

**COOPERATIVE AGREEMENT**  
**between**  
**COUNTY OF SUMMIT, OHIO**  
**And**  
**NORTHFIELD CENTER TOWNSHIP**  
**CONCERNING**  
**BAYBERRY DRIVE DRAINAGE AND ROADWAY IMPROVEMENTS**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is made as of the date of signature by the Summit County Executive, below, by and between the County of Summit, Ohio (the “County”), an Ohio charter county with its principal place of business located at 175 S. Main Street, Akron, Ohio 44308, acting for the Summit County Engineer, by the Summit County Executive, and Northfield Center Township (the “Township”) an Ohio Township with its principal place of business at 8484 Olde Eight Road, Northfield Center, Ohio 44067, and hereafter referenced as the “Parties” and severally by name or as each “Party”.

**WITNESSETH:**

**WHEREAS**, the Township is applying for funding from the Ohio Public Works Commission to improve stormwater runoff on Bayberry Drive in the Township constructing a new storm sewer system along a portion of Bayberry Drive including new conduits, catch basins and manholes to properly collect and route the storm water under ground to a proper outlet and restoring the roadway surface, curbs and gutters as necessary, along the township roadway (the “Project”); and

**WHEREAS**, the total project is estimated at \$1,060,900.00 and.

**WHEREAS**, the township is seeking an OPWC Grant in the amount of 50% of the total project cost, and

**WHEREAS**, the Township has agreed to provide all the required matching funds for the project, and,

**WHEREAS**, no Summit County Engineer funds will be utilized for the design, review, construction, testing, inspection or construction administration of this project. Any expenses incurred by the Summit County Engineer’s office in the design, review, construction, testing, inspection or construction administration of this project will be reimbursed by the Township.

**NOW, THEREFORE**, in consideration of the covenants and promises set forth below, the parties agree as follows:

1. **Scope of Work of the Project and Responsibilities of the County.** The County shall undertake the Project pursuant to the Scope of Work set forth below and shall be

responsible for providing guidance to the Township regarding the completion of the design and construction of the Project.

- a. **Scope of Work** –The Scope of Work of the Project is to construct a stormwater drainage system along the northern section of Bayberry Drive and to remove, cement stabilize, and pave the entire length of Bayberry Drive.
- B. **County Responsibilities.** The County shall administer the Project, which shall include (i) selecting, hiring and supervising an engineering design consultant to complete the detailed drawings for the Project, including the necessary plan sheets, specifications and quantities to be used in a construction bid packet (ii) reviewing and approving the Project design, (iii) advertising for bid, awarding and executing a construction contract for the Project with the lowest responsive and responsible construction contractor, (iv) supervising and inspecting the construction and testing phases of the Project, (v) reviewing and approving any change orders that may arise (vi) paying the design firm's invoices with money deposited with the County by the Township, (vii) paying the contractor's invoices from the OPWC grant deposited with the County plus the Local share also deposited with the County. The procurement of the engineering design consultant and the construction contractor shall be done pursuant to the Codified Ordinances of the County of Summit and the Project shall be constructed in compliance with the County's standards.

The County will provide the administration, supervision, inspection and testing required for the project and will bill the deposited funds to cover those expenses. The County will not use any Summit County Engineer funds to assist in the design or construction of the project.

The County shall submit an OPWC application for funding the construction of the project based on a 50/50 split with OPWC paying half and the Township paying half. All cost overruns shall be the responsibility of the Township. The County shall notify the Township of any cost over runs as soon as they appear, and the County shall invoice the Township for the Local portion of any cost overruns within 30 days.

Copies of all invoices and progress reports will be forwarded to the Township for their files.

The County shall invite the Township to send representatives to the pre-construction meeting and to all progress meetings. The County shall include the Township on all pertinent communications with the contractor.

- c. **Northfield Center Township Responsibilities.** The Township will be responsible for 100% of the design costs including any required environmental documentation. Once the County has successfully negotiated the design fee with

the selected consultant, the Township will deposit 100% of the design fee, including 100% of any "If Authorized" items with the County to be utilized in paying the selected design consultant.

The Township will review all submittals provided by the County and provide any comments to the County Project Manager.

The Township will be responsible for all Local matching funds as required by the terms of the OPWC grant obtained by the County for the construction phase and the construction inspection and testing phases of the project. Based on the Engineer's stamped and sealed estimate, as furnished to the Ohio Public Works Commission, the Township shall deposit both the Local share of the grant and the Local matching share with the County within 30 days of receipt of the OPWC award.

All cost overruns shall be the responsibility of the Township to fund.

## **2. Dispute Resolution**

In the event a dispute arises regarding this Cooperative Agreement, notification of such dispute shall be sent to all other parties to this Agreement within 30 days of discovery of such dispute.

In such notification, the disputing party shall present such evidence as may support their position. Within a reasonable time, the representatives for each party shall review the facts and circumstances surrounding the dispute for the purpose of resolution. The parties will use their best efforts to resolve said dispute within a reasonable period of time. If the dispute cannot be resolved, the parties agree to utilize a private mediator to assist in resolving the dispute, with each party paying one-half of the cost of such mediator. If mediation is unsuccessful, the parties may resort to their legal remedies.

## **3. Inspections**

The County shall be responsible for the inspections of all work performed during construction of the Project.

## **4. Term**

This Agreement becomes effective upon signature by the parties and will expire upon completion and acceptance of the Project including the payment of the final invoice for construction.

## **5. Miscellaneous Provisions**

- a. **Relationship of Parties.** The parties agree that at no time shall the relationship between the parties under this Cooperative Agreement be construed, held out or considered a joint venture or principal-agent.
- b. **Non-Discrimination.** The parties agree that in the hiring of employees for the performance of their duties under this Cooperative Agreement, the parties or their subcontractors, or any person acting on the behalf of the parties or their subcontractors, shall not discriminate by reason of race, creed, sex, disability, military status as defined in section 4112.01 of the Ohio Revised Code, color, gender identity as defined in Section 101.02(f) in the Codified Ordinances of the County of Summit and sexual orientation as defined in Section 101.02(r) in the Codified Ordinances of the County of Summit against any citizen of the State of Ohio in the employment of labor or workers who are qualified and available to perform the work to which the employment relates.

The parties certify that they do not maintain, and they will not permit their employees from performing services at any segregated facilities. The parties agree to comply with all applicable federal, state and local laws, orders, rules, and regulations, as amended, regarding discrimination.

- c. **Equal Opportunity Employer.** The parties expressly represent that they are Equal Employment Opportunity employers as defined in and are in compliance with all Equal Employment Opportunity statutes, rules, regulations, and executive orders and amendments.
- d. **Integration.** This Cooperative Agreement represents the entire and integrated agreement between the parties. This Cooperative Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Cooperative Agreement.
- e. **Amendment and Waiver.** This Cooperative Agreement may not be amended, supplemented, or waived except by a writing signed by the parties. The waiver of any particular right or claim does not constitute a waiver of any other right or claim. This Cooperative Agreement may be amended to achieve additional goals of the parties with the written consent of the parties.
- f. **Assignment.** No party shall assign its rights or delegate its duties under this Cooperative Agreement without the prior written consent of the other parties. Subject to such consent, this Cooperative Agreement shall be binding upon and for the benefit of the parties hereto, their successors and assigns.
- g. **Capacity to Execute.** Each party hereby certifies that all actions necessary to execute this Cooperative Agreement were taken and that the person executing this Cooperative Agreement is authorized to do so and has the power to bind their respective party to the terms and conditions contained herein.

- h. **Review by Legal Counsel.** Each party has had the opportunity to review this Cooperative Agreement with the assistance of legal counsel. Accordingly, the parties agree that the rule of construction that any ambiguity in this Cooperative Agreement is to be construed against the drafting party is not applicable.
- i. **No Authority to Bind.** No party has the power or authority to bind the other party to contracts or other obligations, except as provided herein.
- j. **Severability.** If any provision of this Cooperative Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Cooperative Agreement shall continue in full force and effect.
- k. **Force Majeure.** No party shall be considered in default in the performance of any obligation hereunder, except the obligation to make payment, to the extent that the performance of such obligation is prevented or delayed by fire, flood, explosion, strike, war, insurrection, embargo, government requirement, civil or military authority, act of God, or any other event, occurrence or condition which is not caused, in whole or in part, by that party, and which is beyond the reasonable control of that party. The parties shall take all reasonable action to minimize the effects of any such event, occurrence or condition.
- l. **Reservation of Rights.** A delay or failure in enforcing any right or remedy afforded hereunder or by law shall not prejudice or operate to waive that right or remedy or any other right or remedy, including any remedy for a future breach of this Cooperative Agreement, whether of a like or different character.
- m. **Notices.** Every notice and demand required under the terms of this Cooperative Agreement shall be in writing and must be sent by certified mail, return receipt requested, or by other means of delivery requiring a signed receipt, to the other party's address as shown below. All notices are effective upon receipt. A party may change its address by giving written notice to the other party in accordance with this Section.

#### **Notices to the County**

County of Summit  
County Executive - Department of Law  
175 S. Main Street  
Akron, Ohio 44308

With additional notice to:

Summit County Engineer  
538 East South Street  
Akron, Ohio 44311

**Notices to Northfield Center Township:**

Northfield Center Township  
Jane Howington, Township Administrator  
8484 Olde Eight Road  
Northfield Center, Ohio 44067,

Northfield Center Township  
Russ Mazzola, Township Trustee  
8484 Olde Eight Road  
Northfield Center, Ohio 44067,

- n. **Compliance.** Each party agrees to comply with all applicable federal, state and local laws, orders, rules, and regulations.
- o. **Ethics Compliance.** Each party agrees to comply with Ohio Ethics Laws as listed in the Chapters 102 and 2921 of the Ohio Revised Code. By signing this Cooperative Agreement, each party certifies that it is unaware of any violations of these provisions and that the undersigned believes their respective entity is in compliance with these provisions.
- p. **Governing Law.** This Cooperative Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts of choice of laws.
- q. **Forum.** Any litigation arising under this Cooperative Agreement must be litigated in the County of Summit Court of Common Pleas, and each party submits itself to the jurisdiction and venue of those courts.

(End of text. Execution on following page.)

Intending to be legally bound, the parties have signed this Cooperative Agreement effective as of the date of execution by the Summit County Executive.

**COUNTY OF SUMMIT, OHIO**

\_\_\_\_\_  
By: Ilene Shapiro, Executive  
Date: \_\_\_\_\_

\_\_\_\_\_  
Alan Brubaker, Summit County Engineer

APPROVED AS TO FORM:

\_\_\_\_\_  
John Galonski for: County of Summit  
Prosecutor's Office

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian Harnak  
Director, Department of Law

**Northfield Center Township**

\_\_\_\_\_  
Rich Reville, Northfield Center Township Trustee, Chair  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_  
Law Director