to Galbraith Road; and

WHEREAS, the Board of Township Trustees desires to accept the grant and authorize the execution of the agreement with the State of Ohio Department of Transportation (ODOT) in order to receive the grant funds; and

NOW THEREFORE, BE IT RESOLVED by the Board of Township Trustees of Sycamore Township, State of Ohio:

SECTION 1. The attached "Jobs and Commerce Economic Development Agreement Between the State of Ohio, Department of Transportation and Sycamore Township" (the "Agreement") is hereby approved and the Township Administrator is authorized and directed to execute the Agreement on behalf of the Board and Sycamore Township.

SECTION 2. The Board of Township Trustees of Sycamore Township, by at least two-third vote of all of its members, dispenses with any requirement that this Resolution be read on two separate days and authorizes its passage upon one reading.

SECTION 3. This Resolution shall take effect immediately.

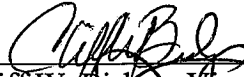
VOTE RECORD:

Mr. Bishop Yes Mr. Connor Yes Mr. Weidman Yes

PASSED at the meeting of the Board of Trustees this 15th day of January, 2015.



Dennis W. Connor, President



Cliff W. Bishop, Vice President



Thomas J. Weidman, Trustee

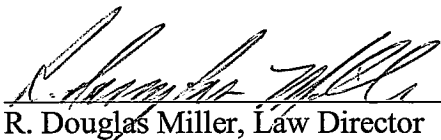
AUTHENTICATION

This is to certify that this Resolution was duly passed and filed with the Sycamore Township Fiscal Officer, this 15th day of January, 2015.



Robert C. Porter, III
Sycamore Township Fiscal Officer

APPROVED AS TO FORM:



R. Douglas Miller, Law Director

**JOBS AND COMMERCE ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION AND
SYCAMORE TOWNSHIP**

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and Sycamore Township, 8540 Kenwood Road, Cincinnati OH 45236 (hereinafter referred to as the TOWNSHIP).

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, reconstruction, maintenance, repair, and improvement of the public roads and bridges.
- 1.3 The TOWNSHIP is constructing public road improvements to support new locations for Group Health Associates and Unlimited Systems; specifically, adding an auxiliary lane on Galbraith Road with right turn to US-22/3 and intersection improvements at North Creek Drive including signalization (hereinafter referred to as the PROJECT). The ODOT program funds identified in this agreement are to be utilized for PROJECT improvements.
- 1.4 The purpose of this Agreement is to set forth the responsibilities of the parties associated with the Jobs & Commerce Economic Development ("JCED") program funding (SAC 4JC7) that is being made available for the PROJECT by ODOT.
- 1.5 The TOWNSHIP shall comply with all applicable Federal and State laws, regulations, and applicable executive orders in regards to the PROJECT. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

2. FUNDING AND PAYMENT

- 2.1 The total cost for the PROJECT is estimated to be **\$1,350,000** as set forth below. Funds provided through ODOT shall be applied only to the eligible costs associated with the actual construction of the PROJECT improvements and construction engineering/inspection activities.

ODOT Jobs & Commerce ED Program Funds	\$135,000
Local Fund Source(s) including TIF & developer participation (up to amount)	\$1,215,000
TOTAL	<u>\$1,350,000.00</u>

- 2.2 Funds provided by ODOT shall not exceed \$135,000.00 or 10 percent of the total PROJECT cost, whichever is the lesser amount. The TOWNSHIP shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns and contractor claims.
- 2.3 All funding from ODOT under this Agreement operates on a reimbursement basis. The TOWNSHIP shall review and/or approve all invoices for materials, equipment and labor prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT.
- 2.4 The TOWNSHIP shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The TOWNSHIP must submit to ODOT a written request for reimbursement of the state share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted. The TOWNSHIP may submit a maximum of two requests for reimbursement at quarterly intervals. The deadline for the final reimbursement request is May 31, 2015.
- 2.5 Reimbursement to the TOWNSHIP shall be submitted to:
- Sycamore Township
Greg Bickford
8540 Kenwood Road
Cincinnati, OH 45236
(513) 792-7251

3. PROJECT DEVELOPMENT AND DESIGN

- 3.1 The TOWNSHIP is administering this PROJECT and is responsible for all aspects of the project, including but not limited to: environmental responsibilities, permit requirements, right of way or utility reimbursement, and construction contract administration.
- 3.2 Any right, claim, interest, and/or right of action, whether contingent or vested, of the TOWNSHIP, arising out of or related to any contract entered into by the TOWNSHIP for the work to be performed by the Contractor on this PROJECT is the responsibility of the TOWNSHIP. ODOT expressly rejects any liability for the PROJECT and any claims arising from the PROJECT.

4. CERTIFICATION AND RECAPTURE OF FUNDS

- 4.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by Ohio Revised Code section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.
- 4.2 If for any reason the PROJECT is found to not be in compliance with all applicable local, state, or federal rules and processes the TOWNSHIP shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT.

5. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

- 5.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the Revised Code.
- 5.2 The TOWNSHIP hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the TOWNSHIP's obligations made or agreed to herein.

6. NOTICE

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

If to the TOWNSHIP:

Sycamore Township
Greg Bickford
8540 Kenwood Road
Cincinnati, OH 45236
(513) 792-7251
gbickford@sycamoretownship.org

If to ODOT:

Melissa Taylor, Regional Manager
Office of Jobs & Commerce, ODOT
505 South SR 741, Mail Stop: 3500
Lebanon, OH 45036
513-933-6155
melissa.taylor@dot.state.oh.us

7. GENERAL PROVISIONS

- 7.1 *Record Retention:* The TOWNSHIP when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its books, documents, and records relating to the TOWNSHIP's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years. In the event that an audit-related dispute should arise during this retention period,

any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute.

- 7.2 *Ohio Ethics Laws:* TOWNSHIP agrees that they are 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.
- 7.3 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the TOWNSHIP hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 7.4 *Assignment:* Neither this Agreement 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.
- 7.5 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 7.6 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 7.7 *Term of Agreement:* This Agreement shall be in effect from the last day executed by the parties through the date which is three (3) years after the Project Completion Date. TOWNSHIP acknowledges that the Term extends beyond the Project Completion Date for purposes of reporting by the TOWNSHIP and monitoring by Grantor of the results of the award of Grant Funds.
- 7.8 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

**TOWNSHIP ADMINISTRATOR
OR AUTHORIZED REPRESENTATIVE**

**STATE OF OHIO
OHIO DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____

Title: _____

Jerry Wray
Director

Date: _____

Date: _____