

## RESOLUTION NO. 14-2023

Passed May 10, 2023

A RESOLUTION TO APPROVE THE MEMORANDUM OF AGREEMENT AMONG THE OHIO RAIL DEVELOPMENT COMMISSION, THE ASHLAND RAILWAY INC. AND THE RICHLAND COUNTY ENGINEER FOR THE REPLACEMENT OF THE WEST BROADWAY STREET BRIDGE AND TO AUTHORIZE THE MAYOR TO NEGOTIATE AND APPROVE THE AGREEMENT AND DECLARING AN EMERGENCY.

WHEREAS, there is an immediate need to reopen the West Broadway Street bridge as soon as possible, and

WHEREAS, the cost of the replacement project is estimated to exceed one million dollars, and

WHEREAS, the project can only go forward with the expertise and financial contribution of the Ohio Rail Development Commission, the Ashland Railway, Inc., the Richland County Engineer and an Ohio Department of Transportation grant.

BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF  
PLYMOUTH, STATE OF OHIO:

SECTION 1. That the Memorandum of Agreement among the Ohio Rail Development Commission, Ashland Railway, Inc. and the Richland County Engineer for the replacement of the West Broadway Street bridge as reviewed by Council is approved.

SECTION 2. That the Mayor is authorized to complete the negotiation of the Agreement and to sign the Agreement on behalf of the Village.

SECTION 3. That the Mayor is authorized to cooperate with the Richland County Engineer for his application to the Ohio Department of Transportation Municipal Bridge Program and/or any additional funding programs.

SECTION 4. That it is hereby determined that this Resolution is an emergency resolution necessary for the preservation of the public peace, health, safety and welfare of the residents of this Village, and for the additional reason that there is an immediate need to complete and file the necessary ODOT grant application for the bridge replacement project by July 1, 2023, and shall therefore go into immediate effect provided it receives a two-thirds (2/3) vote of all members elected to Council; otherwise, it shall go into effect in thirty (30) days if

passed by a majority vote of Council.

PASSED: May 10, 2023

Cassandra Fymer  
Mayor

ATTEST: Diane Jamerson  
Village Fiscal Officer

May 10, 2023  
Date

APPROVED AS TO FORM:

Jon K. Burton  
Jon K. Burton, Solicitor

MEMORANDUM OF AGREEMENT

among the

OHIO RAIL DEVELOPMENT COMMISSION

and the

ASHLAND RAILWAY, INCORPORATED

and the

THE VILLAGE OF PLYMOUTH, OHIO

and

RICHLAND COUNTY ENGINEER, OHIO

for the

THE REPLACEMENT OF THE WEST BROADWAY  
STREET BRIDGE IN PLYMOUTH, OHIO



## PURPOSE OF THE AGREEMENT

The purpose of this Memorandum of Agreement (“Agreement”) is to establish the roles and responsibilities of the Ohio Rail Development Commission (“Commission”), Ashland Railway, Incorporated (“Railroad”), the Village of Plymouth, Ohio (“Village”), and Richland County Ohio Engineer (the “County”) (hereinafter collectively known as the “Parties”). The Parties will jointly participate in a project to replace the West Broadway Street bridge in the Village (the “Project”).

### ARTICLE I: SCOPE OF WORK (Obligations, Responsibilities, and Funding)

#### A. The Commission agrees:

1. Commission will provide up to \$250,000 to be used toward the costs associated with the design and engineering necessary for the complete replacement of the bridge located at West Broadway Street;
2. To provide ongoing assistance to the parties resulting in the timely completion of the bridge replacement.

#### B. The Railroad agrees:

1. To update and disseminate to the Parties an estimate for the replacement cost of the bridge;
2. Railroad will contribute in-kind services for the bridge project to include waiving of all Flagging fees, Rights of Entry fees, and Engineering Review fees, estimated at 10% of the total bridge construction cost;
3. Railroad will contribute 2.5% of the estimated bridge replacement costs up to \$31,250 to assist with the costs associated with replacing the bridge at West Broadway Street. Railroad shall make its payment of the cost as a lump sum within \_\_\_\_\_ days of the County’s award of the successful construction contractor’s bid.

#### C. The Village agrees to:

1. Provide any needed documentation to the County in order for the County to apply to the Ohio Department of Transportation Municipal Bridge Program and/or any additional funding programs in order to secure funding for the Project;
2. Allow the County to manage the Project on behalf of the Village;
3. Assume ownership of the bridge upon completion of the project; and
4. Close to public vehicular traffic, the crossing at Walnut Street DOT # 15,2207B.

#### D. The County agrees:

1. To ensure replacement estimates are in-line with County standards;



2. To apply to the Ohio Department of Transportation Municipal Bridge Program and/or any additional funding programs, on behalf of the Village, in order to secure funding for the Project prior to the July 1, 2023 grant filing deadline;
3. Upon the Parties securing full funding for the Project, to manage the Project on behalf of the Village;

E. Responsibility of all Parties to Cooperate

All Parties to this Agreement shall agree to cooperate with each other in an effort to not delay the completion of the Project.

ARTICLE II: OTHER TERMS OF AGREEMENT

1. This Agreement is contingent upon the actual approval and the actual release of the necessary funds by the Ohio Department of Transportation Municipal Bridge Program estimated at 1.5 million dollars to complete the bridge replacement in accordance with the terms of this Agreement.
2. This Agreement and the authorizations granted in it shall be effective only after the execution and approval by all Parties to this Agreement.
3. This Agreement shall be in force and effect and shall remain in effect until the work, including payment, has been completed to the mutual satisfaction of all Parties.
4. The Agreement may be modified by written consent of all of the Parties.
5. The Parties will be afforded an opportunity to inspect, review and comment on, at any time, work in progress, financial records, and any other supporting documentation.
6. The Parties will be afforded an opportunity to participate in all meetings and field reviews.

ARTICLE III: KEY OFFICIALS AND CONTACTS

Designated points of contact for the coordination of this project are as follows:

For the Commission: Matthew Dietrich, Executive Director  
Ohio Rail Development Commission  
1980 West Broad Street  
Columbus, OH 43223

For the Railroad: Robert Thompson  
Ashland Railway, Inc.  
114 E. Longview Avenue  
Mansfield, OH 44902

For the Village: Cassandra Fryman, Mayor  
Village of Plymouth, Ohio  
48 W. Broadway



Plymouth, OH 44865

For the County: Adam M. Gove, Richland County Engineer  
77 N. Mulberry Street  
Mansfield, OH 44902

#### ARTICLE IV: TERMINATION

This Agreement will terminate when all transfers of funds are completed and all work associated with this Agreement has been approved by the Parties in writing. Approval by the Parties will be with regard to facilities that are owned and maintained by the respective Parties.

In case of the failure on the part of any Party to observe any of the conditions of the Agreement, any affected Party shall notify the other Party of the violation and allow a reasonable time to cure the violation. In the event that the violation is not cured within what the affected Party considers a reasonable time, the affected Party may terminate this Agreement by giving thirty (30) days written notice of termination to all Parties, effective at the end of the thirty (30) day period. However, termination shall not release any Party in violation from their financial commitment and time contribution obligations provided by this Agreement.

#### ARTICLE V: ASSIGNMENT

No transfer or assignment of this Agreement, or any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by all Parties.

#### ARTICLE VI: LIABILITY

The Parties accept full responsibility for any property damage, injury, or death caused by the acts or omissions of their respective employees, acting within the scope of their employment, or their contractors' scope of work, to the fullest extent such responsibility is permitted under law.

#### ARTICLE VII: REQUIRED AND STANDARD CLAUSES

1. Nothing in this Agreement shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective statutory authorities. Nothing in this Agreement shall be deemed to bind any party to expend funds in excess of available appropriations. This Agreement is subject to all laws governing federal and state procurement and to all regulations and rules promulgated thereunder, whether now in force or hereafter enacted or promulgated, except as specified in this Agreement. Nothing in this Agreement shall be construed as in any way impairing the general powers of the Parties for supervision, regulation, and control of its property under such applicable laws, regulations, and rules.
2. **NON-DISCRIMINATION:** The Parties shall not discriminate in the selection of employees or participants for any employment or other activities undertaken pursuant to this Agreement on the grounds of race, creed, color, sex, or national origin, and shall observe all of the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. Section 2000(d), et seq.). The Parties shall take positive action to ensure that all applicants for employment or participation in



any activities pursuant to this Agreement shall be employed or involved without regard to race, creed, color, sex, or national origin.

ARTICLE VIII: EXECUTION IN COUNTERPARTS; ELECTRONIC EXECUTION

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Electronic signatures will be deemed as original signatures.

ARTICLE IX. ENTIRE AGREEMENT

This Agreement and its attachments constitute the entire Agreement with understanding of the Parties with respect to the Project. No oral or other written provisions shall have any force of effect except those contained in a written amendment to this Agreement executed by the Parties.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

OHIO RAIL DEVELOPMENT COMMISSION

\_\_\_\_\_  
Matthew Dietrich  
Executive Director

\_\_\_\_\_  
Date

ASHLAND RAILWAY, INC.

\_\_\_\_\_  
Robert Thompson

\_\_\_\_\_  
Date

VILLAGE OF PLYMOUTH, OHIO

  
Cassandra Fryman  
Mayor

5-10-23  
\_\_\_\_\_  
Date

RICHLAND COUNTY ENGINEER

\_\_\_\_\_  
Adam M. Gove

\_\_\_\_\_  
Date