

**MEMORANDUM OF UNDERSTANDING
AMONG THE VILLAGE OF HUNTING VALLEY, RUSSELL TOWNSHIP,
AND THE GEAUGA COUNTY ENGINEER
FOR CONSTRUCTION CONTRACT COSTS
FOR JOINT RECONSTRUCTION OF COUNTY LINE ROAD**

This Memorandum of Understanding (“Construction Cost MOU”) is entered into between the Village of Hunting Valley (hereinafter referred to as the “Village”), Russell Township (hereinafter referred to as the “Township”), and the Geauga County Engineer (hereinafter referred to as the “Engineer”) (hereinafter collectively referred to as the “Parties”). This Construction Cost MOU is made and effective upon the date when all Parties have signed it (as indicated by the date associated with that Party’s signature, below), provided that before 5:00 p.m. on December 20, 2017, the Village delivers to the Township properly executed original versions of the following Memorandums of Understanding: 1. This Construction Cost MOU; 2. The Project Memorandum of Understanding concerning design and planning services; and 3. The Project Memorandum of Understanding governing bidding and inspection services. This Construction Cost MOU will not take effect if the Township is not in possession of the Village’s properly executed versions of all three of the above-named Project Memorandums of Understanding before 5:00 p.m. on December 20, 2017.

PURPOSE:

In 2018, the Village and the Township intend to jointly reconstruct their commonly-shared road, TR-93, County Line Road. The joint reconstruction will consist of a total of approximately 3.12 miles of County Line Road that is located in the Township and in the Village (hereinafter referred to as the “Project”). For the Project, approximately 3.12 miles of County Line Road (the northerly Project terminus is the Gates Mills Village/Hunting Valley Village/Russell Township/Chester Township line, and the southerly Project terminus is the Hunting Valley Village/Russell Township Line at Whisper Wood Drive) is located equally in the Township in Geauga County, Ohio and in the Village. An additional 0.6 miles of County Line Road that is located solely in the Village in Cuyahoga County, Ohio is not considered part of the Project, though the Village may improve that portion of County Line Road simultaneously to the Project.

RELEVANT AND APPLICABLE AGREEMENTS:

On February 1, 2017, the Parties executed a Memorandum of Understanding for survey work for the Project. Such survey work for the Project is complete. Concurrent to this Construction Cost MOU, the Parties are also executing memorandums of understanding for Project services related to (i) design and planning services, and (ii) bidding and inspection. This Construction Cost MOU references the Parties’ responsibilities and rights pertaining to the construction contract costs for the Project.

OVERALL PROJECT RESPONSIBILITIES:

The Project responsibilities are broken down according to the following schedule:

1. Design Phase

- a. Village: The Village in privity of contract with GDP Group is responsible to provide the overall Project design. The overall Project design will be conducted in a staged design process with the Engineer serving as the Design Compliance Reviewer through the Design Phase. The Village will be responsible to bear the design costs with the Engineer reimbursing the Village for 50% of design costs for the project.
- b. Engineer: The Engineer serves as the Design Compliance Reviewer through the staged Design Phase. Such Design Compliance Review hours will be deducted by the Engineer against the Shared Design Costs (as defined in 1(c)).
- c. Engineer: The Engineer will be responsible to reimburse the Village for 50% of the design costs for the Project (the “Shared Design Costs”).
- d. Township: The Township is represented by the Engineer during the Design Phase.

2. Bidding/Inspection Phase

- a. Engineer: The Engineer is responsible to administer the bidding services phase of the process, which shall include, but is not limited to: posting of legal notices; issuing plans and specifications to potential bidders and plan rooms; providing copies of plans and specifications to individuals upon request; issuing bid proposal packages; placing registered bidders on bidders list; answering bid related questions or forwarding same to project designer GDP during bid review period; issuing clarifications and addenda as needed; accepting sealed bids; opening proper and timely submitted bids in public meeting area; preparing bid tabulations; issuing recommendation as to best qualified bid proposal; assisting in issuance of award and contract(s); managing reevaluation and rebidding process if bids exceed 10% of engineer’s estimate. The Parties agree that 50% of the Engineer’s costs associated with the bidding services for the Project provided to the Village will be charged against the Village’s reimbursement of the Shared Design Costs.
- b. Engineer: The Engineer is responsible to administer the construction inspection phase of the process. The Parties agree that 50% of the Engineer’s costs associated with the construction inspection phase of the Project provided to the Village will be charged against the Village’s reimbursement of the Shared Design Costs.

- c. Village: The Village is responsible to reduce the Shared Design Costs reimbursement from the Engineer based on the total of 50% of the bidding services and 50% of the construction inspection services provided by the Engineer.
- d. Village: The Village will provide a full-time liaison (un-reimbursable, and at Village expense) to the Engineer through the Inspection Phase of the Project to ensure smooth interaction between the Engineer and the Village residents.
- e. Township: The Township is represented by the Engineer through the Bidding and Inspection Phases of the Project.

3. Actual Project Construction Costs

- a. Village: The Village is responsible for 50% of the following construction work costs for shared common work for the Project:
 - i. Roadway work;
 - ii. Roadway alignment work and any corresponding right of way acquisition relative to roadway alignment work; and
 - iii. Roadway drainage work.
- b. Village: The Village shall pay all costs of and related to waterlines, including but not limited to fire hydrants, hydrant relocation, waterline relocation, fire suppression system relocation, etc. The Village agrees that neither the Township nor the Engineer will be responsible at any time for any cost related to this Section. The Village shall pay all costs related to the following Project work specific to the Village, and agrees that neither the Township nor the Engineer will be responsible at any time for any cost related to this Section:
 - i. Clearing;
 - ii. Driveways;
 - iii. Curbing;
 - iv. Mailboxes;
 - v. Embankment work;
 - vi. Easement acquisition; and/or
 - vii. Any other special or unique conditions.

- c. Township: The Township is responsible for 50% of the following construction work costs for shared common work for the Project:
 - i. Roadway work;
 - ii. Roadway alignment work and any corresponding right of way acquisition relative to roadway alignment work; and
 - iii. Roadway drainage work.
- d. Township: The Township is responsible for actual costs of the following construction work costs specific to the Township for the Project:
 - i. Clearing;
 - ii. Driveways;
 - iii. Curbing;
 - iv. Mailboxes;
 - v. Embankment work;
 - vi. Easement acquisition; and/or
 - vii. Any other special or unique conditions.
- e. Engineer: The Engineer is not responsible for any Project construction costs.

SPECIFIC PROVISIONS:

The Township and the Village each agree to split the costs of all common work on a 50/50 pro rata schedule with each entity responsible for 50% of the total contract costs because such work benefits the Township and Village in a similar manner. The Township and Village also agree to pay certain actual costs that are unique to each entity based on the actual costs of the work because the type of work performed will singularly or primarily benefit only one of the entities. Based on those considerations, the Township and the Village each agree to pay construction contract costs as it relates to this Project according to the following schedule, and as described above in the Section of this Construction Costs MOU titled, “Actual Project Construction Costs,” as discussed in section 3:

- 1. Proportional 50/50 Split for the Following Types of Work benefitting both the Township and Village in a similar manner:
 - a. Roadway construction;

- b. Roadway alignment work and any corresponding right of way acquisition relative to roadway alignment work;
 - c. Roadway drainage construction; and
 - d. All other improvements or special or unique conditions benefitting both the Township and the Village in a similar manner, as the Engineer may determine.
2. For the following types of Work that singularly or primarily benefit only the Township or the Village, actual costs for said work shall be paid solely by the benefitted entity as described above in the Section of this Construction Costs MOU titled, "Actual Project Construction Costs," on as discussed in section 3.

The Parties agree that, for purposes of efficiency and convenience, all payments and reimbursements from the Engineer to the Village for the Project, which include the Shared Design Costs, the bidding and inspection costs, and the construction contract costs, will be remitted upon completion of the Project.

The Engineer, after receipt of payment application(s) for completed work, will forward a copy of said payment application(s) to the Village.

The Parties further agree that, at all times herein, the duties of the Township and Village to maintain their respective roads do not transfer to the Engineer, and this Construction Cost MOU does not in any way diminish the Township's and the Village's responsibilities to their roads.

GENERAL PROVISIONS:

The Parties agree that this Construction Cost MOU supersedes any and all agreements, verbal or otherwise, among the Village, the Township, and the Engineer regarding construction contract costs for the Project.

The Parties also agree that this Construction Cost MOU constitutes the entire agreement among the Parties regarding construction contract costs for the Project, and any change or modifications to this Construction Cost MOU shall be made and agreed to by the Parties in writing.

The Parties also agree that, except as otherwise provided herein, this Construction Cost MOU in no way denotes any division or sharing of responsibility or liability for losses, damages, thefts, injuries (including death), expenses, demands, suits, liabilities, and claims sustained or alleged to have been sustained directly or indirectly in connection with, or to have arisen out of, or resulting from any service, work, operation, performance, or associated incidents from the actions or omissions undertaken by the Parties, their subcontractor(s), agent(s), and employee(s), including all losses, damages, thefts, injuries (including death), expenses, demands, suits, liabilities, and claims sustained by the Parties.

This Construction Cost MOU shall be construed and interpreted and the rights of the Parties determined in accordance with the laws of the State of Ohio. Any litigation arising hereunder shall be brought in a court of competent jurisdiction of Geauga County, Ohio.

By signing below, the Parties represent that each has taken all steps required by law to duly authorize this Construction Cost MOU.

AGREED AND APPROVED BY:

Richard R. Hollington, Jr., Mayor
Village of Hunting Valley

Date: _____

Approved as to form:

Stephen L. Byron, Hunting Valley Law Director

Date: _____

Joe Cattell
Gauga County Engineer

Date: _____

Justin Madden
Russell Township Trustee

Date: _____

Gary Gabram
Russell Township Trustee

Date: _____

Jim Mueller
Russell Township Trustee

Date: _____

ATTEST:

Charles Walder
Russell Township Fiscal Officer

Date: _____