

RESOLUTION NO.

31-2011

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF SUMMIT FOR PAVEMENT MAINTENANCE, LOCATED IN THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, the Public Interest of the Village requires the regular maintenance of roadways located in the Village of Richfield (said improvement being referenced herein as the "Project"); and

WHEREAS, the Project's estimated cost for construction, construction engineering and inspection (herein referenced as the "Project's Construction Cost") is \$ _____; and

WHEREAS, the Village plans to provide the remaining Project funds, in an amount not to exceed \$250,000.00; and

WHEREAS, Summit County Engineer and the Village desire to enter into an agreement, to confirm the Project's Construction Cost and to designate the County of Summit as the lead agency for administration of competitive bidding, and the Village as the lead agency for construction and construction engineering of the Project; and

WHEREAS, said Agreement will cite the Village's share of the Project's Construction Cost as \$250,000.00; and

WHEREAS, this Council has determined by reviewing all pertinent information that authorizing the Mayor to enter into the aforementioned agreement with County of Summit is necessary and in the best interest of the Village;

NOW THEREFORE, BE IT RESOLVED, by the Council of the Village of Richfield, County of Summit , State of Ohio, that:

SECTION 1. The Mayor is hereby authorized to enter into an agreement with the County of Summit, through the Summit County Engineer, for its 2011 road paving and maintenance program.

SECTION 2. The terms of said agreement shall include the following:

- a. That the parties estimate the Project's Construction Cost to be \$ _____, with said cost including construction engineering and inspection;
- b. That the net estimated cost to the Village shall be an amount not to exceed \$250,000.00; and
- c. That the Village shall provide all other financial resources necessary to fully complete the Project.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the preservation of the public health, safety and welfare of the residents of the Village of Richfield, County of Summit, State of Ohio and for the further purpose of allowing the Memorandum of Understanding to be immediately signed by the Mayor and other participating communities.; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its adoption and approval by the Mayor (or Board of Township Trustees); otherwise it shall take effect and be in force at the earliest time provided by law.

SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action.

PASSED: 4/19/11

Bellevue Barbara
President of Council

Mitchell Bruce
Mayor

Dated: 4/19/11

ATTEST:

Carolyn E. Sullivan
Clerk of Council

**AGREEMENT OF COOPERATION
BETWEEN THE COUNTY OF SUMMIT AND
THE CITY/VILLAGE OF _____
FOR PAVEMENT MAINTENANCE AND/OR MARKING COLLABORATION**

This Agreement of Cooperation is made this ____ day of _____, 2011 by and between the County of Summit (the "County"), acting through the County Executive for the County Engineer, hereafter referred to as the "Engineer", and the City/Village of _____, hereafter referred to the "City/Village", with the County and City/Village referenced hereby jointly as the "Parties" and separately as each "Party".

WITNESSETH:

WHEREAS, the City/Village is requesting Pavement Maintenance and/or Marking services within the City/Village's corporate limits as necessary; and

WHEREAS, the City/Village and the County recognize that collaboration on Pavement Maintenance and/or Marking projects can result in cost advantages for all participants due to increased volume of materials required and scheduling efficiencies for the service provider; and

WHEREAS, the City/Village and the County recognize that in order for all participants to fully benefit from collaboration it is imperative that participation in the project be maintained for the duration of the project once a service provider has been selected through the competitive bidding process; and

WHEREAS, the City/Village desires that the County will provide these services through the County Engineer; and

WHEREAS, by City/Village of _____ Ordinance No. _____, the Mayor is authorized to enter into an agreement with the County for the payment of costs of this Project.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and terms to be kept and performed hereunder, the Parties agree as follows:

Section 1 – SCOPE OF WORK – PAVEMENT MAINTENANCE AND/OR MARKING

The Scope of Work covered by this Agreement consists of Pavement Maintenance and/or Marking within the City/Village's corporate limits. The parties have prepared an itemized inventory

documenting the roads within the City/Village's corporate limits for which the Engineer shall perform Pavement Maintenance and/or Marking (the "Inventory"), said Inventory being attached hereto as Exhibit 1, which is fully incorporated herein. The parties agree that the County shall include the provided inventory in its regular bidding process.

If the parties desire that any new sections of roadway shall become part of this Agreement, the Inventory shall be adjusted accordingly and approved in writing by both parties as an amendment to this agreement.

Section 2 – CITY/VILLAGE RESPONSIBILITIES

- A) The City/Village shall make payments to the contractor directly as specified in the final contract awarded by the County.
- B) As part of the Inventory, the City/Village shall provide estimated quantities and costs for the project. The construction cost estimate shall be signed and sealed by a professional engineer. The County will have the ability to review the Inventory. The County bid will be limited to ODOT and County specified bid items.
- C) The City/Village will be responsible for providing any necessary inspection, engineering and project design.
- D) All contract modifications and change orders agreed to by the City/Village and the contractor shall be submitted to the County for final approval. Such approval shall not be unreasonably withheld by the County.
- E) The City/Village shall adopt appropriate enabling legislation to participate in the program. Once the County advertises the project, the City/Village agrees to commit to the quantities and services contained in the bid subject to a total cost which shall not exceed \$_____. Additions and deletions to the specified quantities and/or services are subject to approval by the County Engineer. The County intends to advertise for bids on May 14 and 21, 2011. Bids are scheduled to be opened on June 1 and 2, 2011.

- F) The City/Village agrees that it will fund the project with local funds only. Projects receiving state or federal assistance cannot be included in the Inventory presented to the County as part of this agreement.
- G) Field testing and inspection of materials and services provided shall be the responsibility of the City/Village.

Section 3 – COUNTY RESPONSIBILITIES

- A) The County shall administer the bidding process. Municipalities will be listed as separately on unit cost sheets within the overall bid documents. Bids will be evaluated on total lowest bid of the entire contract.
- B) The County shall provide administrative support required to ensure the successful implementation of this agreement and resulting contracts with service providers selected through the bidding process.
- C) For the work performed for the County on County Highways, the County shall make payments to the contractor directly as specified in the final contract awarded by the County.
- D) The County shall provide estimated quantities and costs for the portion of the project on County Highways. The sum of all construction cost estimates shall be prepared by the County and shall be signed and sealed by a professional engineer. The County bid will be limited to ODOT specified bid items.
- E) The County will be responsible for providing any necessary inspection, engineering and project design for the portion of the project on County Highways.
- F) The County will be responsible for material certifications.
- G) The County shall provide in the construction contracts that the City/Village is a third party beneficiary of the contract and that the City/Village will have direct recourse against the Contractor should a dispute arise as to a particular project.

Section 4 – TERMS OF PAYMENT

The City/Village shall make payments directly to the contractor within the deadlines specified in the final contract.

Section 5 – DISPUTE RESOLUTION

A) In the event a dispute arises regarding this Agreement, notification of such dispute shall be sent to the Summit County Engineer and a designated representative of the City/Village, in writing.

In such notification, the disputing party shall present such evidence as may support their position. The representatives for each party shall review the facts and circumstances surrounding the dispute for the purpose of determination. Said dispute shall be resolved within a reasonable period of time. Should the parties be unable to resolve the dispute, either party may resort to its legal remedies as may be appropriate.

B) In the event a dispute arises between the City/Village and the contractor, notification of such dispute shall be sent to the Summit County Engineer by the City/Village, in writing. In such notification, the City/Village shall present such evidence as may support its position. The Engineer will review the complaint with the City/Village and the Contractor to informally resolve the dispute. Should the Parties be unable to resolve the dispute, any Party may resort to its legal remedies as may be appropriate. In the event of legal action by the City/Village against the Contractor, the County may, but is not required to, join as a party to the suit. The County may, in its sole discretion, seek legal remedies against the Contractor for any project independent of the City/Village should it determine that legal action is necessary. Each Party shall bear its own legal costs unless otherwise agreed.

Section 6 – INSPECTIONS

Periodic inspections may be performed jointly by representatives of the County and the City/Village, to determine the level of service being provided on the City/Village's roadway system.

Section 7 – TERM

This agreement becomes effective upon signature by the parties and shall extend through final completion of the project.

Section 7 – APPLICABLE LAW

The County and City/Village agree to comply with all applicable federal, state, and local laws in the conduct of the work hereunder.

Section 8 – EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement of the Parties for cooperation on the Project and supercedes all prior negotiations, representations or agreements, either written or oral. Only a written instrument signed by each Party may amend this Agreement.

IN WITNESS WHEREOF, the Parties hereto have affixed their hands, the County by the signatures of the County Engineer and the County Executive and the City/Village by the signature of the Mayor.

THE CITY/VILLAGE OF _____

By: _____ Date _____
Mayor

THE COUNTY OF SUMMIT

Authorized By:

Russell M. Pry Date _____
County of Summit Executive

Recommended By:

Approved as to Legal Form and Correctness:

Alan Brubaker, P.E., P.S. Sherri Bevan Walsh Date
Summit County Engineer Prosecutor, County of Summit

**AGREEMENT OF COOPERATION
BETWEEN THE COUNTY OF SUMMIT AND THE CITY/VILLAGE OF _____
FOR PAVEMENT MAINTENANCE AND/OR MARKING SERVICES**

Inventory – Exhibit 1