

STATUTORY RESOLUTION NO. 28-2016

RESOLUTION AGREEING TO COOPERATE WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) TO MEET THE PUBLIC INTEREST DEMAND FOR THE CONSTRUCTION OF A SIDEWALK WITHIN THE RIGHT-OF-WAY ON A PORTION OF U.S. 42 WITHIN WEST CHESTER TOWNSHIP

WHEREAS, the public interest demands the construction of a sidewalk within the right of way on a portion of U.S. 42 situated in the Township of West Chester, County of Butler, State of Ohio, and described as follows: installation and construction of approximately 500 linear feet of a 5' wide pedestrian concrete sidewalk within the right of way of U.S. 42; extending along Parcel #M5620073000052 within West Chester Township; and

WHEREAS, although the West Chester Township Board of Trustees intends to delegate its responsibility to install, construct, maintain, and repair or replace when necessary to the property owner, West Chester Office Park, LLC, and its heirs, assigns, etc., the ODOT issues permits for sidewalks within its right-of-way only to political jurisdictions;

NOW THEREFORE, BE IT RESOLVED, the West Chester Township Board of Trustees does hereby agree to:

SECTION 1. Cooperate with the Ohio Department of Transportation, hereinafter referred to as the STATE, under the provision of the Ohio Revised Code, in said improvement in the following ways and extent:

It is recognized by the Ohio Department of Transportation that units of government embrace the policy of providing public sidewalks along some thoroughfares in their domain. It is further recognized as the policy of the Ohio Department of Transportation not to construct sidewalks in its right-of-way except when the unit of government involved will release the State and its authorized agents from any damages or claims of damages from this project and will accept and assume the responsibility for the maintenance, repair and replacement of said sidewalks at such time as either is required by law; then the Ohio Department of Transportation will permit the Township Trustees to install said sidewalk.

SECTION 2. Release the Ohio Department of Transportation and its employees and agents from any damages and claims arising out of the construction and use of this sidewalk, in return for permission of the Ohio Department of Transportation to construct said sidewalk. Furthermore, the Board of Trustees accepts and assumes the responsibility for the maintenance, repair and replacement of said sidewalk at such time as either is required by law. Nothing in this Resolution shall prevent the Township Trustees from permitting the adjoining property owner to construct and maintain said sidewalk in accordance with the requirements of the Ohio Revised Code, and to release and indemnify the Township and the Ohio Department of Transportation, and their respective employees and agents, from any damages and claims for damages arising out of the construction and use of the sidewalk.

SECTION 3. Require the property owner of Parcel #M5620073000052, West Chester Office Park LLC, to install and construct a 5' wide concrete sidewalk along the entire collective portion of its

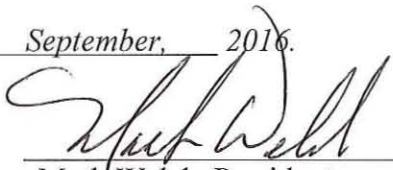
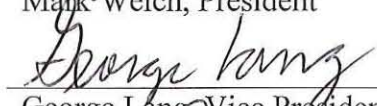
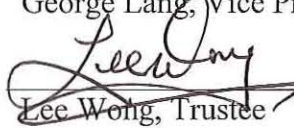
parcel and property in accord with the requirements of the Ohio Revised Code; construction specifications of the State; and conditions of the West Chester Township Zoning Commission as outlined in West Chester Township Zoning Commission Resolution 16-8.

SECTION 4. Require West Chester Park, LLC, its heirs, assigns, etc. to maintain and repair or replace when necessary said sidewalk in its entirety or sections whichever required.

SECTION 5. Require West Chester Office Park LLC, its heirs, assigns, etc., to release and indemnify West Chester Township and the State and their respective officers, employees, and agents from any and all damages and claims for damages arising out of the installation, construction, use, maintenance, and repair or replacement of the sidewalk.

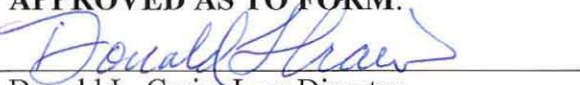
SECTION 6. Authorize and direct the Township Administrator to take any and all action necessary to carry out this Resolution.

Adopted this 27th day of September, 2016.

	<u>YES</u>
Mark Welch, President	Yes/No
	<u>YES</u>
George Lang, Vice President	Yes/No
	<u>Yes</u>
Lee Wong, Trustee	Yes/No

ATTEST:

Bruce Jones, Fiscal Officer

APPROVED AS TO FORM:

Donald L. Crain, Law Director