

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-14

**AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO (ACTING THROUGH THE MONTGOMERY COUNTY ENGINEER) RELATING TO THE FINAL DESIGN OF THE DAYTON-CINCINNATI PIKE RETAINING WALL**

WHEREAS, Dayton-Cincinnati Pike is a public right-of-way that runs through both the City of Franklin and Miami Township, Montgomery County, Ohio;

WHEREAS, the City is responsible for maintaining that portion of the Dayton-Cincinnati Pike right-of-way situated within the City's municipal boundaries in Warren County, and Montgomery County is responsible for maintaining the portion of the Dayton-Cincinnati Pike right-of-way located within Montgomery County;

WHEREAS, a retaining wall located along the western side of Dayton-Cincinnati Pike supports the road as it traverses along the Great Miami River at the Montgomery/Warren County line;

WHEREAS, the retaining wall is more than 100 years old and is in need of repair and/or replacement; and

WHEREAS, the Montgomery County Board of County Commissioners and the City of Franklin City Council desire to undertake a joint effort to develop engineering and construction plans to rehabilitate the retaining wall, recognizing a cooperative effort will benefit the public welfare and be a cost savings to both jurisdictions compared to undertaking the retaining wall improvements separately in each party's respective jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of Councilmembers present concurring, that:

Section 1. The City Manager is hereby authorized to execute the Intergovernmental Agreement between the City of Franklin and the Board of County Commissioners of Montgomery County, Ohio (acting through the Montgomery County Engineer), in substantially the same form as Exhibit A attached to this Resolution.

Section 2. The City's funding commitment for the retaining wall rehabilitation project contemplated by the Intergovernmental Agreement is estimated to be One Hundred Forty Thousand Dollars and No Cents (\$140,000.00). Said funds shall be paid from funds in the Capital Improvement Fund, appropriated by this Council in the City's 2022 operating budget.

Section 3. The City Manager is further authorized to execute any other documents as may be necessary to effectuate the terms of the Intergovernmental Agreement.

Section 4. It is hereby found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 5. This Resolution shall become effective immediately upon its passage.

ADOPTED: February 7, 2022

ATTEST: Khristi Dunn  
Khristi Dunn, Clerk of Council

APPROVED: Brent Centers  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on February 7, 2022.

  
\_\_\_\_\_  
Khristi Dunn, Clerk of Council

## **COST-SHARING AGREEMENT**

*between*

THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO,

*acting through*

THE MONTGOMERY COUNTY ENGINEER,

*and*

THE CITY OF FRANKLIN, WARREN COUNTY, OHIO

*relating to the*

---

Dayton-Cincinnati Pike Retaining Wall

Final Design

*for a retaining wall located along Dayton-Cincinnati Pike, situated in Miami Township  
(Montgomery County) and the City of Franklin (Warren County)*

---

*dated*

January xx, 2022

**Dayton-Cincinnati Pike Retaining Wall Final Design**

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, between the City of Franklin, 1 Benjamin Franklin Way, Franklin, Ohio 45005 (hereinafter the “City”), and the Board of County Commissioners of Montgomery County, Ohio, 451 West Third Street, Dayton, Ohio 45422 (hereinafter the “Board”).

WHEREAS, the existing Dayton-Cincinnati Pike retaining wall was constructed in the early twentieth century and is now in poor condition; and

WHEREAS, the Dayton-Cincinnati Pike retaining wall is situated in Miami Township, Montgomery County, and the City of Franklin, Warren County, and the Montgomery County Engineer and the City of Franklin are responsible for maintenance of their respective portions of the wall; and

WHEREAS, the Dayton-Cincinnati Pike Retaining Wall Final Design (hereinafter the “Project”) will involve the development of final engineering and construction plans to rehabilitate the retaining wall; and

WHEREAS, the Board and the City recognize that a joint effort to execute the Project will benefit the public welfare at cost savings to both jurisdictions relative to undertaking the improvements separately; and

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties to this Agreement, with the intent to be legally bound, agree as follows:

**ARTICLE ONE: SCOPE**

Acting through the Montgomery County Engineer, the Board will contract with a qualified, competent consulting engineering firm to produce all engineering work and documents required to complete the Project.

**ARTICLE TWO: PAYMENT**

The Board will be the lead agency for development and execution of the Project, and will contract directly for all goods and services required to complete the Project. The City agrees to jointly finance the Project at a ratio equal to the length of wall in each jurisdiction. The total length of wall is 791 feet; the portion of the wall in Montgomery County is 368 feet, or 47%; the portion of the wall in the City of Franklin is 423 feet, or 53%.

The City shall remit payment to the Engineer of its share of Project costs within 30 days of receipt of the Engineer’s invoice.

**ARTICLE THREE: TERM**

The term of this Agreement shall commence on the date of execution by all parties, and shall terminate 90 days after the Engineer's final payment to the Project consultant, or receipt of the City's final share of the Project costs, whichever occurs later.

#### **ARTICLE FOUR: MODIFICATION AND SEVERABILITY**

This Agreement constitutes a total integration of the entire understanding between the parties and shall not be modified in any manner except by an instrument in writing executed by both parties.

If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

#### **ARTICLE FIVE: SIGNATURE**

The City hereby acknowledges that this Agreement must be signed and returned to the Engineer within thirty (30) days of receipt of said Agreement for signature, or this Agreement may be cancelled and voided by the Board.

IN WITNESS WHEREOF, the parties hereto set their hands this \_\_\_\_ day of \_\_\_\_\_, 2022.

**WITNESS:**

**BOARD OF COUNTY COMMISSIONERS  
MONTGOMERY COUNTY, OHIO**

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Carolyn Rice, President

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Deborah A. Lieberman

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Judy Dodge

**OR**

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Michael Colbert, Administrator

APPROVED AS TO FORM:  
MATHIAS H. HECK, JR.  
Prosecuting Attorney for Montgomery County, Ohio

By \_\_\_\_\_  
Assistant Prosecuting Attorney

Date: \_\_\_\_\_

**WITNESS:**

**CITY OF FRANKLIN, OHIO**

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Signature

Print Name \_\_\_\_\_

Title \_\_\_\_\_

APPROVED AS TO FORM:

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

CERTIFICATION OF FUNDS:

\_\_\_\_\_  
Finance Director

Date: \_\_\_\_\_