



RESOLUTION 2017-09

A RESOLUTION AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A REAL ESTATE AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY ACQUISITION AND APPRAISAL FOR THE US 62 TWO WAY LEFT TURN LANE (PID NO. 96407)

WHEREAS, the Village of Johnstown has worked with the State of Ohio Department of Transportation to identify and coordinate better modes of transportation projects; and;

WHEREAS, The Village of Johnstown has secured ODOT Safety Funds and LCATS CMAQ funding for the construction of a two way left turn lane along US 62 from Benedict Drive to Oregon Street; and;

WHEREAS, the Village of Johnstown is responsible for acquisition of real estate as part of the project; and;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF JOHNSTOWN, COUNTY OF LICKING, STATE OF OHIO, AND A MAJORITY OF THE MEMBERS CONCURRING THAT:

Section One. The Village Manager is hereby authorized and directed enter into agreement with the Ohio Department of Transportation for real estate services.

Section Two. 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 meetings of any of its committees that resulted in such formal action were meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter of the VILLAGE OF JOHNSTOWN.

By: Van Gundy
Date Passed: January 3, 2017

ATTEST TO:

Teresa Monroe
Teresa Monroe, Clerk of Council

Sean Stanart
Sean Stanart, Mayor

APPROVED AS TO FORM:

Jennifer Croghan
Jennifer Croghan, Law Director



Real Estate Agreement No. 96407

December 27, 2016

Jim Lenner
Johnstown Village Manager/Planner
Village of Johnstown
599 South Main Street
PO Box 457
Johnstown, Ohio 43031

Re: LIC US 62 04.17
FPN: E131353
SJN: 457981
PID No. 96407

Dear Mr. Lenner:

Pursuant to both Federal and State law, 49 CFR Part 24 and ORC 163 et.seq., the Ohio Department of Transportation is required to monitor all highway development projects receiving funds from the Federal Highway Administration. The rights of way acquired for the above referenced project will be incorporated into a Federally-assisted project and the following provisions must be set forth and agreed upon between the Village of Johnstown and the ODOT.

Ordinance No. (Resolution No.) 2017-09, passed on January 3, 2017, by the City and subsequently accepted and journalized by the Director of Transportation, provides for cooperation with the State on the acquisition of right of way on the above referenced project, which is described as follows:

Widening and overlay of U.S. 62 from a point approximately 255' west of Benedict Drive to a point approximately 40' east of Oregon Drive, providing a two-way left turn lane for the length of the project, the project also includes new curb, improvement of drainage and new sidewalks.

Discussions and understandings between representatives from our organizations in reference to the acquisition of rights of way must now be officially set forth and agreed upon. If you agree to the following facts and stipulations, please sign all copies of this agreement and return them to the ODOT District Five Office.

The **ESTIMATED** right of way cost for the project based upon the right of way plans submitted and the work plan is \$577,188.00 plus \$100,000.00 for Utilities for a total Right of Way cost estimate of \$677,188.00.

The **ESTIMATED** right of way cost breakdown is as follows:

Acquisition Right of Way Costs	\$300,000.00 (90%/10%)
Labor Service Costs (PE Phase – Titles and Appraisals):	\$ 91,394.00 (POC-90/10)
Labor Service Costs (PE Phase – Appraisal Reviews):	\$ 39,050.00 (POC-90/10)
Labor Service Costs (RW Phase – Negotiations and Closings):	\$146,744.00 (POC-90/10)
<u>Right of Way Utilities:</u>	<u>\$100,000.00 (90%/10%)</u>
Total:	\$400,000.00 (90%/10%)

The project as programmed provides for participation in project right of way services and acquisition costs, including utilities costs at 90% Federal Funds and 10% Local Funds.

The project as programmed provides for project right of way labor costs to be Paid Outside of Contract (POC).

The Village of Johnstown must have authorization from the ODOT District Real Estate Office to begin any phase of the acquisition process. ODOT will authorize acquisition of right of way after this agreement has been executed, deposit money is received, and right of way plans with legal descriptions are completed. The actual authorization must be approved by FHWA. It is agreed and understood that all cost figures contained herein are preliminary estimates, and represent the best estimate for the property to be acquired, and/or work to be performed for the project. Village of Johnstown further agrees that it shall participate at the same percentage as stated in this agreement, for all final costs which may exceed this estimate and resulting deposit. If future billing is required for costs which exceed this estimate, Village of Johnstown will be invoiced referencing this Real Estate Agreement. Any excess deposit by Village of Johnstown will be returned to the City by ODOT.

The Village of Johnstown has selected two consultants from the ODOT list of prequalified RW acquisition consultants available through Central Office Real Estate. MS Consultants shall provide the turnkey right of way acquisition services and TranSystems Real Estate Consulting Inc. shall provide the appraisal review services. All consultants are required to complete the acquisition of the right of way necessary in accordance with sections 163.51 through 163.62, inclusive of the revised code of Ohio, Sections 5501:2-5-01 et. seq. of the Ohio Administrative Code and any future amendments thereto which supplement and support Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, and Federal Highway regulations and directives on Relocation Assistance and Real Property Acquisition, as well as full compliance with Title VI of the Civil Rights Act of 1964.

The Village of Johnstown shall maintain all files, accounting records, and other evidence pertaining to costs incurred and agrees to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of final payment under the contract for inspection by the Ohio Department of Transportation, Federal Highway Administration or their authorized representatives and copies thereof shall be furnished if requested.

The Village of Johnstown shall submit a letter to ODOT identifying the prequalified individuals for the following items pertaining to specific real estate functions and must comply with ODOT policies and procedures and are incorporated herewith:

Title

The Village of Johnstown will provide or arrange to provide for a search of title for each property required for the project's right of way.

Appraisal

The Village of Johnstown will be responsible for or will work with ODOT District 5 for the contracting for appraisals and will execute any necessary contracts with private fee appraisers in accordance with ODOT's approved list of appraisers, in the event a separate contract is necessary for this project.

Appraisal Review

The Village of Johnstown will be responsible for or will work with ODOT District 5 for the contracting with a review appraiser in accordance with ODOT's approved list of review appraisers who will be responsible for approving and/or disapproving the appraisals submitted by the fee appraiser. This contract must be held by the Village of Johnstown and cannot be part of a Village of Johnstown Prime Consultant's contract if they are responsible for the appraisals. Just compensation must be authorized by an appropriate official of Village of Johnstown.

Negotiations

In compliance with State policies and procedures, negotiations shall not commence until the Village of Johnstown is in possession of an approved Fair Market Value Estimate. Negotiations and the settlement shall be governed by said approved fair market value. The Village of Johnstown shall negotiate with the owners for the purchase of real property and the conveyance of fee simple title by warranty deed or whatever lesser interest is required for the needs of the project. Such title will be taken in the name of the Village of Johnstown. The Village of Johnstown shall utilize negotiators in accordance with ODOT's approved list of negotiators.

Warrants for payment of all expenditures incurred in the acquisition of right of way will be issued by the ODOT, DISTRICT 5 REAL ESTATE ON BEHALF OF VILLAGE OF JOHNSTOWN. Village of Johnstown will retain 100% responsibility for actual acquisition costs for all right of way parcels.

Relocation

The Village of Johnstown will administer the Relocation Assistance Program (RAP), using ODOT pre-approved relocation agents, if displacement is caused by the project.

Relocation Review

The Village of Johnstown will be responsible for all Relocation Reviews, if displacement is caused by the project. Relocation reviews will consist of approving and/or disapproving all relocation determinations before offers are made to the displacee. Reviews will also consist of approving and/or disapproving all relocation claims and supporting documentation prior to presenting the

claim(s) to the displacee. The Village of Johnstown shall utilize Relocation Reviewers in accordance with ODOT's approved list of Relocation Reviewers. This contract must be held by the Village of Johnstown and cannot be part of Village of Johnstown Prime Consultant's contract if they are responsible for relocation.

Administrative and/or Case Settlement Review:

The Village of Johnstown will be responsible for administrative and/or case settlement reviews which must be maintained in the parcel file in writing, containing all the appropriate documentation to support the request up to the authority established by ODOT's Policy and Procedure Manual for Right of Way.

Appropriations

The Village of Johnstown will appropriate properties that it is unable to negotiate for the project in accordance with Chapter 163 of the Revised Code of Ohio.

Utility Relocation

The Village of Johnstown will be responsible for the relocation and accommodation of all affected utilities. If needed, the State can provide assistance in this matter. Please contact Edward Schmelzer, ODOT District 5 Utility Coordinator at 740-323-5126 for assistance. Complete relocation/accommodation plans must be included with the Right of Way Certification in order for the project to be eligible for advertisement and sale. The Village of Johnstown shall deposit with ODOT 100% of the estimated programmed Right of Way Utility Costs by **February 18, 2017** or earlier, in the amount of **\$10,000.00** (10% of \$100,000.00).

Right of Way Certification

Upon completion of the acquisition process, the Village of Johnstown will certify to the District that the right of way has been fully acquired. The District will then certify the right of way to the Federal Highway Administration. The Village of Johnstown will coordinate this certification with the District Real Estate Office. This certification will include the utility note, encroachment removals and all applicable notes and exhibits.

The Village of Johnstown will provide the property management, building disposition and asbestos testing and abatement functions, if necessary.

Disadvantaged Business Enterprise (DBE) Obligation: The Village of Johnstown or its contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this agreement. The City and its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for, receive and perform such contracts/subcontracts. The Village of Johnstown and its contractors shall not discriminate on the basis of race, color, national origin, age or sex in the award and performance of USDOT-assisted contracts.

Village of Johnstown

Attest: *Suzanne R. Nance*
Clerk of Council

By *[Signature]* Jim Lenner

Its Village Manager

Attest: _____

By _____

Its _____

Date: _____

Ohio Department of Transportation

Laura Philabaum

Laura Philabaum
District 5 REA

[Signature]

Jerry Wray, Director
By: Sonja R. Simpson
District 5 Deputy Director

Date: 1/9/2017