

**AGREEMENT OF COOPERATION FOR WIDENING
AND IMPROVEMENT OF CLEVELAND-MASSILLON RD.**

This AGREEMENT of COOPERATION is made and entered into this ___ day of May, 2015, between the County of Summit (“Summit County”), by the County Executive on behalf of the Summit County Engineer, and the City of Fairlawn, by its Mayor, and hereinafter referenced as the “Parties” and severally by name or as each “Party.”

WHEREAS, the Parties agree that it would benefit the public health, safety, and welfare to submit application to the Akron Metropolitan Area Transportation Study (“AMATS”) for federal funding for the proposed widening and improvement of Cleveland Massillon Road from Ridge Park Drive to the Giant Eagle north of Brookwall Drive and providing for the milling and repaving of Cleveland-Massillon Road beginning at the existing 5 lane section near the Giant Eagle and proceeding north to Route 18; (the “Project”).

WHEREAS, approximately 80% of this portion of Cleveland-Massillon Road lies within the jurisdiction of the City of Fairlawn and approximately 20% of this portion of Cleveland-Massillon-Road lies with the jurisdiction of Summit County; and

WHEREAS, the Parties agree to cooperate in submitting a joint application for the Project to AMATS in time to apply for funding for roadway improvements funded by grants awarded in State Fiscal years of 2021 and 2022; and

WHEREAS, the Parties agree to a 80/20 sharing of the preliminary design and engineering costs for the Project and to a 80/20 sharing of the 20% local share of the construction and construction administration costs for the Project, with each party to pay 100% of the local share of any right-of-way acquisition costs for any property located within their respective jurisdictions; and

WHEREAS, the Parties agree that the City of Fairlawn should serve as the lead responsible agency for the administration of the Project, including the preparation of preliminary design and engineering plans for the Project, the submission of an application to AMATS for federal funding for the Project, and the advertising, bidding, award, execution, and administration of any construction contracts for the Project;

WHEREAS, it is the mutual desire of the Parties for the Summit County Engineer shall have an opportunity to review and approve the engineering and construction plans and the estimate of costs and specifications prior to the submission of an application to AMATS and prior to the advertising for bids for the Project.

WHEREAS, the Parties recognize the need for a formal agreement of cooperation to set forth the portion of the local costs that shall be borne by each party and the responsibilities of each party relating to the Project; and

WHEREAS, on May __, 2015, the Summit County Council adopted Resolution No. _____ approving this Agreement of Cooperation, and on May 4, 2015, the Fairlawn City

Council adopted Ordinance No. 2015-0218, authorizing the Mayor to enter into this Agreement of Cooperation.

NOW, THEREFORE, in consideration of the mutually agreed upon responsibilities and costs between the Parties, as recited hereby, the Parties hereby enter into the following Agreement:

1. **Scope of Project.** The Parties agree that the Scope of Work for the Project shall include the following roadway improvements:

- Widening Cleveland-Massillon Road to 4-5 lanes starting from just south of Ridge Park Drive and ending at the existing 5 lane section near the Giant Eagle store north of Brookwall Drive and providing for the milling and repaving of Cleveland-Massillon Road beginning at the existing 5 lane section near the Giant Eagle and proceeding north to Route 18;
- Revising the offset intersection at Kuhmo Drive to ensure realignment of Ridge Park Drive with Kuhmo Drive;
- Placing left turn lanes on Cleveland Massillon Road where needed;
- Installing curb and gutter with a 10 foot multi-use path for use by bicyclists and pedestrians in a manner that is consistent with the City of Fairlawn's trail plans;
- Upgrading and coordination of all traffic signals from Kuhmo/Ridge Park Drives to Brookwall Drive to meet the City of Fairlawn's standards and specifications;
- Coordinating improvements with ODOT with respect to any operational and geometric modifications that may be made by ODOT at the I-77 interchange ramps;
- Acquisition of necessary rights of way and relocation of utility lines where required;
- Extension or replacement of any bridges or culverts under the roadway.
- Any other related improvements, such as curbs, gutters, sidewalks, storm water systems, etc. that are mutually agreed upon by the Parties.

2. **Preliminary Engineering Phase of the Project.** The City of Fairlawn shall be responsible for the preparation of preliminary design and construction plans, environmental studies, and other materials relating to the submission of an application to AMATS for federal funding for the Project. All of the Preliminary Engineering Costs incurred for the Project prior to the submission of the application to AMATS shall be borne by the City of Fairlawn, except

that Summit County shall reimburse the City of Fairlawn for 20% of the Preliminary Engineering Costs on or before May 31, 2016.

3. **Right-of-Way Acquisition Costs**: Each party shall be responsible for all local costs relating to the acquisition of right-of-way within their respective jurisdictions, including but not limited to any appraisals and other costs arising from or relating to the exercise of eminent domain within their respective jurisdictions.

4. **Construction and Construction Administration Costs**. If a federal grant is awarded for the Project, it is anticipated that federal grants shall provide the funding for 80% of the construction and construction administration costs. With respect to the 20% Local Share of the construction and construction administration costs, the City of Fairlawn shall be responsible for 80% of the 20% Local Share for the Project, and Summit County shall be responsible for 20% of the 20% Local Share for the Project. Any particular item(s) of work that are not eligible for federal participation shall be totally paid for by the Party requesting the item(s) of work.

5. **Project Administration**. The City of Fairlawn should serve as the lead responsible agency for the administration of the Project, including the hiring and administering any design and engineering contracts and the advertising, bidding, award, execution, and administration of any construction contracts for the Project.

6. **Approval of Construction Plans**. The Summit County Engineer shall have an opportunity to review and approve the engineering and construction plans and the estimate of costs and specifications prior to the submission of an application to AMATS and prior to the advertising for bids for the Project.

7. **Dispute Resolution**. In the event a dispute arises relating to the interpretation or performance of this Agreement, written notification of such dispute shall be sent to the Chief Deputy Engineer for the Summit County Engineer and the Deputy Director of Public Service for the City of Fairlawn, as appropriate, within 30 days of the discovery of such act, event, or condition giving rise to the dispute. In such notification, the disputing Party shall present such evidence as may support their position. Within a reasonable time, the representatives for each Party shall review the facts and circumstances surrounding the dispute for the purpose of resolution. Said dispute shall be resolved within a reasonable period of time. If the Parties are unable to resolve the dispute, either Party may file a civil action in the Summit County Court of Common Pleas.

8. **Applicable Law**. The validity, interpretation and performance of this Agreement shall be governed by Ohio law.

9. **Entire Agreement**. This Agreement represents the entire and integrated agreement of the Parties with respect to the Project and supersedes all prior negotiations, representations or agreements, either written or oral. No change or modification of this Agreement shall be valid or binding unless it is in writing and signed by both Parties.

10. **Headings**. The headings provided in this Agreement are solely for the convenience of the Parties and do not have any effect on its terms.

11. **Execution.** This Agreement may be executed on one or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. A facsimile version, photocopy, and/or an electronically scanned image of a signature shall be deemed an original and shall be enforceable as if it is an original signature.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed, the day and year first above written:

County of Summit

City of Fairlawn

Alan Brubaker, P.E., P.S.
Summit County Engineer

William J. Roth, Mayor
City of Fairlawn, Ohio

Russ Pry
Summit County Executive

Approved As to Form:

Approved as to Form and Correctness:

Marvin Evans, Assistant
Summit County Prosecutor

Edward Riegler, Law Director
City of Fairlawn

Deborah S. Matz
Director, Department of Law, Insurance
and Risk Management