

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2023- **56**

Introduced By: Mr. Meany
Co-Sponsors: Mr. Ali, Mr. McGregor

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH
CUYAHOGA COUNTY (the "COUNTY") FOR THE REHABILITATION OF
SMITH ROAD FROM SHELDON ROAD TO PEARL ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, the MUNICIPALITY has recognized the need for and proposes the improvement of a portion of public highway which is described as follows:

The rehabilitation of Smith Road, Sheldon Road to Pearl Road in the City of Middleburg Heights.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: CONSENT

1. That it is declared to be in the public interest that the consent of said MUNICIPALITY be and such consent is hereby given to the COUNTY to participate in the cost of construction of the above-described improvement.

Section 2: COOPERATION

1. That the MUNICIPALITY will cooperate with the COUNTY in the rehabilitation of Smith Road, Sheldon Road to Pearl Road in the City of Middleburg Heights.
2. That the MUNICIPALITY will arrange for the preparation of construction plans and specifications, including necessary engineering reports for the improvement, and all engineering services necessary to design the Project and prepare plans and specifications in accordance with the current Cuyahoga County standards for construction of County roads and bridges, including right-of-way plans, hereinafter referred to as the PROJECT PLANS.
3. The parties agree to communicate in good faith during the development of the PROJECT PLANS. The MUNICIPALITY shall provide to the County's Director of the Department of Public Works Plans for Review.

4. That the COUNTY will arrange for the supervision and administration of the construction project.

Section 3: FUNDING

1. That the MUNICIPALITY hereby agrees to participate with the COUNTY in the cost of the improvement by an allocation from the County Motor Vehicle License Tax Fund to pay the COUNTY portion of the project.
2. That if funds administered by the Ohio Public Works Commission are used for this project, the amount of such funds will be deducted from designated project cost prior to the application of the participatory percentages specified in this Agreement.
3. That the MUNICIPALITY will be responsible for 100% of the cost of the preparation of PROJECT PLANS and specifications, including necessary engineering reports for the improvement.
4. That the COUNTY will be responsible for 80%, up to a maximum of \$1,600,000, of the cost of construction, including the supervision and administration of the construction for the improvement.
5. That the MUNICIPALITY agrees to deposit with the Treasurer of Cuyahoga County the MUNICIPALITY'S share of the estimated cost of the project or agrees to enter into an escrow agreement with the COUNTY prior to an award of a contract for the improvements.

Section 4: MAINTENANCE

That upon completion of said improvement, said MUNICIPALITY will thereafter keep said highway open to traffic at all times; and

1. Maintain the improvement in accordance with the provisions of the statutes relating thereto and make ample financial provisions for such maintenance; and
2. Maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the COUNTY and hold said right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands, or other private installations within the right-of-way limits; and
3. That the COUNTY shall continue to maintain the structural elements of any bridge (defined as a structure with a span of twenty feet or greater) located within the limits of the improvement in accordance with applicable sections of the Ohio Revised Code.

4. After construction of the project is complete, the Municipality agrees to follow and maintain post-construction Best Management Practices as outlined in the Municipal Storm Water Permit that is filed with the Ohio Environmental Protection Agency (O.E.P.A.).

Section 5: TRAFFIC

That upon completion of said improvement said MUNICIPALITY will thereafter keep said highway open to traffic at all times; and

1. Place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the improvement in compliance with the provisions of Section 4511.11 and related sections of the Ohio Revised Code; and
2. That the street or highway shall be and hereby is designated a through highway as provided in Section 4511.07(A)(6) Ohio Revised Code; and
3. That stop signs affecting the movement of traffic on said street or highway within the roadway being improved shall be removed, and no stop signs shall be erected on same except at its intersection with another through highway where traffic does not warrant the installation of a traffic control signal but where the warrants for a "Four-way Stop" as provided in the aforesaid Manual are met; and
4. That no rule or regulation shall be enacted restricting the use of the improved road and/or structure by any class of vehicle or vehicle load permitted by the Ohio Revised Code to use a public highway. Any existing rule or regulation so restricting road usage shall be rescinded; and
5. The MUNICIPALITY shall regulate parking in the following manner:
Prohibit parking in accordance with Section 4511.66 of the Ohio Revised Code unless otherwise controlled by local ordinance or resolution.

Section 6: RIGHT-OF-WAY

1. That all existing street and public right-of-way within the MUNICIPALITY which is necessary for the aforesaid improvement shall be made available, therefore.
2. That in the event any additional right-of-way is required, the MUNICIPALITY will arrange for the acquisition.

Section 7: UTILITIES

1. The COUNTY will make arrangements with and obtain agreements from privately owned public utility companies whose lines or structures will be

affected by the said improvement and said companies have agreed to make any and all necessary rearrangements in such a manner as to be clear of any construction called for by the plans of said improvement and said companies have agreed to make such necessary rearrangements immediately after notification by said MUNICIPALITY.

2. That the COUNTY will pay the cost of alterations of governmentally owned utility facilities which come within the provisions of Section 8301 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual to the same extent that it participates in the other costs of the project, provided, however, that such participation will not extend to any additions or betterments of existing facilities.
3. The MUNICIPALITY shall cooperate with the COUNTY to make all arrangements of governmentally owned utilities and/or appurtenances thereto which do not comply with the Provisions of Section 8301 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual, whether inside or outside the corporate limits, as may be necessary to conform to the said improvement.
4. That the construction, reconstruction, and/or arrangement of all utilities shall be done in such a manner as not to interfere unduly with the operation of the contractor constructing the improvement, and all backfilling of trenches made necessary by such utility rearrangements shall be performed in accordance with the provision of the Ohio Department of Transportation Construction and Material Specifications.

Section 8: MISCELLANEOUS

1. That if the COUNTY is formally requested by a MUNICIPAL RESOLUTION to include the construction of sidewalks, alternate bid items, or other items in the improvement that are in addition to those now existing and not provided for elsewhere in this Ordinance, the COUNTY will do so, provided that this construction meets with the approval of the COUNTY and the MUNICIPALITY involved in this improvement; and that the MUNICIPALITY agrees to pay, or make arrangements for the payment of, the cost of said additional construction, the cost of preliminary and design engineering, and construction supervision.
2. That the MUNICIPALITY shall be solely responsible for the certifications or obligations made or agreed to in Sections F-1, F-2, G-1, G-3, and G-4, and hereby agrees that the COUNTY shall be and is hereby released from any and all damages or claims of the MUNICIPALITY arising from or growing out of the certifications or obligations made or agreed to in said Sections F-1, F-2, G-1, G-3, and G-4 hereinabove.

3. For the purpose of this Ordinance, the agent for the COUNTY and liaison officer on the matter contained herein shall be the County Engineer of Cuyahoga County, Ohio, and/or such members of his staff as he may designate.
4. By enacting this Ordinance, the MUNICIPALITY agrees to conduct this transaction by electronic means and agrees that all documents requiring County signatures may be executed by electronic means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The MUNICIPALITY also agrees on behalf of the aforementioned entities and persons to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of the COUNTY.

Section 9: AUTHORITY TO SIGN

1. That the Mayor of said MUNICIPALITY is hereby empowered and directed on behalf of the MUNICIPALITY to enter into agreements with the COUNTY necessary to complete the planning and construction of this improvement.
2. That the Mayor of said MUNICIPALITY is hereby empowered and directed on behalf of the MUNICIPALITY to make application to the COUNTY for approval to use County Motor Vehicle License Tax Funds for the improvement.

Section 10: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Section 11: That this Ordinance is hereby declared to be an emergency measure by reason of the need for expediting highway improvements to promote highway safety. Wherefore, provided this Ordinance receives the affirmative vote of at least two-thirds (2/3) of the members of Council it shall take effect and be in force immediately upon its passage and approval by the Mayor.

Passed: 6/27/23


 President of Council

Attest: M. Meda
 Clerk of Council

Approved On: 6/28/23

Presented to Mayor: 6/28/23

Matthew Cash
Mayor

	Yea	Nay
Bortolotto	<u>X</u>	_____
Ali	<u>X</u>	_____
Sage	<u>X</u>	_____
Meany	<u>X</u>	_____
McGregor	<u>X</u>	_____
Ference	<u>X</u>	_____
Grech	<u>ABSENT</u>	

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2023-56 adopted by the Council of the City of Middleburg Hts., on 6/27/23 was posted for a period of fifteen days, beginning 6/29/23 and remained so posted for fifteen days at the two posting places as designated by Charter.

Mary Ann Meola
Clerk

CERTIFICATE
 I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. 2023-56 passed on the 21st day of June 2023 by said Council.

Mary Ann Meola
Clerk of Council

AGREEMENT

Between the County of Cuyahoga, Ohio, and the City of Middleburg Heights for the Rehabilitation of Smith Road, Sheldon Road to Pearl Road

This agreement made and entered into this ____ day of _____, 20____, by and between the County of Cuyahoga, Ohio (the "COUNTY") and the City of Middleburg Heights (the "MUNICIPALITY") by its Mayor, having been duly authorized to enter into said agreement by Ordinance No. 2023-56, adopted by Council of the City of Middleburg Heights on the 27th day of June, 2023.

WITNESSETH:

WHEREAS, the MUNICIPALITY has recognized the need for and proposes the improvement of a portion of public highway which is described as follows:

The rehabilitation of Smith Road, Sheldon Road to Pearl Road in the City of Middleburg Heights.

NOW THEREFORE, in consideration of the covenants and agreements herein contained to be performed by the parties hereto, it is mutually agreed between the parties hereto as follows:

A. CONSENT

That it is declared to be in the public interest that the consent of said MUNICIPALITY be and such consent is hereby given to the COUNTY to participate in the cost of construction of the above-described improvement.

B. COOPERATION

1. That the MUNICIPALITY will cooperate with the COUNTY in the rehabilitation of Smith Road, Sheldon Road to Pearl Road in the City of Middleburg Heights.
2. That the MUNICIPALITY will arrange for the preparation of construction plans and specifications, including necessary engineering reports for the improvement, and all engineering services necessary to design the Project and prepare plans and specifications in accordance with the current Cuyahoga County standards for construction of County roads and bridges, including right-of-way plans (the "Project Plans").
3. The Parties agree to communicate in good faith during the development of the Project Plans. The MUNICIPALITY shall provide to the County's Director of the Department of Public Works ("Director of Public Works") Plans for review. Approval by the Director of Public Works is required prior to advertisement of the construction contract.

4. That the COUNTY will arrange for the supervision and administration of the construction project.

C. FUNDING

1. That the MUNICIPALITY hereby agrees to participate with the COUNTY in the cost of the improvement by an allocation from the County Motor Vehicle License Tax Fund to pay the COUNTY portion of the project.
2. That if funds administered by the Ohio Public Works Commission are used for this project, the amount of such funds will be deducted from designated project costs prior to the application of the participatory percentages specified in this Agreement.
3. That the MUNICIPALITY will be responsible for 100% of the cost of the preparation of Project Plans and specifications, including necessary engineering reports for the improvement.
4. That the COUNTY will be responsible for 80%, up to a maximum of \$1,600,000, of the cost of construction, including the supervision and administration of the construction for the improvement.
5. That the MUNICIPALITY agrees to deposit with the Treasurer of Cuyahoga County the MUNICIPALITY'S share of the estimated cost of the project or agrees to enter into an escrow agreement with the COUNTY prior to an award of a contract for the improvements.

D. MAINTENANCE

That upon completion of said improvement, said MUNICIPALITY will thereafter keep said highway open to traffic at all times; and

1. Maintain the improvement in accordance with the provisions of the statutes relating thereto and make ample financial provisions for such maintenance; and
2. Maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the COUNTY and hold said right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands or other private installations within the right-of-way limits; and
3. That the COUNTY shall continue to maintain the structural elements of any bridge (defined as a structure with a span of twenty feet or greater) located within the limits of the improvement in accordance with the applicable sections of the Ohio Revised Code.
4. After construction of the project is complete, the MUNICIPALITY agrees to follow and maintain post-construction Best Management Practices as outlined in the

Municipal Storm Water Permit that is filed with the Ohio Environmental Protection Agency (O.E.P.A.).

E. TRAFFIC

That upon completion of said improvement said MUNICIPALITY will thereafter keep said highway open to traffic at all times; and

1. Place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the improvement in compliance with the provisions of Section 4511.11 and related sections of the Ohio Revised Code; and
2. That the street or highway shall be and hereby is designated a through highway as provided in Section 4511.07(A)(6) Ohio Revised Code; and
3. That stop signs affecting the movement of traffic on said street or highway within the roadway being improved shall be removed, and no stop signs shall be erected on same except at its intersection with another through highway where traffic does not warrant the installation of a traffic control signal but where the warrants for a "Four-way Stop" as provided in the aforesaid Manual are met; and
4. That no rule or regulation shall be enacted restricting the use of the improved road and/or structure by any class of vehicle or vehicle load permitted by the Ohio Revised Code to use a public highway. Any existing rule or regulation so restricting road usage shall be rescinded; and
5. The MUNICIPALITY shall regulate parking in the following manner:
Prohibit parking in accordance with Section 4511.66 of the Ohio Revised Code unless otherwise controlled by local ordinance or resolution.

F. RIGHT-OF-WAY

1. That all existing street and public right-of-way within the MUNICIPALITY which is necessary for the aforesaid improvement shall be made available therefore.
2. That in the event any additional right-of-way is required, the MUNICIPALITY will arrange for the acquisition.

G. UTILITIES

1. The COUNTY will make arrangements with and obtain agreements from privately owned public utility companies whose lines or structures will be affected by the said improvement and said companies have agreed to make any and all necessary rearrangements in such a manner as to be clear of any construction called for by the

plans of said improvement and said companies have agreed to make such necessary rearrangements immediately after notification by said MUNICIPALITY.

2. That the COUNTY will pay the cost of alterations of governmentally-owned utility facilities which come within the provisions of Section 8301 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual to the same extent that it participates in the other costs of the project, provided, however, that such participation will not extend to any additions or betterments of existing facilities.
3. The MUNICIPALITY shall cooperate with the COUNTY to, make all arrangements of governmentally-owned utilities and/or appurtenances thereto which do not comply with the Provisions of Section 8301 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual, whether inside or outside the corporate limits, as may be necessary to conform to the said improvement.
4. That the construction, reconstruction, and/or arrangement of all utilities shall be done in such a manner as not to interfere unduly with the operation of the contractor constructing the improvement, and all backfilling of trenches made necessary by such utility rearrangements shall be performed in accordance with the provision of the Ohio Department of Transportation Construction and Material Specifications.


H. MISCELLANEOUS

1. That if the COUNTY is formally requested by a MUNICIPAL RESOLUTION to include the construction of sidewalks, alternate bid items, or other items in the improvement that are in addition to those now existing and not provided for elsewhere in this Agreement, the COUNTY will do so, provided that this construction meets with the approval of the COUNTY and the MUNICIPALITY involved in this improvement; and that the MUNICIPALITY agrees to pay, or make arrangements for the payment of, the cost of said additional construction, the cost of preliminary and design engineering, and construction supervision.
2. That the MUNICIPALITY shall be solely responsible for the certifications or obligations made or agreed to in Sections F-1, F-2, G-1, G-3, and G-4, and hereby agrees that the COUNTY shall be and is hereby released from any and all damages or claims of the MUNICIPALITY arising from or growing out of the certifications or obligations made or agreed to in said Sections F-1, F-2, G-1, G-3, and G-4 hereinabove.
3. For the purpose of this Agreement, the agent for the COUNTY and liaison officer on the matter contained herein shall be the County Engineer of Cuyahoga County, Ohio, and/or such members of his staff as he may designate.
4. By entering into this Agreement, I agree on behalf of the City of Middleburg Heights to conduct this transaction by electronic means by agreeing that all documents

requiring County signatures may be executed by electronic means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of the COUNTY.

IN WITNESS WHEREOF, the Parties hereto have affixed their signatures on the day and year mentioned above.

City of Middleburg Heights



Mayor

County of Cuyahoga, Ohio

By: _____
Chris Ronayne, County Executive
or designee pursuant to Executive Orders
No. EO2023-0001, dated February 21, 2023

TO: THE COUNTY OF CUYAHOGA, OHIO DATE: _____
 RE: APPLICATION FOR APPROVAL OF PROJECT USING COUNTY MOTOR VEHICLE LICENSE TAX FUNDS

PART A PROJECT DESCRIPTION
 MUNICIPALITY: Middleburg Heights ROAD: Smith Road
 ROAD NUMBER: _____ PROJECT LENGTH: _____
 AVERAGE DAILY TRAFFIC: (Indicate 12 or 24 hour): _____
 ACCIDENTS DURING PAST YEAR: Prop. Damage: _____ Pers. Inj.: _____ Fatal: _____
 EXISTING PAVEMENT WIDTH: _____ RIGHT OF WAY WIDTH: _____ SPEED LIMIT: _____
 RAILROAD CROSSINGS AT: _____
 EXISTING BRIDGES OVER 20 FOOT SPANS: _____

PART B PURPOSE AND DESCRIPTION OF WORK
Rehabilitation of Smith Road, Sheldon Road to Pearl Road in the City of Middleburg Heights.

PART C TRAFFIC CONTROL INVENTORY
 ARE EXISTING SIGNS, MARKINGS AND TRAFFIC SIGNALS IN CONFORMANCE WITH THE OHIO MANUAL OF TRAFFIC CONTROL DEVICES (IF KNOWN)?: _____ IF NO, LIST DEFICIENCIES: _____
 ARE EXISTING SIGNALS INTERCONNECTED?: _____
 NUMBER OF EXISTING: Full actuated signals: _____ Semi-actuated signals: _____
 NUMBER OF PRETIMED SIGNALS AND AVERAGE SPACING: _____
 EXISTING PARKING REGULATIONS: _____

PART D FUNDING

	COST ESTIMATE	PROPOSED FINANCING (\$ OR %)				
		LCNS TAX	MUNICIPAL	COUNTY	FEDERAL	OTHER
PRELIMINARY ENGR.						
RIGHT-OF-WAY						
CONSTRUCTION ENGR.						
ROADWAY & PAVEMENT						
STRUCTURES						
OTHER						
TOTALS						

RECOMMENDED FINANCING: _____

PART E MUNICIPAL ACTION
 PROPOSED BY: Matthew Carlett TITLE: Mayor DATE: 6-28-23
 ACTION BY COUNCIL: _____ Ordinance No. 2623-56 DATE: 6/27/23
 CERTIFIED BY: Mary Ann Meola DATE: 6/27/23
 (Clerk of Council)