**ORDINANCE NO. 20-2022**

**CONSENTING TO A BRIDGE REHABILITATION PROJECT KNOWN AS “HAM US 50 29.00” REQUESTED BY THE OHIO DEPARTMENT OF TRANSPORTATION, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Ohio Department of Transportation (“ODOT” or, as applicable, the “Director of Transportation” or the “State”) determined the need for a bridge rehabilitation project known as HAM US 50 29.00, Project ID No. 110570 (the “Project”); and

**WHEREAS**, the two applicable bridges are located within the Village of Fairfax, Hamilton County, Ohio (the “Village” or the Local Public Agency (“LPA”)), described by ODOT as follows:

Rehabilitate bridge HAM-50-2910 (US 50 over 2 railroads, Duck Creek, and Red Bank Rd, SFN 3103811) by removing and replacing the existing deck with a new composite, reinforced concrete deck; Replace the backwalls, expansion joints, and approach slabs per current standards; Upgrade bridge to meet current seismic requirements. Rehabilitate bridge HAM-50-2928 (US 50 over ramps to Red Bank Rd., SFN 3103870) by removing and replacing the existing deck with a new composite, reinforced concrete deck; Increase the vertical clearance to obtain a finished vertical clearance of 15.5 feet; Replace the backwalls, expansion joints, and approach slabs. Resurface the pavement in the Villages of Fairfax and Terrace Park—PID 110570; and

**WHEREAS**, ODOT, therefore, requested that the Village consent to the Project; and

**WHEREAS,** the Project serves the public peace, health, safety, and general welfare of the Village and its residents; and

**WHEREAS,** the Project will be performed at no direct cost to the Village except in the event described specifically below;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Village of Fairfax, State of Ohio, that:

**SECTION I:** **Consent Statement.** Being in the public interest, the Village, as LPA, gives consent to the Director of Transportation to complete the Project as detailed in the Village-ODOT Let Agreement, if applicable.

**SECTION II:** **Cooperation Statement.** The Village shall cooperate with the Director of Transportation in the development and construction of the Project, and shall enter into a Village/Federal/ODOT Let Project Agreement, if applicable, as well as any other agreements necessary to develop and construct the Project. The State of Ohio shall assume and bear one hundred percent (100%) of all of the costs of the Project, provided, however, that the Village agrees to pay one hundred percent (100%) of the cost of such features, if any, requested by the Village that the State of Ohio and Federal Highway Administration determine to be unnecessary for the Project.

**SECTION III:** **Authority to Sign.** The Village hereby authorizes its Administrator, currently Jennifer M. Kaminer, to enter into and execute such contracts with the Director of Transportation as she deems appropriate to develop plans for, and to complete, the Project, and to execute contracts with ODOT’s pre-qualified consultants for the preliminary engineering phase of the Project. Upon request of ODOT, the Administrator is also authorized to execute any documents she deems appropriate to effect the assignment of all rights, title, and interests of the Village to ODOT arising from any agreement with its consultant to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

**SECTION IV**: **Utilities and Right-of-Way Statement.** Subject to the further allocation of costs specified in Section II above: (A) the Village agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations; (B) the Village understands that right-of-way costs include eligible utility costs; and (C) the Village agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

**SECTION V:** **Maintenance.** Unless otherwise agreed by the parties to allocate further responsibility to ODOT, the State of Ohio, or a third party, upon completion of the Project the Village shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) make sufficient financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

**SECTION VI:** **Other Agreements.** The Village’s consent and all provisions of Sections I-V above are subject to and conditioned upon, and do not change, amend, terminate, or in any way supersede, the agreement between the Village and the State of Ohio set forth in Village Ordinance No. 20-1958 adopted May 28, 1958 and executed by the State of Ohio on June 23, 1958 (the “1958 Agreement”). By executing this Ordinance or otherwise participating in the Project, the Village does not waive any provision of the 1958 Agreement and reserves all rights thereunder.

**SECTION VII:** **Emergency Authorization.** This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall be effective immediately. The reason for said declaration of emergency is the immediate need to allow ODOT to proceed with the Project as scheduled.

Passed this 19th day of September, 2022.

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Mayor

ATTEST:

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Fiscal Officer

**CERTIFICATE OF COPY**

I, Robert Doppes, as Fiscal Officer of the Village, hereby certify the foregoing to be a true and correct copy of Ordinance No. 20-2022 adopted at a meeting of the Council of the Village of Fairfax on the 19th day of September 2022.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 19th day of September, 2022. No seal is required to accompany this signature or legislation.

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Fiscal Officer