

ORDINANCE NO. 150-19

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A RIGHT OF WAY AGREEMENT WITH THE WHEELING AND LAKE ERIE RAILWAY COMPANY, RELATIVE TO THE SOUTH ELMWOOD BRIDGE PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to execute a Right of Way Agreement with the Wheeling and Lake Erie Railway Company, relative to the South Elmwood Bridge Project, City of Medina Project #925.
- SEC. 2:** That a copy of the Right of Way Agreement is marked Exhibit A, attached hereto, and incorporated herein.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: September 23, 2019

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: September 24, 2019

SIGNED: Dennis Hanwell
Mayor

AGREEMENT

ORD. 150-19
Exh. A

September 9, 2019

Wheeling and Lake Erie Railway
Company 100 East First Street
Brewster, Ohio 44613

Attention: Jeffery A. Davis Jr.
Director of Real Estate

Subject: City of Medina project #925: South Elmwood Bridge Replacement
Railroad Agreement

AARDOT: 002 087 A
Milepost: 140.18
Record ID: 6005

Dear Mr. Davis:

City of Medina Project #925 will remove and replace the existing bridge located on S. Elmwood Street just north of the Wheeling & Lake Erie Railway (W&LE) rail crossing on S. Elmwood (AAR DOT #002 087 A). The new bridge structure will consist of a 22 feet long by 38 feet wide 3-sided box culvert. While no work is planned on the W&LE crossing, a portion of both the existing and future culvert extends into W&LE right of way.

The City of Medina and W&LE Railway agree that the work to be performed adjacent to the W&LE Railway crossing AARDOT 002087A as part of the S. Elmwood Bridge replacement project will improve the safety and operation of the roadway. W&LE Railway and the City of Medina further agree upon the portion of the proposed work to be done by each party, and the proportion of costs and expenses to be paid by each party as follows:

1. All work performed by the City of Medina's contractor will be at no cost to the W&LE Railway and will be in accordance with the approved City Project #925 plans, specifications and the attached Special Clauses in the Proposal.
2. During the performance of the work, temporary construction clearances of 22'-0" vertically above the top of rail and 8'-6" horizontally from the nearest rail of any track shall be maintained to any form work, false work or other temporary obstruction.
3. The City of Medina's contractor will not be allowed to commence work on or over W&LE Railway property until the following conditions have been met:
 - a) The City of Medina has received written or email notice from the W&LE Railway approving the City of Medina's final construction plans for Project #925.

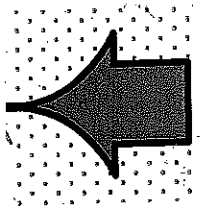
- b) The City of Medina has received written or email notice from the W&LE Railway that the contractor's Railroad Protective Liability Insurance policy is satisfactory.
- c) The Medina County Engineer has received written or email authorization from the W&LE Railway to begin work on W&LE Railway property. The authorization will include the name and telephone number of the local W&LE representative who must be contacted to arrange for flag protection.

- 4. Contingent upon meeting the requirements indicated above, the W&LE Railway shall permit the City of Medina and/or its contractor to enter upon lands owned or operated by the W&LE Railway to construct the work described herein.
- 5. All work performed will be in accordance with good engineering practice and the attached Special Clauses.
- 6. The W&LE Railway will attend the project meetings as necessary conducted by the City of Medina. The scheduling and coordination of the work to be performed by the City of Medina County Engineer's contractor will be reviewed at the project meetings.

If you agree with the terms of this letter, please indicate your concurrence by signing in the space below and return one copy of this signed letter to me.

Sincerely,

Dennis Hanwell
Mayor, City of Medina



Accepted by Wheeling and Lake Erie Railway Company

By: _____ (Signature)

_____ (Print)

Title: _____

Date: _____

The Railroad Protective Liability Insurance policy shall be with an insurance company authorized to do business in the State of Ohio by the Ohio Department of Insurance and shall be kept in effect until all work required to be performed under the terms of the contract is satisfactorily completed as evidenced by the formal acceptance by the Medina County Engineer. The policy shall include thirty (30) days canceling notice.

The cost of the Railroad Protective Liability Insurance policy will be borne by the City of Medina, to be paid through a specific bid item.

The corporate name and address of the "Named Insured" as listed on the policy shall be as follows:

Wheeling & Lake Erie Railway Co.
100 E. First Street
Brewster, OH 44613

The Railroad Protective Liability Insurance policy shall be taken out before the contract is executed by Medina County. Email copies of the policy to:

Jeffery A. Davis Jr.
Director of Real Estate
Wheeling & Lake Erie Railway Co.
jdavisjr@wlerwy.com

Patrick J. Patton P.E.
City of Medina Engineer
ppatton@medinaoh.org

The number of trains operating through the improvement is estimated to be:

0 Passenger trains per day @ N/A miles per hour

5 Passenger trains per day @ 25 miles per hour

7. The railroad company will assign, and the City of Medina's contractor will pay for (through a specific bid item) railroad flaggers or other protective services and devices as necessary to insure the safety and continuity of the work to be performed as a part of this contract. Said services and devices will be provided when necessary, as determined by the railroad company, because of any of the contractor's operations over, under or adjacent to tracks over which trains are operating. The provision of such protective personnel and devices does not relieve the contractor from the liability of payment for damage caused by his operations.

- a) Such protection will be required when men or equipment are working within clearance limits of 15 feet of a rail or when work being performed adjacent to operating tracks may present hazards to tracks, train operation, or when equipment does or may infringe upon such limits; these times include during concrete placement (for footings and abutment walls), during placement of the box culvert sections, and during placement of concrete pavement abutting the railroad tracks.
- b) The contractor will not be permitted to operate any of his own equipment on railroad tracks except under an acceptable arrangement with the railroad company. Such equipment and the operation of such equipment, or equipment rented from the railroad company, shall be arranged for by the contractor with the railroad company and the cost for its use, including protection of railroad traffic, shall be borne by the contractor.
- c) The contractor shall notify the following named individual for the railroad company at least 30 days, or as directed by the authorized representative of the railroad, in advance of starting any work which might require protection:

Heidi Rowlands
Wheeling & Lake Erie Railway Co.
100 East First St.
Brewster, OH. 44613
Telephone: 330-767-7229
hrowlands@wlerwy.com

- d) The contractor shall notify the railroad at least 5 working days in advance of suspending or ceasing operations that require a flagger.
 - e) Railroad protective personnel assigned to the project will be responsible for notifying the Medina County Project Engineer upon arrival at the job site on each day that protective services are provided. The Project Engineer will document such notification in the project diary.
9. To pay the railroad or owning company for any changes, requested for his convenience, to railroad property, facilities, wire, fiber optic and/or pipe lines other than shown on the plans for the project.
10. If at any time the highway contractor desires a temporary crossing of the railroad's tracks, he shall make a request for a temporary crossing from the railroad. If approved, he shall arrange with the railroad company, execute its regular form of private grade crossing agreement covering the crossing desired, paying all construction, maintenance, removal, protection and other costs.

11. Methods and procedures for performing work on property of the Wheeling & Lake Erie Railway Co. must be approved by the Chief Engineer of the railroad company. Plans and documents shall be submitted to:

Jeffery A. Davis Jr.
Director of Real Estate
Wheeling & Lake Erie Railway Co.
100 East First St.
Brewster, OH. 44613
jdavisjr@wlerwy.com

Accepted by Lockhart Concrete Company

By: _____ (Signature)

_____ (Print)

Title: _____

Date: _____