

A RESOLUTION AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE TO ENTER INTO A PROJECT GRANT AGREEMENT (NO. CH B10) WITH THE DIRECTOR OF THE OHIO PUBLIC WORKS COMMISSION FOR TRAFFIC SIGNAL REPLACEMENT AT BROADVIEW ROAD AND STREETSBORO ROAD AND DECLARING AN EMERGENCY

BE IT RESOLVED by the Council of the Village of Richfield, State of Ohio:

SECTION 1. That the Mayor and Director of Finance be, and they hereby are, authorized and directed to enter into a Project Grant Agreement (No. CH B10) with the Director of the Ohio Public Works Commission for traffic signal replacement at Broadview Road and Streetsboro Road, a copy of which agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

SECTION 2. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason to provide effective traffic control and provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect and be in force from and after its approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest date provided by law.

Passed: April 16, 1991

[Signature]
President of Council

[Signature]
Mayor

Dated: 4/16/91

ATTEST:
[Signature]
Clerk of Council

Res. 27-1991

PROJECT AGREEMENT

OHIO LOCAL TRANSPORTATION IMPROVEMENT PROGRAM

Pursuant to Ohio Revised Code 164.05 and Ohio Administrative Code 164-1-21, this Project Agreement is entered into this 20th day of March, 1991 by and between the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (hereinafter variously referred to as the "Director" or the "OPWC"), located at 65 East State Street, Suite 312, Columbus, Ohio 43215, and Village of Richland, Summit County (hereinafter referred to as the "Recipient"), located at 4410 W. Streetsboro Road, P.O. Box 387, Richfield, Ohio 44286, in respect of the project named Traffic Signal Replacement, and as described in Appendix A of this Agreement, (hereinafter referred to as the "Project") to provide an amount not to exceed Sixty Thousand Dollars (\$60,000) for the sole and express purpose of financing or reimbursing costs of the Project as more fully set forth in this Agreement and the Appendices attached hereto.

OPWC Project Control No. CHB 10

WHEREAS, on July 1, 1989, the General Assembly of the State passed Amended Substitute House Bill No. 381, which enacted Section 164.14 of the Ohio Revised Code (the "Revised Code");

WHEREAS, the Local Transportation Improvement Fund created under Section 164.14 of the Revised Code is to benefit local subdivisions (as hereinafter defined) for the construction, reconstruction, improvement, or planning of transportation infrastructure (as hereinafter defined);

WHEREAS, pursuant to Section 164.02 of the Revised Code, the General Assembly found that public infrastructure capital improvements were necessary to (i) preserve the public capital infrastructure of Local Subdivisions (as herein after defined); (ii) ensure the public health, safety and welfare; (iii) create and preserve jobs; (iv) enhance employment opportunities; and (v) improve the economic welfare of the people of this State;

WHEREAS, pursuant to Section 164.05 of the Revised Code, the Director of the OPWC is empowered to (i) enter into agreements with one or more Local Subdivisions to provide loans, grants, and local debt support and credit enhancements for Capital Improvement Projects (as hereinafter defined); and (ii) authorize payments to Local Subdivisions or their Contractors (as hereinafter defined) for costs incurred for Capital Improvement Projects which have been approved by the Director;

WHEREAS, pursuant to Section 164.14 of the Revised Code, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Divisions C and E of Section 164.14 of the Revised Code;

WHEREAS, Section 164.14 of the Revised Code permits a grant of funds for such a Capital Improvement Project to be expended or provided only after the District has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

WHEREAS, the Recipient desires to engage in the construction, reconstruction, improvement, or planning of the Capital Improvement Project (the "Project") described in Appendix A of this Agreement;

WHEREAS, the Project described in Appendix A of this agreement has been duly recommended to the Director pursuant to Section 164.14 of the Revised Code by the District Public Works Integrating Committee of the Recipient; and

WHEREAS, the Director desires to approve the Recipient's request for a grant of financial assistance to finance certain of the costs of the Project, such moneys being allocated out of the State and Local Government Highway Distribution Fund to the Local Transportation Improvement Fund in the State Treasury;

NOW, THEREFORE, in consideration of the promises and covenants herein contained, the undersigned agree as follows:

SECTION 1. Definitions and General Provisions. The following words and terms as hereinafter used in this Agreement shall have the following meanings unless otherwise herein provided and

unless the context or use clearly indicates another or different meaning or intent.

"Act" means Chapter 164 of the Revised Code, enacted and amended thereunder, together with Chapter 164-1 of the Ohio Administrative Code (the "Administrative Code").

"Business Day" means a day of the year on which banks located in Columbus, Ohio and in New York, New York are not required or authorized by law to remain closed and on which The New York Stock Exchange is not closed.

"Capital Improvement" or "Capital Improvement Project" means the acquisition, construction, reconstruction and improvement of roads and bridges of Local Subdivisions, including real property, interests in real property, and facilities and equipment of Local Subdivisions related or incidental thereto.

"Chief Executive Officer" means the Chief Executive Officer of the Recipient and as designated pursuant to Section 4 hereof or his authorized designee as per written notification to the Director.

"Chief Fiscal Officer" means the Chief Fiscal Officer of the Recipient and as designated pursuant to Section 4 hereof or his authorized designee as per written notification to the Director.

"Contractor" means a person who has a direct contractual relationship with the Recipient and is (i) the manufacturer of all or a portion of the Project, or (ii) the provider of labor, materials or services in connection with the construction, reconstruction, expansion, improvement or engineering of the Project, or both.

"Cost of Capital Improvement Projects" means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering Capital Improvement Projects, and, as applicable, related financing costs.

"Disbursement Ratio" means the OPWC's effective percentage share of unpaid Project costs as based upon the OPWC's participation in the Project's financing scheme relative to all other identified financial resources; which may be adjusted from time to time; and which is to be recognized as a tool of administrative convenience to the OPWC and the Recipient so as to allow for the reasonable sharing of Project cost coverage over the Project development period.

"District Committees" means the District Public Works Integrating Committees created pursuant to Section 164.04 of the Revised Code, the Executive Committees created pursuant to Section 164.04 of the Revised Code, and District Subcommittee created pursuant to Section 164.14 of the Revised Code.

"Fund" means the Local Transportation Improvement Fund created pursuant to Section 164.14 of the Revised Code.

"Governing Body" means the board of county commissioners or a county council if a county; the legislative authority if a municipal corporation; or the board of township trustees if a township.

"Local Subdivision" means any county, municipal corporation, or township of the State.

"Project Manager" means the principal employee or agent of the Recipient having administrative authority over the Project and as designated pursuant to Section 4 hereof or his authorized designee as per written notification to the Director.

"Reimbursing" means the use of funds granted to the Recipient pursuant to Revised Code Section 164.14 as reimbursement to the Recipient for funds expended subsequent to the execution of this Agreement and exclusively on the Project by the Recipient and which did not in any way inflate costs of the Capital Improvement Project.

"State" means the State of Ohio.

"Transportation Infrastructure" means any highways, roads, streets, or bridges and the necessary safety appurtenances thereto constructed, reconstructed, expanded, improved, or engineered on authority of funds allocated pursuant to Section 164.14 of the Revised Code.

Any reference herein to public boards, commissions, departments, institutions, agencies, bodies or entities shall include those succeeding to their functions, duties or responsibilities by operation of law or who are lawfully performing their functions. Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Revised Code shall include such section, provision or chapter as from time to time may have been duly amended, modified, supplemented, or superseded. Words of the masculine or feminine gender shall be deemed and construed to include correlative words of the feminine, masculine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa. The terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Agreement and term "hereafter" means after, and the term "heretofore" means before the effective date of this Agreement.

SECTION 2. Grant of Financial Assistance. Subject to the terms and conditions contained herein, the Grantor hereby grants to the Recipient moneys from the Fund as set forth in Appendix C of this Agreement for the sole and express purpose of paying or reimbursing the costs certified to the Grantor under this Agreement for the completion of the Project described in Appendix A of this Agreement.

SECTION 3. Local Subdivision Contribution. The Recipient shall, at a minimum, contribute to the Project (the "Local Subdivision Contribution") the dollar amounts as set forth in Appendix D of this Agreement. The Local Subdivision Contribution to the Project shall be for the sole and express purpose of paying or reimbursing the costs certified to the OPWC under this Agreement for the completion of the Project as defined and described in Appendix A of this Agreement.

SECTION 4. Disbursements. All payments made by the Grantor shall be made directly to the Contractor that performed the work and originated the invoice, unless the Grantor expressly authorizes Recipient to use the reimbursement method specified in Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative Code.

(a) Project Administration Designation. Pursuant to Paragraph (B) of Rule 164-1-21 of the Administrative Code, the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer and Project Manager as set forth in Appendix B of this Agreement.

(b) Disbursements to Contractors to Pay Costs of the Project. The Recipient shall require that as work on the Project and as specified in its contract is performed a Contractor shall promptly submit an invoice to the Project Manager, but no more frequently than once every thirty (30) days. Within three (3) Business Days following receipt of such invoice from a Contractor, the Project Manager shall review the invoice and, if found to be accurate, shall certify in writing a notarized copy of the invoice to the Chief Fiscal Officer. Within five (5) Business Days following receipt of such invoice and certification from the Project Manager, the Chief Fiscal Officer shall conduct such reviews as he considers appropriate and, if he approves such invoice, shall submit to the Director a Disbursement Request together with the information and certifications required by this Section 3(b). The dollar amount set forth in the Disbursement Request shall be calculated based on the Disbursement Ratio as set forth originally in Appendix D of this Agreement or as may be adjusted from time to time to account for changed conditions in the project financing scheme while assuring full payment of the dollar value of the Local Subdivision Contribution. Within five (5) Business Days following receipt of the Disbursement Request and all required information and certifications, the Director shall, if such items are deemed by the Director to be accurate and complete, initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. Upon receipt of a warrant from the Auditor of State drawn in connection with a voucher initiated in accordance with the terms of the preceding sentence, the Director shall forward it, by regular, first class, United States mail to the contractor or other authorized recipient designated in the Disbursement Request.

Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:

(1) If the request is for disbursement to a Contractor, an original invoice and one copy submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;

(2) If the request is for disbursement to the Recipient pursuant to Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative code, two copies each of a bill of sale, paid invoice or other evidence satisfactory to the Director that payment of such sums have been made by the Recipient in connection with the portion of the Project for which payment is requested;

(3) The Project Manager's certification pursuant to this Section 4(b) of this Agreement;

(4) The Disbursement Request Form and Certification in the form set forth as Appendix E of this Agreement properly executed by the Chief Fiscal Officer and the Chief Executive Officer; and

(5) Such other certificates, documents and other information as the Director may reasonably require.

If the Director finds that the documents are in compliance with the requirements of this Agreement, the Director is authorized and directed to cause the disbursement of moneys from the Fund for payment of the identified Project costs. A copy of all such documents submitted to the Director shall be retained by the Director.

In the event that any money is disbursed to the Recipient pursuant to this Section 4(b) of this Agreement to pay a portion of an invoice submitted by a Contractor, the Recipient shall expend such money

to pay such Contractor for costs of the Project within twenty-four (24) hours after receipt thereof.

The Recipient represents that the Project was initially purchased, constructed, installed or acquired by the Recipient no earlier than the execution date of this Agreement.

(c) Disbursement Submittal Deadlines. The Recipient shall submit no more than one Disbursement Request per calendar month and in accordance with the following submittal deadlines. For Projects having an OPWC Project Number ending in the numerals 1,2 or 3, Recipient Disbursement Requests are due to be received by the Director no later than the first day of the calendar month. For Projects having an OPWC Project Number ending in the numerals 4,5 or 6, Recipient Disbursement Requests are due to be received by the Director no later than the tenth day of the calendar month. For all other Projects, Recipients Disbursement Requests are due to be received by the Director no later than the twentieth day of the calendar month. In the event that the Recipient submits a Disbursement Request contrary to its prescribed submittal deadline, the Director may choose to wait until the next applicable deadline before commencing the five (5) Business Day period within which a voucher is to be initiated.

(d) Limitations on Use. No part of the moneys delivered to the Recipient pursuant to Section 2 hereof is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any governmental obligations.

(e) Project Scope. The physical scope of the Project shall be limited to only those capital improvements as described in Appendix A of this Agreement. In the event that circumstances require a change in such physical scope, such changes must be approved through the execution of a formal Amendment to this Agreement.

(f) Excess Moneys. In the event that the Recipient determines that it will no longer require all or any portion of the moneys granted pursuant to Section 2 hereof for authorized Project purposes, such as acceptable construction bids being received in dollar amounts significantly below project budget-related cost estimates, the Recipient shall mail, by first-class mail postage prepaid, a written notice to the Director. Such notice shall state (1) that the Recipient does not intend to use certain moneys granted to it pursuant to Section 2 hereof for authorized Project purposes and (2) the amount of such moneys no longer required. Upon receipt of such notice, the moneys specified therein shall no longer be available to pay costs relating to the Project.

(g) Project Cost Overruns. In the event that the Recipient determines that the moneys granted pursuant to Section 2 hereof, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, Recipient may, with the approval of its District Public Works Integrating Committee, apply to the Director for supplemental assistance. The Director may approve such supplemental assistance only if the Recipient demonstrates to the Director's satisfaction that such funding is necessary for the completion of the Project and that the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application.

SECTION 5. Retainage. Except as provided in the second sentence of this Section 5, Recipient shall comply in all respects with the requirements of Sections 153.12, 153.13, 153.14, and 153.63

of the Revised Code, or other law applicable to it, including, but not limited to, the provisions thereof, to the extent applicable to Recipient, which require the holding of certain amounts from payments to be made to Contractors and the deposit of such amounts into an escrow account established pursuant to Section 153.63 of the Revised Code. Upon written notification to and approval of the Director, Recipient may use its legally applicable construction contract requirements for the project, including, but not limited to, its legally applicable requirements, if any, for the retaining of certain amounts from payments to be made to contractors in lieu of the requirements of Section 153.12, 153.13, 153.14, and 153.63 of the Revised Code.

SECTION 6. Conditions to Financial Assistance and its Disbursement. The Grantor's obligations hereunder, including its obligation to make financial assistance available to the Recipient pursuant to the terms of this Agreement, are contingent upon compliance by the Recipient with the following conditions:

(a) Recipient's acquisition and commitment of the Local Subdivision Contribution necessary for the completion of the Project, its compliance with all other provisions of this Agreement, and its compliance with the provisions of Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code. The Recipient shall set forth in Appendix D of this Agreement, a description of the manner or mechanisms of providing its local share of Project funds.

(b) Recipient shall execute any and all other documents and certificates as deemed necessary by the Director, subject to the opinion of counsel to the Director, as well as any required by changes in State or Federal law, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

SECTION 7. Representations, Warranties and Covenants of Recipient. The Recipient represents, warrants and covenants for the benefit of the Grantor as follows:

(a) Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted;

(b) Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement;

(c) This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in the event of bankruptcy and the application of general principles of equity;

(d) Recipient has complied with all procedures, prerequisites, and obligations for Project application and approval under Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code;

(e) Recipient is not the subject of nor has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance of this Agreement according to its terms;

(f) Use of Proceeds. With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section 2 hereof:

(i) The total cost of the Project shall not and will not include any cost which does not constitute "Costs of Capital Improvements," as defined in the Act;

(ii) All of the Project is owned, or will be owned, by the Recipient or another eligible local subdivision.

(g) Sufficiency of Moneys. The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to Section 2 of this Agreement to fund the Project to completion;

(h) Ohio Products. The Recipient shall, to the extent practicable, use, and shall cause all of its Contractors and subcontractors to use, Ohio products, materials, services and labor in connection with the Project;

(i) Minority Business Enterprises. Subject to and in accordance with the provisions of Section 164.07(A) of the Revised Code and Rule 164-1-32 of the Administrative Code, Recipient shall be signatory to an approved Affirmative Plan of Action for complying with the percentage requirements of Division (C)(1) of Section 123.151 and Section 125.081 of the Revised Code in awarding contracts for the Project. In the event that said Affirmative Plan of Action designates the Project to be "set-aside" for purposes of achieving participation of Certified Minority Business Enterprises in OPWC assisted projects, the Recipient shall solicit and accept bids for the performance of the work so set-aside exclusively from such Certified Minority Business Enterprises. Also, the Recipient shall require compliance by each of its Contractors with the requirements of Division (C)(2) of Section 123.151 of the Revised Code in their awarding subcontracts and purchasing services and materials under those contracts.

With respect to the Project, Recipient shall cooperate with the State Equal Employment Opportunity Coordinator, the Minority Business Development Division of the Ohio Department of Development and with any of their agents or designees in identifying, notifying, and assisting minority business enterprises certified under division (B) of Section 123.151 of the Revised Code. Any waiver, reduction, or other modification by the Recipient of the requirements of Section 164.07(A) shall be explained and documented in accordance with the requirements of Rule 164-1-32 through a written certification to the Director and the State Equal Employment Opportunity Coordinator;

(j) Equal Employment Opportunity. Recipient shall require that all contractors and subcontractors working on the Project comply with the equal employment opportunity requirements for the utilization of minorities and females pursuant to Chapter 123 of the Administrative Code, the Governor's Executive Order of 1972, and Governor's Executive Order 84-9;

(k) Prevailing Wage. Recipient shall comply, and shall require that all Contractors and subcontractors working on the Project comply, with the prevailing wage requirements contained in Sections 4115.03 to 4115.16 of the Revised Code.

(I) Construction Bonds, Insurance and Supervision.

(i) The Recipient shall require that each of its construction contractors shall furnish a performance and payment bond in an amount at least equal to 100 percent of its contract price as security for the faithful performance of its contract.

(ii) The Recipient shall require that each of its construction contractors and each subcontractor maintain during the life of its contract or subcontract, Workers Compensation Insurance, Public Liability, Property Damage and Vehicle Liability Insurance. Until such time as the Project is completed and accepted by the Recipient, the Recipient or (at the option of the Recipient) the contractor shall maintain Builders Risk Insurance on a 100 percent basis (completed value form) on the insurance portion of the Project for the benefit of the OPWC, the Recipient, the prime contractor and all subcontractors, as their interests may appear.

(iii) The Recipient shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of ensuring that construction conforms with the approved surveys, plans, profiles, cross sections and specifications and certifying to the OPWC and the Recipient at the completion of construction that construction is in accordance with the approved surveys, plans, profiles, cross sections and specifications or approved amendments thereto.

SECTION 8. Progress Reports. The Recipient shall submit to the Grantor, at the Grantor's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the Grantor may from time to time reasonably require. The Recipient shall submit to the Grantor a final narrative report detailing the results of the Project and the expenditure of funds made pursuant to this Agreement. The Recipient shall submit the final narrative report to the Grantor no later than 90 days after completion of the Project.

SECTION 9. Audit Rights. The Recipient shall, at all reasonable times, provide the Director or his representative access to and a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of three (3) years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within ten (10) days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each and every negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolving each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director may bar the Recipient from receiving further financial assistance under Chapter 164 of the Revised Code until the Recipient so complies or until the Recipient satisfactorily resolves such findings.

SECTION 10. General Assembly Appropriation. The Recipient hereby acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Chapter 164 of the Revised Code. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code and until the Recipient has acquired and committed all funds necessary for the full payment of the Local Subdivision Contribution applicable to the Project.

SECTION 11. Indemnification. Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the Project sufficient to impose upon the Director any of the obligations specified in Section 126.30 of the Revised Code. The Recipient shall indemnify, defend, and hold the Director harmless from liability in case of claim or suit arising from the conduct or management of, or any other acts incidental to the Project during the period of Project execution.

SECTION 12. Termination. Grantor's obligations under this Agreement shall immediately terminate upon the failure of Recipient to comply with any of the terms or conditions contained herein. Upon such termination, Recipient shall be obligated to return any moneys delivered to Recipient pursuant to the provisions of this Agreement. In the absence of any such failure, this Agreement shall terminate and the obligations of the parties hereto shall be deemed to be satisfied on the date on which the Grantor formally notifies Recipient that all findings set forth in the final report of audit required in Section 8 have been satisfactorily resolved.

SECTION 13. Governing Law. This Agreement shall be interpreted and construed in accordance with the laws of the State.

SECTION 14. Severability. If any of the provisions of this Agreement or the application thereof to any person or circumstance shall for any reason or to any extent be held invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

SECTION 15. Entire Agreement. This Agreement and its Appendices and Attachments attached hereto contain the entire understanding between the parties and supersedes any prior understandings, agreements, proposals and all other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.

SECTION 16. Captions. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.

SECTION 17. Notices. Except as otherwise provided hereunder, any notices required hereunder shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.

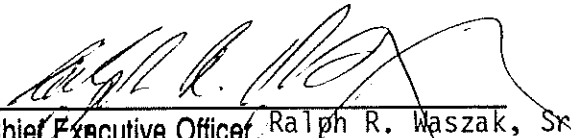
SECTION 18. No Waiver. If either party hereto at any time fails to require performance by the other of any provision of this Agreement, such failure shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by either party of a breach or default under any provision of this Agreement, be construed to be a waiver of any subsequent breach or default under that provision or any other provision of this Agreement.

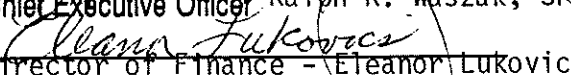
SECTION 19. Assignment. Neither this Agreement nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

RECIPIENT

GRANTOR




Chief Executive Officer Ralph R. Waszak, Sr.


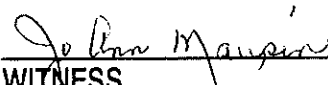
Director of Finance - Eleanor Lukovics
P. O. Box 387
Richfield, Ohio 44286

City, State & Zip Code

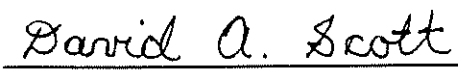
STATE OF OHIO,
OHIO PUBLIC WORKS COMMISSION

By: 

Randall F. Howard, Director
Ohio Public Works Commission
65 East State Street
Suite 312
Columbus, OH 43215



WITNESS



WITNESS

APPENDIX A

PROJECT DESCRIPTION AND COMPLETION SCHEDULE

1) PROJECT DESCRIPTION / PHYSICAL SCOPE:

The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby defined and described as follows:

a) **PROJECT NAME: Traffic Signal Replacement**

b) **SPECIFIC LOCATION: Intersection of S.R. 303 and S.R. 176, in the center of the Village of Richfield, Summit County, Ohio. (Project Location Zip Code - 44286)**

c) **PROJECT TYPE; MAJOR COMPONENTS: Road Repair: Existing wood strain poles will be replaced with steel mast arm supports. The existing controller will be replaced with a modern fully-actuated digital controller utilizing loop detectors embedded in the pavement. New signal heads are included.**

d) **PHYSICAL DIMENSIONAL CHARACTERISTICS: Project Dimensions will follow specifications and quantities specified in "Cost Estimate for Traffic Signal Replacement."**

e) **DESIGN SERVICE CAPACITIES: Through traffic of approximately 10,000 cars per day. This intersection services a major State Highway and a major county road. Estimated useful life of this project is 20 years.**

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2) COMPLETION SCHEDULE:

The Project, for which the provision of financial assistance is the subject of this Agreement, shall be pursued and completed in accordance with the following schedule:

<u>ACTIVITY</u>	<u>START DATE</u>	<u>COMPLETION DATE</u>
a) Final Design	03/01/90	12/01/90
b) Construction Bidding Process	03/15/91	04/30/91
c) Project Construction	06/30/91	12/30/91

NOTE: The information detailed in this Appendix A shall serve as the basis for Project monitoring purposes and for determining Project acceptance upon its completion. In the event that circumstances require a change in physical scope, such changes must be approved through the execution of a formal Amendment to this Project Agreement.

APPENDIX B

PROJECT ADMINISTRATION DESIGNATION

The Project Administration Designation required by Section 4(a) of this Agreement, and in accordance with the definitions set forth in Section 1 of this Agreement, for the sole purpose of administering the Project, as defined and described in Appendix A of this Agreement, under Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code is hereby established as follows:

The Recipient designates:

- 1.) Ralph R. Waszak, Sr., Mayor to act as the Chief Executive Officer;
- 2.) Eleanor Lukovics, Director of Finance to act as the Chief Fiscal Officer; and
- 3.) Larry Wilson, Service Director to act as the Project Manager.

NOTE: Upon any change in such a designation, the Recipient shall immediately provide written notification to the OPWC.

APPENDIX C

PROVISION OF FINANCIAL ASSISTANCE

As authorized by Section 2 of this Agreement for the sole and express purpose of financing the Project defined and described in Appendix A of this Agreement, the estimated costs of which are set forth and described in Appendix D of this Agreement, the OPWC hereby agrees to provide financial assistance, subject to the terms and conditions contained in this Agreement, from the Local Transportation Improvement Program Fund, moneys in an amount not to exceed **Sixty Thousand Dollars (\$60,000)**. This financial assistance shall be provided in the form of a grant.

APPENDIX D

LOCAL SUBDIVISION CONTRIBUTION, PROJECT FINANCING AND EXPENSES SCHEME AND DISBURSEMENT RATIO

1) LOCAL SUBDIVISION CONTRIBUTION: As required by Section 3 of this Agreement for the sole and express purpose of financing/reimbursing costs of the Project defined and described in Appendix A of this Agreement, the estimated costs of which are set forth and described in this Appendix D, the Recipient hereby designates its Local Subdivision Contribution as amounting to a minimum total value of **Sixteen Thousand Dollars (\$16,000)**, consisting of the sum of the amounts of Items 2(a)(i), 2(a)(ii) and 2(a)(iii) of this Appendix D.

2) PROJECT FINANCING AND EXPENSES SCHEME: The Recipient further designates the Project's financial resources and estimated costs certified to the OPWC under this Agreement for the Project as defined and described in Appendix A of this Agreement to consist of the following components:

a) PROJECT FINANCIAL RESOURCES:

i) Local In-kind Contributions	\$0
ii) Local Public Revenues	16,000
iii) Local Private Revenues	0
iv) Other Public Revenues:	
- ODOT	0
- CDBG	0
- Other _____	0
v) OPWC Funds:	60,000
TOTAL FINANCIAL RESOURCES	<u>\$76,000</u>

b) PROJECT ESTIMATED COSTS:

i) Project Engineering Costs:	
- Preliminary Engineering	\$3,000
- Final Design	3,000
- Construction Supervision	6,000
ii) Acquisition Expenses:	
- Land	0
- Right-of-Way	0
iii) Construction Costs	60,000
iv) Equipment Costs	0
v) Other Direct Expenses	0
vi) Contingencies	4,000
TOTAL ESTIMATED COSTS	<u>\$76,000</u>

c) PREPAID ITEMS: Those Project cost items included in Section 2(b) of this Appendix D that have already been paid for are identified as follows together with the financial resources category from Section 2(a) of this Appendix D from which they were paid:

	<u>COST ITEM</u>	<u>RESOURCE CATEGORY</u>	<u>COSTS</u>
i)	Proj Cost Engrg	Local Pub Revenues	\$12,000
ii)	0	0	0
iii)	0	0	0
TOTAL PREPAID ITEMS COSTS			\$12,000

d) DISBURSEMENT RATIO: As established in Section 4(b) of this Agreement, the Recipient shall compute the dollar amounts set forth in its Disbursement Requests, and the OPWC shall disburse financial assistance moneys provided under Section 2 and Appendix C of this Agreement, based upon the following Disbursement Ratio:

$$\text{DISBURSEMENT RATIO} = \frac{A}{B - C}$$

WHERE:

(A) = Financial Assistance Moneys as set forth originally at Section 1 of Appendix C;

(B) = Total Project Estimated Costs as set forth originally at Section 2(b) of Appendix D;

(C) = Total Prepaid Items Costs as set forth originally at Section 2(c) of this Appendix D;

$$\frac{60,000}{76,000 - 12,000}$$

Disbursement Ratio = 94 %

NOTE: The Disbursement Ratio is to be recognized as a tool of administrative convenience to the OPWC and the Recipient so as to allow for the reasonable sharing of Project cost coverage over the Project development period, and, as such, may change from time to time.

APPENDIX E DISBURSEMENT REQUEST FORM AND CERTIFICATION

DISBURSEMENT REQUEST NUMBER: _____

STATEMENT REQUESTING THE DISBURSEMENT OF FUNDS FROM THE LOCAL TRANSPORTATION IMPROVEMENT FUND PURSUANT TO SECTION 4 OF THE PROJECT AGREEMENT (the "Agreement") EXECUTED BETWEEN THE DIRECTOR OF THE OHIO PUBLIC WORKS COMMISSION (the "Director") AND Village of Richland, Summit County (the "Recipient"), DATED March 20th, 1991, FOR THE SOLE AND EXPRESS PURPOSE OF FINANCING THE CAPITAL IMPROVEMENT PROJECT DEFINED AND DESCRIBED IN APPENDIX A OF THE AGREEMENT (the "Project") AND NAMED AND NUMBERED AS Traffic Signal Replacement, CHB 10.

EXPENDITURES PROGRESS:	(1) <u>AS PER AGREEMENT</u>	(2) <u>PAID PRIOR TO THIS DRAW</u>	(3) <u>AS PART OF THIS DRAW</u>	(4) <u>PAID TO DATE (Column 2 + 3)</u>
A) Project Engineering Costs				
1) Preliminary Engineering	\$3,000	\$ _____	\$ _____	\$ _____
2) Final Design	3,000	\$ _____	\$ _____	\$ _____
3) Construction Supervision	6,000	\$ _____	\$ _____	\$ _____
B) Acquisition Expenses				
1) Land	0	\$ _____	\$ _____	\$ _____
2) Right-of-Way	0	\$ _____	\$ _____	\$ _____
C) Construction Costs	60,000	\$ _____	\$ _____	\$ _____
D) Equipment Costs	0	\$ _____	\$ _____	\$ _____
E) Other Direct Expenses	0	\$ _____	\$ _____	\$ _____
F) Contingencies	4,000	\$ N/A	\$ N/A	\$ N/A
G) Totals	\$76,000	\$ _____	\$ _____	\$ _____

FINANCING PROGRESS:	(1) <u>AS PER AGREEMENT</u>	(2) <u>USED PRIOR TO THIS DRAW</u>	(3) <u>AS PART OF THIS DRAW</u>	(4) <u>USED TO DATE (Column 2 + 3)</u>
H) OPWC Funds	\$60,000	\$ _____	\$ _____	\$ _____
I) Required Local Share				
1) In-kind Contributions	0	\$ _____	\$ _____	\$ _____
2) Public Revenues	16,000	\$ _____	\$ _____	\$ _____
3) Private Revenues	0	\$ _____	\$ _____	\$ _____
J) Total Required Local Share	\$16,000	\$ _____	\$ _____	\$ _____
K) Other Public Revenues				
1) ODOT	0	\$ _____	\$ _____	\$ _____
5) CDBG	0	\$ _____	\$ _____	\$ _____
6) Other _____	0	\$ _____	\$ _____	\$ _____
L) Total Other Public Revenues	\$0	\$ _____	\$ _____	\$ _____
M) Totals (H+J+L for each column)	\$76,000	\$ _____	\$ _____	\$ _____

[NOTE: Column totals for Line M must be equal to the column totals for Line G.]

OPWC FUNDS DISBURSEMENT PROGRESS:

Is this the final request for disbursement of OPWC funds? YES NO
 If the answer is YES, skip to the section entitled "FINAL DISBURSEMENT REQUEST".

N) Total project costs claimed as part of this draw (Total in G(3)) \$ _____
 O) Disbursement Ratio %
 P) Amount of OPWC funds hereby requested for Disbursement (N x O) (Becomes H(3)) \$ _____

FINAL DISBURSEMENT REQUEST:

Q) Total project costs claimed as part of this draw (Total in G(3)) \$ _____
 R) Total still owed toward Required Local Share (J(1) - J(2)) (Becomes J(3)) \$ _____
 S) Amount of OPWC funds hereby requested for Disbursement (Q - R) (Becomes H(3)) \$ _____

[NOTE: Total in H(4) (sum of H(2) + H(3)) may not exceed total in H(1) (refer to instructions).]

PROJECT MANAGER CERTIFICATION:

I hereby certify that the work items invoiced and included herein are exclusively associated with the Project, have been completed in a satisfactory manner, and are otherwise in accord with the terms and conditions of the Agreement. This request reflects project completion at an estimated _____%.

_____/_____/_____() _____
 Project Manager Date Phone

CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER CERTIFICATION:

Pursuant to Section 4(b) and 4(c) of the Agreement, the undersigned Chief Executive Officer and Chief Fiscal Officer of the Recipient, as both are designated in Appendix B of the Agreement, hereby request the Director to disburse financial assistance moneys made available to Project in Appendix C of the Agreement (inclusive of any amendment thereto) to the payee as identified below in the amount so indicated which amount equals the product of the Disbursement Ratio and the dollar value of the attached cost documentation which was properly billed to the Recipient in exclusive connection with the performance of the Project, or, in the case of a final disbursement request, the amount entered at Line S of this Appendix E. The undersigned further certify that:

- 1) Each item of project cost documentation attached hereto is properly payable out of the State Local Transportation Improvement Fund in accordance with the terms and conditions of the Agreement, and none of the items for which payment is requested has formed the basis of any payment heretofore made from the State Local Transportation Improvement Fund;
- 2) Each item for which payment is requested hereunder is or was necessary in connection with the performance of the project;
- 3) In the event that any of the money disbursed to the Recipient pursuant to this request is to be used to pay Project costs based on an invoice submitted by a contractor of which the Recipient's share is yet to be paid, the Recipient shall expend such money to pay such contractor for the Project costs within twenty-four (24) hours after receipt thereof. Recipient shall hold such money uninvested pending payment to the contractor;

4) This statement and attachments hereto shall be conclusive as evidence of the facts and statements set forth herein and shall constitute full warrant, protection, and authority to the Director for any actions taken pursuant hereto; and

5) This document evidences the approval of the undersigned Chief Executive Officer and Chief Fiscal Officer of each payment hereby requested and authorized.

IN WITNESS WHEREOF, the undersigned have executed this Disbursement Request Form and Certification as of this _____ day of _____, 19____.

Chief Fiscal Officer Phone: (____) _____ - _____

Chief Executive Officer

[NOTE: All signatures must be original and in ink.]

CONTRACTOR/VENDOR PAYEE IDENTIFICATION:

Set forth the appropriate portion(s) of this Disbursement Request amount (all or part of the amount from H(3)) that is to be paid to each of the contractors/vendors (or Subdivision) identified below, and as are supported through accompanying copies of invoices or other evidence of expense.

1) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY OPWC \$ _____
PAYEE: _____
Address: _____
Phone: (____) _____ - _____
Federal Tax ID #: _____

2) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY OPWC \$ _____
PAYEE: _____
Address: _____
Phone: (____) _____ - _____
Federal Tax ID #: _____

3) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY OPWC \$ _____
PAYEE: _____
Address: _____
Phone: (____) _____ - _____
Federal Tax ID #: _____