

**VILLAGE OF YELLOW SPRINGS, OHIO
RESOLUTION 2023-07**

**AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO TRAIL TIE-IN AGREEMENTS
WITH INTERESTED PROPERTY OWNERS**

WHEREAS, the Village of Yellow Springs owns and maintains walking, biking & rolling trails that run through the Village ("YS Trails"); and

WHEREAS, Village Council wishes to facilitate tie-ins to YS Trails by neighboring property owners in line with Village Values, particularly "Seek, in all decisions and actions, to reduce the community's carbon footprint, encourage sound ecological practices and provide careful, creative & cooperative stewardship of land resources"; and

WHEREAS, the Village intends to authorize the Village Manager to enter into tie-in agreements with neighboring property owners, emphasizing safety and connectivity with our local and regional active transportation networks.

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS,
OHIO RESOLVES THAT:**

Section 1. The Village Manager is hereby authorized to enter into tie-in agreements with property owners whose properties directly abut YS Trails in a form substantially similar to that shown in Exhibit A.

Section 2. This Resolution shall take effect at the earliest time allowed by law.



Signed: Brian Housh, President of Council

PASSED: 1-17-2023



Attest:
Judy Kintner, Clerk of Council

ROLL CALL:

Brian Housh __Y__

Marianne MacQueen __Y__

Kevin Stokes __Y__

Carmen Brown __Y__

Gavin DeVore Leonard __Y__

BIKE TRAIL CONNECTION AGREEMENT

The Bike Trail Connection Agreement (“the Agreement”) is hereby made and entered into this ____ day of _____, ____ (the “Effective Date”) by and between the Village of Yellow Springs, Ohio, an Ohio municipal corporation (the “Village”) and _____ an individual or legal entity owning property within the Village (the “Property Owner”). The Village and _____ at times may be collectively referred to as the “Parties” or individually as a “Party” under the terms of this Agreement.

RECITALS

WHEREAS, the Village owns and operates parts of the trail system that runs through the Village (the “YS Trails”);

WHEREAS, the Property Owner owns real property located at _____, Yellow Springs, Ohio, and designated as Parcel ID No(s). _____ by the Greene County Auditor (the “Property”);

WHEREAS, the Property Owner’s property abuts a YS Trail and the Property Owner desires to create a means of ingress and egress to a YS Trail from the Property (the “Connection”);

WHEREAS, the Property Owner agrees to be responsible for creating and maintaining the Connection in accordance with the terms and conditions contained herein and any other document, law, or guidance, formal or informal, issued by the Village, whether in existence now or in the future;

WHEREAS, the Property Owner agrees that all construction materials and plans must be expressly approved by the Village in writing; and

WHEREAS, the Village hereby grants permission to the Property Owner to create the Connection for the purpose of accessing the YS Trail system from the Property Owner’s property.

NOW, THEREFORE, and in consideration hereof the Parties agree as follows:

1. **Project Scope**. The scope of this project includes the construction and maintenance of the Connection for the duration of its existence.

2. **Construction Plans.** The Property Owner agrees to submit all construction plans to the Village before commencing construction. Construction plans shall include, but not be limited to, detailed project plans, the name and contact information of the contractor who will perform the work, construction materials to be used, and timelines for completion. The Village reserves the right to request any other information pertaining to the construction of the Connection. The Village reserves the right to require certain materials to be used for the Connection and to require plans to be revised per the determination of the Public Works Director.

The Property Owner shall obtain the prior written approval of the Village Manager and the Department of Public Works prior to the commencement of construction of the Connection.

3. **Maintenance.** The Property Owner shall be solely responsible for the maintenance of the Connection and shall maintain the Connection in such a manner as is acceptable to the Village Manager and Public Works Director. The Connection shall at all times be kept in a safe condition and conform to all applicable laws.

The Property Owner shall obtain the prior written approval from the Village Manager and the Department of Public Works prior to performing any major renovations or remodeling to the Connection.

If the Village deems the Connection to require maintenance, the Village shall send written notice to the Property Owner to perform such maintenance within a specified period of time. If Property Owner fails to perform the required maintenance, the Village may perform such maintenance and send a bill for the cost of repairs to Property Owner. The bill for repairs will be due upon receipt. If the bill remains unpaid for more than 60 days, the Village may pursue removal in accordance with Section 4 of this Agreement.

4. **Removal.** The Village reserves the right to remove any part of the Connection that is on Village property for any public health, safety or welfare purpose, or due to unpaid bill for Village-provided maintenance as contemplated in Section 3 herein. Prior to such removal, the Village shall notify the Property Owner in writing of the Village's intent to remove the Connection. Following delivery of this notice by regular mail and posting on the Property, the Property Owner may appeal the removal to Village Council. Such appeal must be made in writing to the Clerk of Council within 21 days of the date of the notice of intent to remove. Village Council shall schedule the Property Owner's appeal to be heard at the next regularly scheduled Council meeting. After hearing Property Owner's appeal, and the Village's case for removal presented by the Director of Public Works or Village Manager, Village Council may order removal of the Connection on Village property or may order remedial measures with a specific date for removal by the Village if remedial measures are not completed.
5. **Indemnification.** The Property Owner shall indemnify, defend and hold harmless the Village, its officers, employees, servants, and volunteers, from and against any and all claims, damages, expenses, costs, and liability arising out of injury or death to any person

or the damage, loss, or destruction of any property which may occur, or in any way grow out of, any use (permitted or unpermitted) or the existence of the Connection. Without limiting other obligations to defend, should the Property Owner be required to defend the Village under this Agreement, the Village shall be permitted to select their counsel of choice for their defense. The obligations of the Property Owner pursuant to this Section 4 shall survive termination of this Agreement without limitation.

6. **Liability.** Property Owner acknowledges that the Village does not assume any liability arising out of any use (permitted or unpermitted) or the existence of the Connection.
7. **Severability.** If any provision of this Agreement, or any covenants, obligations or agreements contained herein are determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provisions, covenants, obligations or agreements, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. If any provision, covenant, obligation or agreement shall be subject to more than one interpretation, such interpretation shall be used to make this Agreement effective. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law. If any provision of this Agreement is held by a court of competent jurisdiction to be either invalid or unenforceable, the Parties shall negotiate in good faith to create a replacement term that is as close as legally and reasonably practicable to the original term and shall amend this Agreement to include such new term.
8. **Binding Effect Against Successors and Assigns.** The provisions of this Agreement shall run with the land such that the covenants and restrictions herein shall be binding on all successive owners of the Property.
9. **Modification.** This Agreement may not be altered, amended, or modified except by a further written document signed by the Parties.
10. **Third-Party Beneficiaries.** This Agreement is for the benefit of the Parties hereto and shall not be interpreted or construed for the benefit of any third parties or non-parties.
11. **Entire Agreement.** This Agreement shall be the entire agreement between the Parties with respect to the subject matter hereof and shall supersede any and all prior or contemporaneous written or oral agreements, communications, or courses of dealing between the Parties.
12. **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the Parties or by any third party as creating a relationship of principal and agent, partnership, or joint venture between the Parties, it being understood and agreed that no provision contained herein or any act of the Parties hereto shall be deemed to create any relationship other than the grantor and grantee of the Project Funds as set forth herein.

13. **Counterparts.** This Agreement may be signed in counterparts and shall be binding as if signed together. A facsimile or copy of a signature is valid as an original.
14. **Notices.** Notices to the Village shall be sent to the attention of the Village Manager at 100 Dayton Street, Yellow Springs, Ohio 45387. Notices to the Property Owner shall be sent to the Property Owner at the address of the Property.

This Agreement is hereby entered into on the Effective Date noted by and between the Parties.

Village of Yellow Springs

Individual (if applicable)

By: _____
Josue Salmeron, Village Manager

Name: _____

Date: _____

Date: _____

Business (if applicable)

By: _____

Name: _____

Title: _____

Date: _____

Approved as to Form:

Amy N. Blankenship, Village Solicitor