

ORDINANCE NO. 24-048

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE DIRECTOR OF THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE ODOT RESURFACING - URBAN PAVING CITY OF SANDUSKY PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, pursuant to State law, maintenance of State routes and U.S. routes within a municipal corporation limits are the responsibility of the municipality, however, the Ohio Department of Transportation (ODOT) began a State-wide Urban Paving program several years ago that allocates funds towards resurfacing of dedicated State routes and to prioritize these projects, ODOT completes a pavement analysis on all State routes on a routine basis and all of State Route 6 within the corporation limits is scheduled for reconstruction between 2024 and 2026; and

WHEREAS, the ODOT Resurfacing - Urban Paving City of Sandusky Project consists of improvements to U.S. Route from the west corporation limit to just east of Edgewater Avenue and U.S. Route 250, including pavement planning, partial and full depth pavement repair, resurfacing, pavement markings, sidewalk, curb ramps, and drainage upgrades, lying within the City of Sandusky; and

WHEREAS, the City Commission previously adopted the preliminary legislation submitted by the Director of the Ohio Department of Transportation for the ODOT Resurfacing - Urban Paving City of Sandusky Project, PID No. 103704, by Resolution No. 051-23R, passed on November 13, 2023; and

WHEREAS, pursuant to the preliminary legislation, ODOT agreed to pay 80% with the City agreeing to pay 20% of the roadway resurfacing and construction inspection costs, which include pavement planning, asphalt overlay, shoulder treatments on Cleveland Road, height adjustments to existing guardrail, pavement markings, temporary and fast dry concrete, adjustments to utility castings, mailbox supports and approaches, and work zone signs; and

WHEREAS, all other items, such as curbs, gutters, curb ramps, base repairs or any alterations for roadway improvements will be completed at 100% cost to the City including the replacement of some of the concrete on side streets (within the Cleveland Road right-of-way) and additional curb repairs along the concrete portion of Sycamore Line and along Washington Park as requested by the City; and

WHEREAS, additional requests by the City previously agreed to by ODOT include concrete repairs on Milan Road between Sycamore Line and the Butler Street overpass and will be completed at a 50% cost to the City; and

WHEREAS, the final estimated project costs are \$1,668,377.00 for construction and \$115,453.00 for construction engineering for a total of \$1,783,830.00 of which \$1,115,625.00 will be paid with funds from the Ohio Department of Transportation, \$175,000.00 will be paid with funds available through the Ohio Public Works Commission (OPWC), and the remaining balance of \$493,205.00 will be paid with Capital Projects Funds; and

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WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to return the executed contract and provide payment to the Ohio Department of Transportation by the March 22, 2024, deadline; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission requests the Director of Transportation to proceed with the Highway Improvement Project (P.I.D. No. 103704) and approves the form of the Contract and authorizes and directs the City Manager to cooperate with the Director of Transportation and to enter into the contract with the Ohio Department of Transportation for the ODOT Resurfacing - Urban Paving City of Sandusky Project, substantially in the same form as attached to this Ordinance, marked Exhibit "A" and specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as being consistent with the objectives and requirements of this Ordinance and with carrying out the City's public purposes.

Section 2. The Finance Director is authorized and directed to expend funds to the Treasurer of State for the ODOT Resurfacing - Urban Paving City of Sandusky Project in an amount **not to exceed** Four Hundred Ninety-Three Thousand, Two Hundred Five and 00/100 Dollars (\$493,205.00), consistent with carrying out the requirements of this Ordinance and the terms of the Contract.

Section 3. The Director of Public Works is authorized and directed to deliver a certified copy of this Ordinance together with all necessary documents to the Director of the Ohio Department of Transportation.

Section 4. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: February 26, 2024

CONTRACT
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of **Sandusky**, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

WHEREAS, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: **RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: **PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: LEGAL REFERENCES

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

The project consists of improvements to U.S. Route 6 (S.L.M. 3.64- 5.61) from the west corporation limit to just east of Edgewater Avenue and U.S. Route 250 (S.L.M. 0.00-0.49), including pavement planing, partial & full depth pavement repair, resurfacing, pavement markings, sidewalk, curb ramps, and drainage upgrades, lying within the City of Sandusky.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **Six Hundred Sixty-Eight Thousand Two Hundred Five and - - - 00/100 Dollars, (\$668,205.00) LESS OPWC in the amount of One Hundred Seventy-Five Thousand and - - - 00/100 Dollars, (\$175,000.00) leaving a balance of Four Hundred Ninety-Three Thousand Two Hundred Five and - - - 00/100 Dollars, (\$493,205.00).**
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.
7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;
 - B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,
 - C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
 - D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;

- E. To place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows:

**City of Sandusky
240 Columbus Avenue
Sandusky, Ohio
44870**

Ohio Department of Transportation
Office of Contract Sales & Estimating
1980 West Broad Street, 4th Floor
Columbus, Ohio 43223

SECTION X: FEDERAL REQUIREMENTS

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, or age (40 years or older), sexual orientation, or military status (past, present, future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, future). If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

SECTION XI: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract 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.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, 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 the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.
6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
7. LPA agrees that it is 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.

SECTION XII: SIGNATURES

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

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL
(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

LOCAL PUBLIC AGENCY
City of **Sandusky**

Director of Transportation

City Manger

Date

Finance Director

Date

Law Director

Date

EXHIBIT "A"

Approved:
Dave Yost
Attorney General of Ohio

By: _____
Corinna Efke
Unit Coordinator, Transportation
Executive Agencies Section