

**ORDINANCE NO. 82-14**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MEDINA AND THE WHEELING AND LAKE ERIE RAILWAY COMPANY RELATIVE TO THE RECONSTRUCTION OF THE WEST SMITH ROAD CROSSING, AND DECLARING AN EMERGENCY.**

**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 Memorandum of Understanding between the City of Medina and the Wheeling and Lake Erie Railway Company relative to the reconstruction of the West Smith Road crossing.
- SEC. 2:** That the funds to cover these improvements, in the amount of \$63,887.00 is available in Account No. 108-0610-54411.
- SEC. 3:** That a copy of the Memorandum of Understanding is marked Exhibit A attached hereto and incorporated herein.
- SEC. 4:** 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. 5:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to complete work prior to commencing construction on Lake Road; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

**PASSED:** May 12, 2014

**SIGNED:** John M. Coyne, III  
President of Council

**ATTEST:** Kathy Patton  
Clerk of Council

**APPROVED:** May 13, 2014

**SIGNED:** Dennis Hanwell  
Mayor

# MEMORANDUM OF UNDERSTANDING

between

The City of Medina

and

The Wheeling and Lake Erie Railway Company

## I. Introduction:

This Memorandum of Understanding (MOU) between the City of Medina, Ohio (further know as the City) and the Wheeling and Lake Erie Railway Company (further known as the Wheeling) with principal offices located at 100 First Street, Brewster, OH 44613, sets forth the agreement for the reconstruction and upgrade of a railroad crossing surface within the City of Medina, Ohio.

## II. Purpose:

The City and Wheeling mutually confirm the necessity to reconstruct certain railroad crossing surfaces within the City of Medina. Reconstruction of the crossing surfaces at these locations will be mutually beneficial to each party. Reconstruction of the surfaces will provide for an improved surface for vehicular traffic.

## III. Scope of the Project (the 'Work'):

The crossing to be reconstructed is as follows:

- West Smith Road (west of Lake Road) (DOT AAR# 002-078-B)

A detailed estimate for the specific work to be completed at the crossing has been prepared by Wintrow Construction (the designated contractor). This estimate is attached and is hereby designated as Exhibit A of this MOU.

As provided for in the detailed estimate, in addition to the furnishing and installation of new crossing surface, reconstruction of the grade crossing surfaces shall include the removal and disposal of the existing crossing surface material and other track structure and substructure materials. The new crossing surfaces at each location shall consist of pre-cast full depth concrete tub style panels, known as Hanson Premier Concrete Modular Railroad Crossing Surface (or mutually approved equal), new 115 pound rail and new crossties through the entire length of the crossing. In addition to the materials referenced herein, all other appurtenant crossing surface materials necessary will be furnished and installed.

## IV. Responsibilities of the Parties:

### A. Responsibilities of the City of Medina

1. Prior to the commencement of any work, the City will submit to the Wheeling a City purchase order for the estimated total amount of the City's cost for this work.
2. The City agrees to pay Wheeling an amount equal to 50% of the final invoiced costs by Wintrow Construction for materials provided and services performed identified in Attachment A.
3. The estimate for the City's total cost for this work is presented in the following table:

Location	Total estimated Project Cost	City Share of Cost	City's estimated TOTAL Cost
West Smith Rd. (west of Lake Rd.)	\$127,772.30	50%	\$63,887

4. The City will install and maintain vehicular and pedestrian detours around the project site (the individual crossing locations).

5. The City will review each invoice prepared by Wheeling within seven (7) days of receipt. The City will notify Wheeling of any questions, comments or objections to the submitted invoice within fourteen (14) days of receipt. The City will issue payment to the Wheeling within thirty (30) days of receipt of an accepted detailed invoice.

**B. Responsibilities of the Wheeling & Lake Erie Railway Company**

1. Prior to the commencement of any work by Wheeling or their contractor, Wheeling shall furnish to the City a current proof of insurance. The insurance certificate shall include evidence that Wheeling carries insurance for the protection of itself and the City as a named insured that provides public liability insurance and automobile insurance in the following amounts and coverages (subject to reasonable self insured retention):

Bodily Injury, Each Person	\$1,000,000.00
Bodily Injury, Each Occurrence	\$1,000,000.00
Property Damage, Each Accident	\$1,000,000.00
Property Damage Aggregate	\$1,000,000.00

2. Wheeling (or its designated contractor) will provide a schedule for work to be completed at each location to the City a minimum of fourteen (14) days prior to commencing any work at any crossing location.
3. Wheeling (or its designated contractor) will complete the work (furnish and install all materials, labor, equipment and other goods and services necessary to remove and reconstruct the crossing surfaces as detailed in Exhibit A) prior to the expiration date for this MOU (refer to Section V. Period of the Agreement, below).
4. Wheeling (or its designated contractor) will erect and maintain barricades around the project sites to prevent the public from traveling into the work areas.
5. The Wheeling will coordinate with the designated contractor to provide RWP (Roadway Worker Protection) referred to as railroad flagging and/or train coordination and the costs associated with such activity.
6. Upon completion and acceptance of the work by both parties, Wheeling will prepare and submit to the City invoices detailing the work completed (including contingency items) at each location. Invoices may be submitted to the City either individually upon completion of each crossing upgrade; or in total (covering both (2) locations) after completion of all of the crossing upgrades. Invoices prepared and submitted by Wheeling shall reflect the cost for the work actually completed (not the estimated cost as included within this MOU).
7. The estimate for the Wheeling's total cost for this work is presented in the following table:

Location	Total estimated Project Cost	Wheeling's Share of Cost	Wheeling's TOTAL estimated Cost
West Smith Rd. (west of Lake Rd.)	\$127,772.30	50%	\$63,887

**V. Period of the Agreement:**

This MOU will become effective on the date that all required signatures to the MOU have been executed. The term for this MOU will be for twelve (12) months. The expiration date for this MOU will therefore be twelve (12) months after the effective date of the MOU.

**VI. Dispute Resolution:**

Wheeling and the City shall make reasonable efforts to resolve any disputes that arise pursuant to this MOU. If a dispute or disputes cannot be resolved, Wheeling and/or the City may respectively file whatever action or take whatever other steps they respectively believe to be necessary so as to resolve the dispute. All actions brought as against Wheeling and/or the City pursuant to this MOU shall be brought and venued in a court of competent subject matter jurisdiction in Medina County, Ohio.

VII. Signatures:

In witness whereof, authorized representatives of the parties to this agreement, indicating their party's approval of the terms herein, have signed as of the dates set forth below:

**WHEELING & LAKE ERIE RAILWAY COMPANY**

By: \_\_\_\_\_

Kasey S. O'Connor  
Vice President of Engineering  
Wheeling & Lake Erie Railway Company

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

WITNESSES to the Wheeling & Lake Erie Railway Company Signature:

1. \_\_\_\_\_

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

2. \_\_\_\_\_

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

**CITY OF MEDINA, OHIO**

By: Dennis T. Hanwell

Dennis T. Hanwell  
Mayor  
City of Medina

Date: May 13, 2014

WITNESSES to the City of Medina Signature:

1. Alison Conwell

Print Name: Alison Conwell

2. Kathy Patton

Print Name: Kathy Patton

WLE

Crossing Replacement

West Smith Rd. crossing - west of Lake Rd intersection

Attn: Dan Reinsel Email: dreinsel@wlerwy.com

**Install Hanson Premier Pre-cast Crossings at W. Smith Rd. in Medina, Ohio per Manufacturer's specifications (88' long crossing)**

Saw cut existing road approaches to allow for installation of 8' wide new crossing panels

Remove existing crossing structure

Dispose of all debris off site

Excavate ballast from underneath ties to required depth

Install signal conduit

Install asphalt base to within 1" of bottom of new precast panels

Install one inch of sand for a leveling/bedding surface for the panels and set pre-cast panels

Install 115 RE welded rail with fully ground welds as needed for installation in the crossing panels

Re-tie in the rail to the existing line

Both rail approaches will receive 10 new 9' approach timbers

Raise and surface rail approaches to allow for 2-3 inches of elevation increase of new crossing

Replace asphalt road approaches and top existing surface as required to blend the road into the new crossing elevation. Road will be milled as required.

Provide clearing to allow for 600' of sightline

Clear and restore existing ditch lines for approx. 50' in each quadrant

**Total Cost Estimate \$127,772.30**

Contingencies/Notes

Pricing is based on manufacturer's standard detail. No responsibility for design is to be assumed by Wintrou Construction.

Rail is to be provided by others (6 welds are included in this pricing)

No testing is included in this pricing.

Road Closures, MOT, and detour signage to be provided by others

Road approaches will be needed to stage material and project access.

Sales Taxes Not Included in Quotation

No Bond Cost is included in above pricing

Railroad Protective Liability Insurance is NOT included

No Warranty or Guarantees are apart of this proposal

Any Flagman costs, straight or premium costs are NOT included

Price quoted is for "Normal" excavation only or as described in the quotation.

"Hard Excavation" will be performed on T&M

Weather conditions prevail and may affect the construction schedule.

Track must be free of rail cars and rail traffic.

One Mobilization is included in the quotation.

All work is at straight time labor rates unless specified otherwise in the quotation  
Engineering, plans and layout survey by others.