

**To:** Members of Dublin City Council  
**From:** Dana L. McDaniel, City Manager   
**Date:** June 4, 2015

**Initiated By:** Megan O'Callaghan, P.E., Director of Public Works  
Paul A. Hammersmith, P.E., Director of Engineering/City Engineer  
Mandy K. Bishop, P.E., S.I., Bridge Street District Program Manager

**Re: Ordinance No. 38-15 - Authorizing the City Manager to Enter into an Agreement with the Ohio Department of Transportation for the Maintenance of a Bridge on SR 745 over Indian Run, Accept Easements Associated with the Maintenance and Release of Unnecessary Easements, and Declaring an Emergency.**

## Background

The Ohio Department of Transportation (ODOT) currently holds easements related to the construction and maintenance of the existing SR 745 (North High Street in Historic Dublin and Dublin Road north of Historic Dublin) bridge over Indian Run within the City of Dublin Corporation limits.



Figure 1: Bridge Location

The existence of these easements came to light as the City and local developers began to study the redevelopment opportunities and issues associated with the properties at 94 and 100 North High Street. It was determined early in this analysis that the easements were executed in 1949 when the bridge was constructed, when ODOT legally had the primary responsibility for the maintenance of Dublin Road in general, and more specifically for the bridge over Indian Run. Since that time, Dublin has assumed responsibility for routine maintenance for this section of roadway and bridge. Given Dublin's role in maintaining this roadway and its associated infrastructure, these ODOT "slope" easements are no longer needed, and are in conflict with the vision for the Bridge Street District. The

slope easements span two parcels on the east side of North High Street and extend from the centerline of North High Street east into 100 North High Street and City of Dublin owned property purchased for the park. The slope easements along North High Street were intended to provide access for ODOT to maintain the slope of SR 745. This slope will no longer exist in the future due to the redevelopment 100 North High Street, as the new building will be constructed to meet street level.

The transfer and ultimate elimination of the slope easements will allow for the development of Bridge Park West as the new buildings will provide the stability needed to ensure a stable condition for the roadway. As part of the City's purchase of approximately 7.25 gross acres of park land located on 94 and 100 North High Street from Crawford Hoying, the City agreed to work in good faith with ODOT to obtain release of the easements as shown in Figure 2.

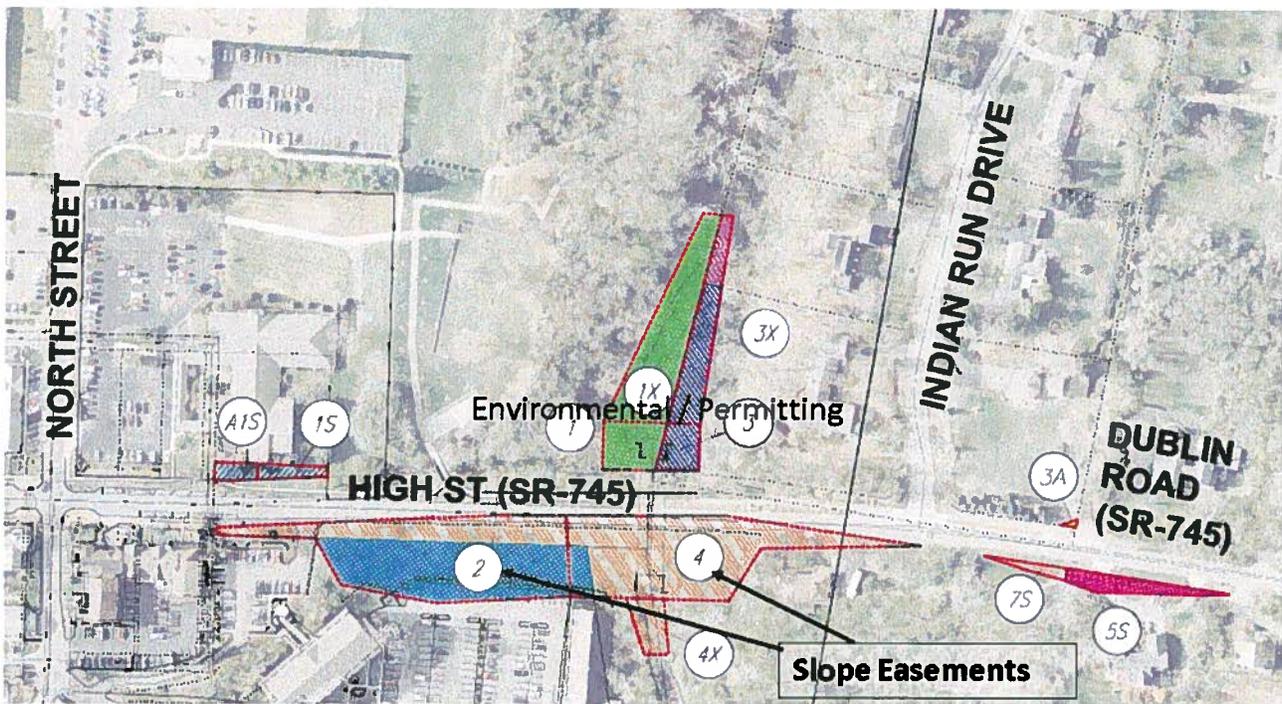


Figure 2: SR 745 Maintenance & Slope Easements to be accepted by the City

The City also continues to advance the planning for the Scioto River parks in this area. As part of the park planning effort, it has been contemplated that the City would endeavor to connect Indian Run Falls Park through the bridge and into the new Scioto River parks, if possible. Accepting maintenance responsibility would allow the City greater flexibility to modify the bridge as necessary and appropriate to provide a desirable connection to the parks.

Staff has been working with ODOT on the process for the transfer and ultimate release of these easements for approximately 11 months.

ODOT has agreed to transfer the slope easements in exchange for the City of Dublin agreeing to maintain the bridge. City responsibilities will include the routine inspection, maintenance and all costs, fees, and expenses associated with or related to all of the maintenance of the bridge. Agreement by

the City to maintain the bridge necessitates transfer of additional related easements which ODOT has also agreed to transfer to the City of Dublin to maintain the bridge.

The transfer will occur with a recording by ODOT with the Franklin County Recorder's Office and the disposal of land interest, in this case an easement, is performed by a recording of "Release of Easement" by the City of Dublin with the Franklin County Recorder's Office, upon approval by City Council.

### **Bridge Condition**

The bridge identified as Structure File Number (SFN) 2517523 on SR 745, Dublin, Ohio is a structure that is 153 feet long with a span of 16 feet over Indian Run. According to ODOT's most recent inspection report dated November 19, 2013, the bridge is rated in "Satisfactory" condition with a General Appraisal of "6" on a scale of 1-9 with 9 being "Excellent" condition.

Based on discussions with ODOT, this type of bridge with a "Satisfactory" condition would not be scheduled for replacement until the General Appraisal is "Poor." By ODOT's estimation, the bridge would not be scheduled for replacement for approximately 20 years.

### **Recommendation**

Staff recommends Council dispense with the public hearing and adopt Ordinance No. 38-15 by emergency at the June 8 Council meeting to comply with the construction timeframes as agreed upon by the City.

# RECORD OF ORDINANCES

**38-15**

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE MAINTENANCE OF A BRIDGE ON SR 745 OVER INDIAN RUN, ACCEPTING EASEMENTS ASSOCIATED WITH THE MAINTENANCE, RELEASING UNNECESSARY EASEMENTS, AND DECLARING AN EMERGENCY**

**WHEREAS**, ODOT currently holds multiple easements as Instrument Numbers 194911090240239, 194911090240240, 194911090240242, 194911090240243, 194911090240244, and 194911090240247, and Miscellaneous Records 61/329, 61/328, and 61/327, and shown in Exhibit "A", all recorded in the Franklin County Recorder's Office (the "Easements"), located adjacent to the Bridge identified as Structure File Number 2517523, in which it assumes maintenance responsibilities for the Bridge within Dublin's corporate limits on SR 745; and

**WHEREAS**, Section 5501.03(A)(3) of the Ohio Revised Code, provides that the Director may coordinate the activities of the Department of Transportation with other appropriate public authorities and enter into contracts with such authorities as necessary to carry out its duties, powers and functions; and

**WHEREAS**, the City of Dublin has worked closely with the Ohio Department of Transportation to negotiate the release of the easements under the condition of accepting maintenance of Structure File Number 2517523; and

**WHEREAS**, the City desires to release certain easements designated as 194911090240240 and 194911090240244 otherwise described as Parcels 2 and 4 in the 1949 plan documents.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Dublin, \_\_\_\_\_ of its elected members concurring, that:

**Section 1.** The City Manager is hereby authorized to enter into a Maintenance Agreement with the Ohio Department of Transportation for the Maintenance of a Bridge on SR 745 over Indian Run, which is located within the City of Dublin, in substantially the same form as attached, with changes not inconsistent with the Ordinance and not substantially adverse to the City and which shall be approved by the City Manager and Director of Finance. The approval of changes thereto by those officials, and their character as not being substantially adverse to the City, shall be evidenced conclusively by their execution thereof.

**Section 2.** The City Manager, the Clerk of Council, the Director of Law, the Director of Finance, or other appropriate officers of the City are hereby authorized to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance. The City Manager and the Director of Finance are also authorized, for and in the name of the City, to execute any amendments to the Maintenance Agreement, which amendments are not inconsistent with the Ordinance and not substantially adverse to this City.

**Section 3.** This Ordinance is declared to be an emergency necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason to comply with the construction timetables previously agreed upon by the City. This ordinance shall therefore take effect upon adoption in accordance with Section 4.04(a)(6) of the Revised Charter.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

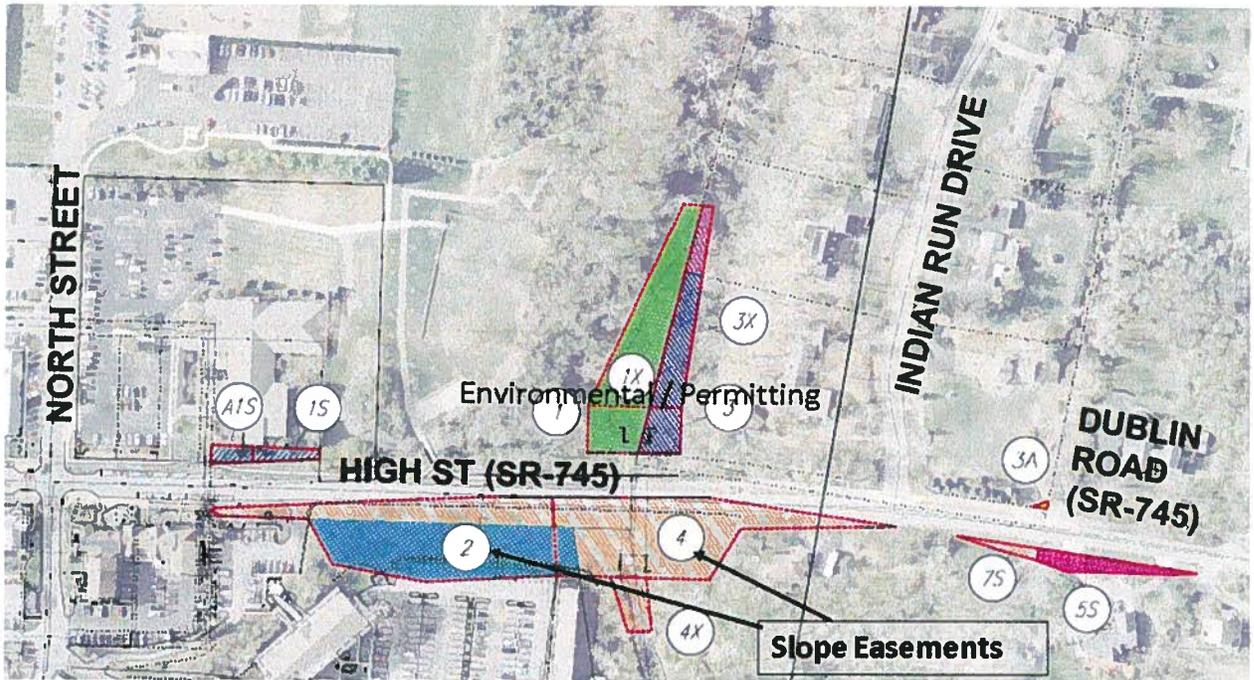
\_\_\_\_\_  
Mayor - Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of Council

**Exhibit "A"**

**Ohio Department of Transportation Easements**



**ODOT AGREEMENT NO. 2015-0218**

**MAINTENANCE AGREEMENT  
BETWEEN THE CITY OF DUBLIN AND  
THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION  
SR745 BRIDGE over INDIAN RUN**

This Maintenance Agreement (hereinafter the “Agreement”) is made by and between the State of Ohio, acting by and through the Director of Transportation, hereafter referred to as “ODOT”, 1980 West Broad Street, Columbus, Ohio 43223, and the City of Dublin, an Ohio municipal corporation, hereinafter referred to as “Dublin”, 5200 Emerald Parkway, Dublin, Ohio 43017 (collectively “the Parties” and individually “Party”).

**WHEREAS**, Section 5501.03(A)(3) of the Ohio Revised Code, provides that the Director may coordinate the activities of the Department of Transportation with other appropriate public authorities and enter into contracts with such authorities as necessary to carry out its duties, powers and functions; and

**WHEREAS**, ODOT currently holds multiple easements as Instrument Numbers 194911090240239, 194911090240240, 194911090240242, 194911090240243, 194911090240244, and 194911090240247, and Miscellaneous Records 61/329, 61/328, and 61/327, and shown in Exhibit “A”, all recorded in the Franklin County Recorder’s Office (the “Easements”), located adjacent to the Bridge identified as Structure File Number 2517523, in which it assumes maintenance responsibilities for the Bridge within Dublin’s corporate limits on SR 745; and

**WHEREAS**, Dublin desires that ODOT transfer the Easements enter into a Maintenance Agreement for Dublin to assume maintenance of the Bridge located within the Easements in accordance with the terms and conditions set forth herein; and

**WHEREAS**, Dublin desires that ODOT transfer the Easements and enter into a Maintenance Agreement for Dublin to assume maintenance of the Bridge located within the Easements in accordance with the terms and conditions set forth herein; and

**WHEREAS**, ODOT desires to transfer the Easements to Dublin for the same purpose, in accordance with the terms and conditions set forth herein; and  
**NOW THEREFORE**, the Parties covenant, agree and obligate themselves as follows:

**ARTICLE I  
DEFINITIONS**

Section 1.1. Definitions. Unless otherwise defined herein, words and terms used in this Agreement with initial capital letters shall have the meanings set forth in this Section 1.1.

## ODOT AGREEMENT NO. 2015-0218

“*Agreement*” means this Maintenance Agreement by and between Dublin and ODOT, as duly amended or supplemented from time to time in accordance with its terms.

“*Bridge*” means the Bridge identified as Bridge SFN 2517523 on SR 745, Dublin, Ohio.

“*Easements*” means the Easements held by the State of Ohio being Instrument Numbers 194911090240239, 194911090240240, 194911090240242, 194911090240243, 194911090240244, and 194911090240247, and Miscellaneous Records 61/329, 61/328, and 61/327, all recorded in the Franklin County Recorder’s Office, and as shown in the construction plan sheet from the FRA-745-0.13 dated 1949 and included for reference as Exhibit “A”.

“*Person*” shall mean an individual, a corporation, a partnership, an association, a limited liability company, a joint stock company, a joint venture, a trust, an unincorporated organization, or a government or any agency or political subdivision thereof.

“*State*” means the State of Ohio, one of the United States of America.

“*Maintenance*” shall include all minor and major repairs including rehabilitation and replacement of the Bridge.

Section 1.2 Certain Words Used Herein; References. Any reference herein to Dublin or ODOT, any members or officers thereof, or other public boards, commissions, departments, institutions, agencies, bodies or other entities, or members or officers thereof, includes without limitation, entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or performing their functions lawfully.

Any reference to sections or provisions of the Constitution of the State, the Act, a section, provision or chapter of the Ohio Revised Code, federal or State laws includes without limitation, that section, provision or chapter, or those laws or regulations, as amended, modified, revised, supplemented or superseded from time to time.

Words of any gender include the correlative words of any other gender. Unless the context indicates otherwise, words importing the singular number import the plural number, and vice versa. The terms “hereof”, “herein”, “hereby”, “hereto”, and “hereunder”, and similar terms, refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before the date of delivery of this Agreement.

## ARTICLE II MAINTENANCE AGREEMENT

### **Section 2. OBLIGATIONS OF THE CITY**

2.1 Upon transfer of the Easements, and thereafter during the entire time that this Agreement is in effect, Dublin shall be responsible for the routine inspection and maintenance of the Bridge within the Easements, and all costs, fees, and expenses associated with or related to all of the maintenance of the Bridge within the Easements;

## **ODOT AGREEMENT NO. 2015-0218**

### **Section 3. OBLIGATIONS OF THE STATE**

- 3.1 In consideration of the duties and obligations to be undertaken by Dublin pursuant to this Agreement, ODOT shall transfer the Easements to Dublin to be used by the City at its discretion. Said transfer shall be made by ODOT within thirty (30) days after execution of this Agreement.

### **Section 4. EXPIRATION; TERMINATION**

- 4.1 The term of this Agreement shall commence upon the date of execution of both parties and shall continue in full force and effect unless and until the Agreement is terminated pursuant to a written agreement, which reference this Agreement, and is signed by both parties. Absent such a written termination agreement, this Agreement and the Parties' obligations hereunder shall continue in perpetuity.

### **Section 5. GENERAL PROVISIONS**

- 5.1 The signing of the Agreement does not in any way abridge the right of the Director of Transportation in her or his jurisdiction over the state highway system.
- 5.2 This Agreement constitutes the entire Agreement between the parties. All prior discussion and understandings between the parties regarding maintenance are superseded by this Agreement.
- 5.3 Any modifications to this Agreement shall be agreed to by both parties in writing and shall reference this Agreement.
- 5.4 Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned to any other Person without the express written consent of the other Party.
- 5.5 This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.
- 5.6 The District Deputy Director of District 6 shall have authority to ensure the compliance of the provisions of this Agreement.
- 5.7 The signing of the Agreement or the doing of any work thereunder shall constitute an agreement by Dublin to comply with all of the terms, conditions, and restrictions written herein.
- 5.8 Dublin shall be responsible for all loss, liability, damages, or claims for injury or death, or whatever nature to any person, property, or business caused by or resulting from activities of Dublin, its employees, agents, or contractors including any costs incurred by ODOT for defending same.

**ODOT AGREEMENT NO. 2015-0218**

- 5.9 The bridge shall be maintained, rehabilitated or replaced to a standard that is not less than the existing condition.
- 5.10 Any Person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute on such principal's behalf.

**STATE OF OHIO**

**CITY OF DUBLIN**

**Department of Transportation**

By: \_\_\_\_\_  
Jerry Wray, Director

By: \_\_\_\_\_  
Dana L. McDaniel, City Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

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Portion above reserved for State of Ohio Auditor, Engineer and Recorder's Offices use

**RELEASE OF EASEMENT**

KNOW ALL PERSONS BY THESE PRESENTS THAT THE **CITY OF DUBLIN, OHIO**, an Ohio municipal corporation, hereby releases, discharges, and cancels the below referenced Deed of Easement (the "Easement"):

**PRIOR INSTRUMENT REFERENCE:** [ ] RECORDER'S OFFICE;  
[ ] COUNTY, OHIO; GRANTOR  
[ ] TO GRANTEE CITY OF DUBLIN,  
OHIO

Signed and acknowledged by Dana L. McDaniel, City Manager of the City of Dublin, Ohio, a municipal corporation, this \_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF DUBLIN, OHIO,**  
an Ohio municipal corporation

By: \_\_\_\_\_  
Dana L. McDaniel, City Manager

STATE OF OHIO                    )  
COUNTY OF FRANKLIN        ) SS:

**BE IT REMEMBERED** that on this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the subscriber, a Notary Public in and for said County, personally came Dana L. McDaniel, the City Manager of the City of Dublin, Ohio, who acknowledged the signing thereof to be her voluntary

act and deed for and on behalf of the municipal corporation.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

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Notary Public

*This Instrument Prepared By:  
Frost Brown Todd, LLC  
One Columbus, Suite 2300  
10 West Broad Street  
Columbus, Ohio 43215*