

CITY OF OBERLIN, OHIO

ORDINANCE NO. 17-46 AC CMS

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE DISTRICT 9 PUBLIC WORKS INTEGRATING COMMITTEE FOR OHIO PUBLIC WORKS COMMISSION FUNDING FOR THE OBERLIN-ELYRIA ROAD IMPROVEMENT PROJECT AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the City Manager is hereby authorized and directed to prepare and file an application with the District 9 Public Works Integrating Committee for Ohio Public Works Commission Round 32 funding for the following project:

Oberlin-Elyria Road Improvement Project

SECTION 2. That the City Manager is hereby authorized to accept said OPWC Round 32 funding if the application is approved.

SECTION 3. That the City of Oberlin hereby agrees that if said OPWC Round 32 project is funded, the City of Oberlin will provide local matching funds as designated in the application.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.


SECTION 5. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit: in order to allow for the filing of an Ohio Public Works Commission grant application in a timely manner”, and shall take effect immediately upon passage.

PASSED: 1st Reading: August 21, 2017 (E)

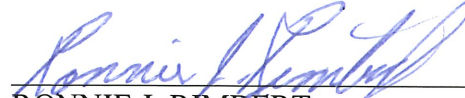
2nd Reading: _____

3rd Reading: _____

ATTEST:


BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL

POSTED: 08/22/2017


RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 08/21/2017

OHIO PUBLIC WORKS COMMISSION

PROJECT GRANT / LOAN AGREEMENT

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STATE CAPITAL IMPROVEMENT PROGRAM

Pursuant to Ohio Revised Code 164.05 and Ohio Administrative Code 164-1-21, this Project Grant/Loan Agreement (this "Agreement") is entered into **July 1, 2018** 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 **The City of Oberlin, Lorain County** (hereinafter referred to as the "Recipient"), located at **85 South Main Street, Oberlin, OH 44074**, in respect of the project named **Oberlin-Elyria Road Improvements**, and as described in Appendix A of this Agreement to provide an amount not to exceed **One Hundred Thirty-Nine Thousand, Six Hundred Four Dollars (\$139,604)** 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.

Subdivision Code: **093-57834**

OPWC Project Grant Control No. **CI15V**
OPWC Project Loan Control No. **CI16V**

WHEREAS, to implement the policies set forth in Section 2m, Article VIII of the Ohio Constitution, and in Chapter 164 of the Revised Code, the General Assembly, pursuant to Section 164.02 of the Revised Code, created the Ohio Public Works Commission;

WHEREAS, pursuant to Section 164.05 of the Revised Code, the Director of the OPWC is empowered to (i) enter into agreements with 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, Sections 164.05 and 164.06 of the Revised Code permit a grant of funds, or other forms of financial assistance, for such a Capital Improvement Project to be expended and 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 acquisition, construction, reconstruction, improvement, planning or equipping of the Capital Improvement Project (the "Project") described in Appendix A of this Agreement; and

WHEREAS, the Project has been duly recommended to the Director pursuant to Section 164.06 of the Revised Code by the District Public Works Integrating Committee of the Recipient;

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

SECTION I. 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 an other or different meaning or intent.

"Bond Counsel" means an attorney or firm of attorneys of nationally recognized standing on the subject of municipal bonds satisfactory to the Director.

"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, improvement, planning and equipping of roads and bridges, wastewater treatment facilities, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage and treatment facilities 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 single office or official of the Recipient designated in Appendix B pursuant to Section VI hereof, or his authorized designee as per written notification to the Director.

"Chief Fiscal Officer" means the single office or official of the Recipient designated in Appendix B pursuant to Section VI hereof, or his authorized designee as per written notification to the Director.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to a of the Code herein shall be deemed to include the United States Treasury Regulations in effect, whether temporary or final, with respect thereto and applicable to the Infrastructure Bonds or the use of the proceeds thereof.

"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.

"District Committees" means the District Public Works Integrating Committees and the Executive Committees created pursuant to Section 164.04 of the Revised Code, and District Subcommittees created pursuant to Section 164.06 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; the board of directors if a sanitary district; or the board of trustees if a regional water and sewer district.

"Local Subdivision" means any county, municipal corporation, township, sanitary district or regional water and sewer district of the State.

"Participation Percentages" means the percentage of the total actual project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the percentage of the total actual project costs that will be contributed by the Recipient. Both of the percentages are identified in Appendix D. In the event that the total actual project costs exceed the estimated project costs identified in Appendix D, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

"Private Business Use" means use (directly or indirectly) in a trade or business or activity carried on by any Private Person (other than a Tax-Exempt Organization) other than use as a member of, and on the same basis as, the general public.

"Private Person" means any person, firm, entity or individual who or which is other than a "governmental unit" as that term is used in Sections 141 and 148 of the Code.

"Project Manager" means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix B pursuant to Section VI hereof, or authorized designee as per written notification to the Director.

"Reimbursing" means the use of funds granted to the Recipient pursuant to Section 164.14 of the Revised Code as reimbursement to the Recipient for funds expended 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.

"Tax-Exempt Organization" means a "governmental unit," as such term is used in Sections 141 and 148 of the 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 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 "hereunder" means after, and the term "heretofore" means before the effective date of this Agreement.

SECTION II. Grant of Financial Assistance. Subject to the terms and conditions contained herein, the OPWC hereby grants to the Recipient financial assistance not to exceed the amount, as set forth in Appendix C of this Agreement 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.

SECTION III. Local Subdivision Contribution. The Recipient shall, at a minimum, contribute to the Project (the "Local Subdivision Contribution") the Local Subdivision Participation Percentage 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 IV. Notice to Proceed. Work shall not commence on this Project until the Director has issued a written Notice to Proceed to the Recipient. Such Notice will not be issued until the Director is assured that the Recipient has complied with the Recipient's responsibilities concerning OEPA plan approval, when applicable. A Notice to Proceed shall be required for all project prime contractors or direct procurement initiated by the Recipient following execution of this Agreement.

SECTION V. Project Schedule. Construction must begin within 30 days of the date set forth in Appendix A, Page 2, for the start of construction, or this Agreement may become null and void, at the sole discretion of the Director. However, the Recipient may apply to the Director in writing for an extension of the date to initiate construction. The Recipient shall specify the reasons for the delay in the start of construction and provide the Director with a new start of construction date. The Director will review such requests for extensions and may extend the start date, providing that the Project can be completed within a reasonable time frame.

SECTION VI. Disbursements. All payments made by the OPWC shall be made directly to the Contractor that performed the work and originated the invoice, unless the Recipient uses the reimbursement method.

- 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 in Appendix B of this Agreement. Changes in these designations must be made in writing.
- 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 a detailed project specific invoice to the Project Manager. 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 so certify in writing, forwarding such certification together with a 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 VI. B. The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage 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. 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 completed, 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 Office of Budget and Management, Ohio Shared Services, 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 or electronic funds transfer, 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 invoice 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, a bill of sale, paid invoice or other evidence satisfactory to the Director that payment of such sums has 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 Section VI. 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.

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

- C. Limitations on Use. No part of the moneys delivered to the Recipient pursuant to Section II hereof is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any part of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes unless prior approval by the Director is given.
- D. 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, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the OPWC Director for the execution of an amendment to this Agreement.
- E. Project Cost Overruns. In the event that the Recipient determines that the moneys granted pursuant to Section II hereof, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. The Recipient must demonstrate that such funding is necessary for the completion of the Project and 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. Should the District Committee approve such request the action shall be recorded in the District Committee's official meeting minutes and provided to the OPWC Director for the execution of an amendment to this Agreement.

SECTION VII. Retainage. Except as provided in the second sentence of this Section, Recipient shall comply in all aspects 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 the 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. The Recipient may use its legally applicable construction 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 Sections 153.12, 153.13, 153.14 and 153.63 of the Revised Code.

SECTION VIII. 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 pursuant to division (D) of Section 164.05 of the Revised Code and Rule 164-1-21 (B)(6) of the Administrative Code.
- 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 IX. Representations, Warranties and Covenants of Recipient. 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 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 Project.
 - 1. General. The Recipient shall not use the Project or suffer or permit the Project to be used for any Private Business Use. For purposes of the preceding sentence, use pursuant to a contract that satisfies the criteria of paragraphs 2 or 3 of this subsection shall not be regarded as a Private Business Use.
 - 2. Management Contracts. The Recipient agrees that from the date hereof until the date on which none of the Infrastructure Bonds, of which the proceeds were used to pay or reimburse the costs of the Project, remain outstanding (the "Agreement Term"):
 - a. The Recipient will not contract with any Private Person to manage the Project or any portion thereof unless all of the following conditions are met: (A) at least 50% of the compensation of the Private Person is based on a periodic, fixed fee that contains no incentive adjustments, and no amount of compensation is based on a share of net profits; (B) the compensation is reasonable in relation to the services performed; (C) the term of the contract does not exceed five (5) years (including any renewal option periods provided for in the contract); (D) if the term of the contract exceeds three (3) years, the Recipient is able to cancel the contract without penalty or cause at the end of each three-year period of the contract; (E) any automatic increases in the periodic, fixed fee may not exceed the percentage increases determined by an external standard set forth in the contract for computing increases; and (F) any new contract with a Private Person which is subject to this subparagraph F.2. will be subject to the requirements of (A) through (F) of this subparagraph F.2.a.; and
 - b. If the Recipient is subject to subparagraph F.2.a.above and it enters into contracts with Private Persons described in subparagraph F.2.a., and the Governing Body of the recipient numbers five (5) or more members, no more than one (1) member of the Governing Body of the Recipient may be an employee or member of the Governing Body of the Private Person. If the Governing Body of the Recipient numbers less than five (5), no member of the Governing Body of the Recipient may be an employee or member of the Governing Body of the Private Person. Similarly, if the Governing Body of the Private Person numbers five (5) or more members, no more than one (1) of those members may be an employee or member of the Governing Body of the Recipient. However, in no event may a member or employee of both the Recipient and Private Person be the Chief Executive Officer or its equivalent of the Recipient or the Private Person. Members of the Governing Body of the Recipient may not own a controlling interest in the Private Person.
 - 3. Contracts Concerning Use of Project. The Recipient agrees that during the Agreement Term it will not contract with any Private Person for use of the Project or any portion thereof or the facility or facilities of which the Project is a part for any Private Business Use unless all of the conditions of subparagraph F.3.a., subparagraph

F.3.b. or subparagraph F.3.c. are met:

- a. If the compensation of the Private Person is based entirely on a periodic, fixed fee that contains no incentive adjustments, all of the following conditions must be met: (A) no amount of compensation is based on a share of the net profits; (B) the compensation is reasonable; (C) the term of the contract does not exceed five (5) years (including any renewal option periods provided for in the contract); (D) if the term of the contract exceeds three (3) years, the Recipient is able to cancel the contract without penalty or cause at the end of each three-year period of the contract term; (E) any automatic increases in the periodic, fixed fee may not exceed the percentage increases determined by an external standard set forth in the standard for computing increases; and (F) any new contract with the Private Person which is subject to subparagraph F.3.a. will be subject to the requirements of (A) through (F) of this subparagraph; or
- b. Where the compensation of the Private Person is based in whole or in part on a percentage of gross income or other measure, all of the following conditions must be met: (A) no amount of compensation is based on a share of the net profits; (B) the compensation is reasonable; (C) the term of the contract does not exceed two (2) years; (D) the Recipient is able to cancel the contract without penalty or cause by giving the Private Person 90 days notice; (E) any automatic increases in that portion of the compensation that is a periodic, fixed fee may not exceed the percentage increases determined by an external standard set forth in the standard for computing increases; and (F) any new contract with the Private Person which is subject to subparagraph F.3.b. will be subject to the requirements of (A) through (F) of this subparagraph; and
- c. If the Recipient is subject to the subparagraphs F.3.a. or F.3.b. and it enters into contracts with Private Persons described in those subparagraphs and the Governing Body of the Recipient numbers five (5) or more members, no more than one (1) member of the Governing Body of the Recipient may be the Private Person referred to in subparagraphs F.3.a. or F.3.b., a related person (as described in Section 144(a)(3) of the Code), an employee of such Private Person, or a member of the Governing Body of such Private Person, provided such member is not the Chief Executive Officer or its equivalent of the Recipient. If the Governing Body or the Recipient numbers less than five (5) members, no member may be such Private Person or an employee of such Private Person or a member of its Governing Body.
- d. The Recipient may depart from any of its agreements contained in subparagraphs F.1. through F.3. if it delivers to the Director, at the Recipient's expense, an opinion of Bond Counsel that to do so would not adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director.

G. Use of Proceeds. With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section II hereof:

1. 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 Law;
2. All of the Project is owned, or will be owned, by the Recipient or another Tax-Exempt organization;
3. The Recipient shall not use any of the moneys to pay or reimburse the Recipient for the payment of or to refinance costs incurred in connection with the acquisition, construction, improvement and equipping of property that is used or will be used for any Private Business Use; and
4. The Recipient may depart from any of its agreement contained in subparagraph 3 if it delivers to the Director, at the Recipient's expense, an opinion of Bond Counsel that to do so would not adversely affect the exclusion

of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director.

- H. General Tax Covenant. The Recipient shall not take any action or fail to take any action which would adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes;
- I. Sufficiency of Moneys. The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to Section II of this Agreement to fund the Project to completion;
- J. Construction Contract.
1. Ohio Preference. 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 pursuant to Section 164.05(A)(6) of the Revised Code;
 2. Domestic Steel. The Recipient shall use and cause all of its Contractors and subcontractors to comply with domestic steel use requirements pursuant to Section 153.011 of the Ohio Revised Code;
 3. Prevailing Wage. The Recipient shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Revised Code Sections 164.07(B) and 4115.03 through 4115.16;
 4. Equal Employment Opportunity. The Recipient shall require all Contractors to secure a valid Certificate of Compliance;
 5. Construction Bonds. In accordance with 153.54, et. seq. of the Ohio Revised Code, the recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100 percent (100%) of its contract price as security for the faithful performance of its contract;
 6. Insurance. The Recipient shall require that each of its construction contractors and each subcontractor maintain during the life of its contract or subcontract appropriate Workers Compensation Insurance, Public Liability, Property Damage and Vehicle Liability Insurance; and
 7. Supervision. 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 bear the responsibility of ensuring that construction conforms to the approved surveys, plans, profiles, cross sections and specifications.
- K. Minority Business Enterprise. The Recipient shall comply with the minority business requirements pursuant to Section 164.07(A) of the Revised Code and rule 164-1-32 of the Administrative Code when making direct purchases of equipment, materials or supplies.

SECTION X. Progress Reports. The Recipient shall submit to the OPWC, at the OPWC's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the OPWC may reasonably require.

SECTION XI. Audit Rights. The Recipient shall, at all reasonable times, provide the Director access to 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 and

specific to 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 XII. 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 Matching Funds applicable to the Project.

SECTION XIII. 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 of the Project sufficient to impose upon the Director any of the obligations specified in Revised Code Section 126.30. Provided that the Recipient is not a Local Political Subdivision, the Recipient shall indemnify and hold harmless the Director, the OPWC, the State and their respective officers, directors, members, agents and employees from any and all liability arising out of or pursuant to this Agreement, the Recipient's use or application of the funds being provided by the OPWC hereunder and the Recipient's construction or management of the Project.

SECTION XIV. Termination. The OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the terms or conditions contained herein. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the 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 all of the Infrastructure Bonds, of which the proceeds were used to pay or reimburse the costs of the Project, have been retired.

SECTION XV. Governing Law. This Agreement shall be interpreted and construed in accordance with the laws of the State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be located in the courts of Franklin County, State of Ohio.

SECTION XVI. 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 XVII. Entire Agreement. This Agreement and its Appendices and Attachments attached hereto contain the entire understanding between the parties and supersede 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 XVIII. 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 XIX. 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 XX. No Waiver. If either party hereto at any time fails to require performance by the other of any provision of this Agreement, such failure in no way affects 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 XXI. Acceptance by Recipient. This Agreement must be signed by the Chief Executive Officer of the Recipient and returned to, and received by, the OPWC within forty-five (45) days of the date written on the first page of this Agreement. Failure of the Recipient to return a fully executed copy of this Agreement to the OPWC within the forty-five (45) day limit will result in this Agreement being declared null and void. However, upon the Recipient presenting the Director with a written explanation of the need to extend this forty-five (45) day limit, the Director, in his sole discretion, may extend the forty-five (45) day limit.

SECTION XXII. 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.

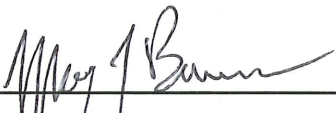
IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Project No. **CI15V/CI16V** as of the date first written above.

RECIPIENT



Rob Hillard, City Manager

The City of Oberlin
85 South Main Street
Oberlin, OH 44074



WITNESS

GRANTOR

STATE OF OHIO, OHIO PUBLIC WORKS COMMISSION

By: 

Michael Miller, Director

Ohio Public Works Commission
65 East State Street
Suite 312
Columbus, OH 43215



WITNESS

APPROVED
FINANCE & ADMINISTRATION


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: Oberlin-Elyria Road Improvements**
- b) **SPECIFIC LOCATION: This project is located at the terminus of the four lane route where US 20 becomes a two lane highway. This section of Oberlin-Elyria Road connects two township roads on the south side with Lorain County Route 231. Together these roads provide local access to Oberlin, New Russia Township, Carlisle Township and northeast to Elyria.**
- c) **PROJECT TYPE; MAJOR COMPONENTS: The project will consist of milling 2" of the existing asphalt pavement, followed by select pavement base repair, as required. This segment will be resurfaced with a 1 3/4" ODOT 448, Type 2 Leveling course, pavement overlay fabric and 1 1/2" ODOT 448 Type 1. The project will also include edge lines and asphalt berm repair. See engineer's estimate in project application for approved bid items and quantities.**
- d) **PHYSICAL DIMENSIONAL CHARACTERISTICS: The project length is 1,350' long x 25' wide.**

APPENDIX A

Page 2

2) PROJECT 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>
Final Design	02/05/2018	05/18/2018
Bidding Process	05/21/2018	07/02/2018
Construction	07/16/2018	09/28/2018

Construction must begin within 30 days of the date set forth herein for the start of construction, or this Agreement may become null and void, at the sole option of the Director. However, the Recipient may apply to the Director in writing for an extension of the date to initiate construction. The Recipient shall specify the reasons for the delay in the start of construction and provide the Director with a new start of construction date. The Director will review such requests for extensions and may extend the start date, providing that the Project can be completed within a reasonable time frame.

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 VI. A. of this Agreement, and in accordance with the definitions set forth in Section I 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.) **Rob Hillard/City Manager** to act as the Chief Executive Officer;
- 2.) **I. Salvatore Talarico/Finance Director** to act as the Chief Fiscal Officer; and
- 3.) **Jeff Baumann/Public Works Director** to act as the Project Manager.

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

APPENDIX C PROVISION OF FINANCIAL ASSISTANCE

GRANT

As authorized by Section II 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 State Capital Improvements Fund which constitutes the proceeds of the Infrastructure Bonds, in an amount not to exceed **Sixty-Nine Thousand, Eight Hundred Two Dollars (\$69,802)**. This financial assistance shall be provided in the form of a **Grant**. The OPWC Grant Control No. is **CI15V**.

Once this grant amount is fully expended, the loan amount, which is part of this Project Agreement, will be drawn on for disbursing the remaining OPWC obligations contained in this Agreement. An exception applies if the loan amount is necessitated for the local share. In which case, grant and loan assistance will be disbursed concurrently.

LOAN

Article 1.1. Determinations of Director. Pursuant to the Act and Section II of the Agreement and subject to the remaining terms and provisions of the Agreement and all Appendices thereto, the Director hereby determines that the financial assistance to be provided by the OPWC to the Recipient is in compliance with the Act and is provided to the Recipient for the sole and express purpose of financing the Eligible Project Cost and/or reimbursing the Recipient for such Eligible Project Cost.

Article 2.1. Definitions. All of the capitalized terms contained in this Appendix shall have the same meanings as defined in the Agreement unless otherwise defined herein and shall be in addition to any other terms defined herein:

- (a) "Agreement" means the Project Agreement by and between the OPWC and the Recipient and all appendices thereto which are attached to the Agreement and made a part thereof and incorporated by reference in this Appendix.
- (b) "Eligible Project Costs" means such portion of the Project costs disbursed and loaned from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs thereto.
- (c) "Project" means the Capital Improvement Project described in Appendix A of the Agreement.
- (d) "Repayment Amount" means the amount to be paid by the Recipient to the OPWC on each payment date of each year during the Term pursuant to the terms and conditions of the Note.
- (e) "Term" means the period in which the Agreement shall be in full force and effect, commencing on the date hereof and continuing until the next January 1 or July 1 following completion of construction of the Project or until the January 1 or July 1 following the day in which the obligations of the Recipient hereunder have been fully satisfied, whichever date is later.
- (f) "Note" means the promissory note provided to the Chief Financial Officer of record.
- (g) "Utility" means the Project if the Project is or upon completion of construction of the Project, will be a facility which generates revenues from fees, charges or taxes associated with the use of the facility.

Article 3.1. The Loan. On the terms and conditions of the Agreement which are incorporated herein and made a part hereof, the OPWC shall lend to Recipient and Recipient shall borrow from the OPWC an amount not to exceed **Sixty-Nine Thousand, Eight Hundred Two Dollars (\$69,802)**, the proceeds of which shall be utilized solely to finance the Eligible Project Costs and/or reimburse the Recipient for its advance payment of such Eligible Project Costs (the "Loan"). The Loan shall be disbursed by the OPWC to the Recipient pursuant to Section VI of the Agreement. The terms of repayment of the Loan shall be as set forth in the Note and Recipient shall make all payments required to be made under the Note as and when due.

Article 3.2. In the event the Project to be constructed hereunder is or will be a Utility, the Recipient hereby agrees to the following:

- (a) It shall at all times prescribe and charge such rates, fees, charges or taxes as shall result in revenues at least adequate to meet operation, maintenance and all expenses of the Utility and the payment of all amounts required by the Note;
- (b) It shall permit any authorized agent of the OPWC to inspect all records, accounts and data of the Utility at any reasonable time; and
- (c) It shall segregate the revenues, funds, properties, costs and expenses of the Utility from all other revenues, funds properties, costs and expenses of the Recipient.

Article 3.3. The Recipient shall pay to the OPWC an amount equal to the Repayment Amount as and when due as provided in the Note from (i) any source of revenues of the Recipient, or (ii) in the event the Project is or will be a Utility, the Recipient shall make such payments from the revenues of such Utility; provided, however, that if otherwise lawful, nothing herein shall be deemed to prohibit the Recipient from using, of its own volition, any of its general revenues or other revenue sources for such payments. The obligation of the Recipient to pay the Repayment Amount shall not be assignable, and the Recipient shall not be discharged therefrom, without the prior written consent of the OPWC. During the first fifteen (15) days of May and November of each year during the Term, the OPWC shall invoice the Recipient for the sum due and owing the OPWC and the payment of each such invoice shall be made by the Recipient to the OPWC not later than the first day of July or the last business day of January. The Director at his sole discretion may adjust repayment schedules based on the administrative needs of the Lender. Any failure of the OPWC to invoice the Recipient shall not otherwise release the Recipient from its obligations to pay the Repayment Amount as and when due or otherwise fulfilling its obligations hereunder.

Article 3.4. The Recipient shall pay the Local Subdivision Contribution as provided in Section VIII of the Agreement and Appendix D. If the Term commences prior to the determination of the final costs of the Project, the Repayment Amount and the Local Subdivision Contribution shall be based upon the best figures available at the time of execution of the Agreement or as amended from time to time. When such final costs of the Project are greater than or less than the estimated costs of the Project as set forth in Appendix D, the amount of the Loan and the Note shall be adjusted in accordance with the terms and conditions of the Note and the Local Subdivision Contribution shall be paid in full by the Recipient as and when due.

Article 3.5. In the event the final costs of the Project are greater than the estimated costs of the Project, the Recipient's Local Subdivision Contribution shall be increased by an amount equal to the difference between the final cost of the Project and the estimated cost of the Project.

Article 3.6. Subject to the terms and conditions of the Agreement, the Eligible Project Costs shall be paid by the OPWC not to exceed the amount established in the Agreement. In the event the Agreement is terminated by the OPWC pursuant to, but not in breach of, the provisions of the Agreement, or by subsequent agreement of the parties, or in the event the Agreement is terminated by the Recipient, whether or not in breach of the Agreement, the Eligible Project Costs incurred in connection with the construction of the Project shall be paid by the Recipient and the OPWC shall be released from paying the Eligible Project Cost. Any moneys paid to the OPWC by the Recipient under the provisions of this Section shall be repaid in not more than one (1) year after termination with interest on the remaining balances at the Default Interest Rate.

Article 3.7. Prior to the disbursement of the Loan, the Recipient shall demonstrate to the satisfaction of the Director the capability of the Recipient to pay the Repayment Amount and the Local Subdivision Contribution. The Director may withhold any disbursement during the Term if he reasonably believes that the Recipient is unable to pay the Repayment Amount or its Local Subdivision Contribution as and when due.

Article 3.8. Upon completion of the Project, the Recipient shall make a full and complete accounting to the OPWC of the Eligible Project Cost.

Article 3.9. If prior to the completion of the Term the Project shall be damaged or partially or totally destroyed by fire, flood, windstorm or other casualty, there shall be no abatement or reduction of the Repayment Amount or the Local Subdivision Contribution payable by the Recipient pursuant to Article 3.2 hereof, and the Recipient shall at its cost and expense (i) promptly repair, rebuild or restore the property damaged or destroyed in substantially the same condition before such damage or destruction, and (ii) apply for any proceeds from insurance policies for claims for such losses as well as utilizing any additional moneys of the Recipient to repair, rebuild and restore the Project.

Article 3.10. In the event that title to or the temporary use of the Project, or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, there shall be no abatement or reduction in the amount of the Repayment Amount or the Local Subdivision Contribution payable by the Recipient, and any net proceeds received from any award made in such eminent domain proceedings shall be paid to and held by the Recipient in a separate condemnation award account and shall be applied by the Recipient in either or both the following ways as shall be determined by the Recipient:

- (a) The restoration of the improvements located on the Project Site to substantially the same condition as they existed prior to the exercise of said power of eminent domain; or
- (b) The acquisition of additional real estate, if necessary, and facilities, by construction or otherwise, equivalent to the Project, which real estate and facilities shall be deemed a part of the Project without the payment of any amounts other than herein provided, to the same extent as if such real estate and facilities were specifically described herein.

Any balance of the net proceeds of the award in such eminent domain proceedings shall be paid to the Recipient upon delivery to the OPWC of a certificate signed by the Chief Executive Officer of the Recipient that the Recipient has complied with either paragraph (a) or (b), or both, of this Section. The OPWC shall cooperate fully with the Recipient in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof. In no event will the Recipient voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the OPWC.

Article 3.11. The Recipient agrees that each of the following shall be an event of default ("Event of Default") under this Agreement:

- (a) The Recipient shall fail to make any payment to the OPWC of the Repayment Amount required as and when due under the Note and/or the Recipient fails to pay its Local Subdivision Contribution.
- (b) The Recipient shall fail to observe and perform any obligations, agreements or provisions of the Agreement and all Appendices thereto, which failure shall continue for thirty (30) days after receipt of written notice thereof from the OPWC.

Article 3.12. Whenever an Event of Default shall have happened and be subsisting, in addition to any other rights or remedies provided herein, the Note, by law or otherwise:

- (a) The amount of such default, in the event the Recipient defaults on the Repayment Amount, shall bear interest at eight percent (8%) per annum ("Default Interest Rate"), from the date of the default until the date of the payment thereof, and all the costs incurred by the OPWC in curing such default including, but not limited to, court costs all other reasonable costs and expenses (including reasonable attorney's fees) shall be repaid by the Recipient to the OPWC as a part of the Repayment Amount.
- (b) The Director may in his sole and complete discretion and in accordance with Section 164.05 of the Revised Code, direct the county treasurer of the county in which the Recipient is located to pay the amount of any default hereunder from the funds which would otherwise be appropriated to the Recipient from such county's undivided local government fund pursuant to Sections 5747.51 to 5747.53 of the Revised Code.
- (c) The OPWC shall be released from any and all obligations to Recipient hereunder.
- (d) The entire principal amount of the Loan then remaining unpaid, together with all accrued interests and other charges shall, at the OPWC's option, become immediately due and payable.

Article 3.13. No right or remedy conferred upon the OPWC under Article 6.3 hereof is intended to be exclusive of any other right or remedy given herein, by law or otherwise. Each right or remedy shall be cumulative and shall be in addition to every other remedy given herein, by law or otherwise.

Article 3.14. Notwithstanding any provision contained in this Appendix, the promissory note, or any other provision of this Agreement, should the Repayment Amount equal \$5,000 or less, it shall be paid to the OPWC in two equal payments according to the invoice schedule established in Article 3.3.

Joint Funded Project with the Ohio Department of Transportation

In the event that the Recipient does not have contracting authority over project engineering, construction, or right-of-way, the Recipient and the OPWC hereby assign certain responsibilities to the Ohio Department of Transportation, an authorized representative of the State of Ohio. Notwithstanding Sections IV, VI.A., VI.B., VI.C., and VII of the Project Agreement, Recipient hereby acknowledges that upon notification by the Ohio Department of Transportation, all payments for eligible project costs will be disbursed by the Grantor directly to the Ohio Department of Transportation. A Memorandum of Funds issued by the Ohio Department of Transportation shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the Ohio Department of Transportation, the OPWC shall transfer funds directly to the Ohio Department of Transportation via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix D to those eligible project costs within the Memorandum of Funds. In the event that the Project Scope is for right-of-way only, notwithstanding Appendix D, the OPWC shall pay for 100% of the right-of-way costs not to exceed the total financial assistance provided in this Appendix.

APPENDIX D

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

1) OPWC/LOCAL SUBDIVISION PARTICIPATION PERCENTAGES: 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 Percentage Contribution as amounting to a minimum total value of **26%** of the total Project Cost. The OPWC participation percentage shall be **74%**. However, in the event of a cost over-run, the maximum OPWC dollar contribution shall not exceed the amount identified in Appendix C.

2) PROJECT FINANCING AND EXPENSES SCHEME: The Recipient further designates the Project's estimated 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	\$7,080
ii) Local Public Revenues	\$41,970
iii) Local Private Revenues	\$0
iv) Other Public Revenues:	
- ODOT/FHWA	\$0
- OEPA	\$0
- OWDA	\$0
- CDBG	\$0
- Other _____	\$0

SUBTOTAL	<u>\$49,050</u>
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v) OPWC Funds:

- Grant	\$69,802
- Loan	\$69,802

SUBTOTAL	<u>\$139,604</u>
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TOTAL FINANCIAL RESOURCES	<u>\$188,654</u>
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b) PROJECT ESTIMATED COSTS:

i) Project Engineering Costs:	
- Preliminary Engineering	\$1,249
- Final Design	\$5,830
- Construction Administration	\$9,995
ii) Right-of-Way	\$0
iii) Construction Costs	\$166,583
iv) Materials Purchased Directly	\$0
v) Permits, Advertising, Legal	\$0
vi) Construction Contingencies	<u>\$4,997</u>

TOTAL ESTIMATED COSTS	<u>\$188,654</u>
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OHIO PUBLIC WORKS COMMISSION
APPENDIX E - DISBURSEMENT REQUEST FORM AND CERTIFICATION

DISBURSEMENT REQUEST NUMBER: _____

Statement requesting the disbursement of funds from the OPWC pursuant to Section VI of the Project Agreement (the "Agreement") executed between the Director of the Ohio Public Works Commission (the "Director") and **The City of Oberlin, (093-57834), Lorain County** (the "Recipient"), dated **July 1, 2018**, 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 **Oberlin-Elyria Road Improvements, CI15V/CI16V**.

EXPENDITURES PROGRESS:	(1) AS PER <u>AGREEMENT</u>	(2) PRIOR <u>DISBURSED</u>	(3) AS PART OF <u>THIS DRAW</u>	(4) PAID TO DATE <u>(Column 2 + 3)</u>
A) Project Engineering Costs				
1) Preliminary Engineering	\$1,249	\$ _____	\$ _____	\$ _____
2) Final Design	\$5,830	\$ _____	\$ _____	\$ _____
3) Construction Administration	\$9,995	\$ _____	\$ _____	\$ _____
B) Right-of-Way	\$0	\$ _____	\$ _____	\$ _____
C) Construction Costs	\$166,583	\$ _____	\$ _____	\$ _____
D) Materials Purchased Directly	\$0	\$ _____	\$ _____	\$ _____
E) Permits, Advertising, Legal	\$0	\$ _____	\$ _____	\$ _____
F) Construction Contingencies	\$4,997	\$ N/A	\$ N/A	\$ N/A
G) Totals	\$188,654	\$ _____	\$ _____	\$ _____

FINANCING PROGRESS:	(1) AS PER <u>AGREEMENT</u>	(2) PRIOR <u>DISBURSED</u>	(3) AS PART OF <u>THIS DRAW</u>	(4) USED TO DATE <u>(Column 2 + 3)</u>
H) OPWC Funds	\$139,604	\$ _____	\$ _____	\$ _____
I) Local Share				
1) In-kind Contributions	\$7,080	\$ _____	\$ _____	\$ _____
2) Public Revenues	\$41,970	\$ _____	\$ _____	\$ _____
3) Private Revenues	\$0	\$ _____	\$ _____	\$ _____
J) Other Public Revenues				
1) ODOT/FHWA	\$0	\$ _____	\$ _____	\$ _____
2) OEPA	\$0	\$ _____	\$ _____	\$ _____
3) OWDA	\$0	\$ _____	\$ _____	\$ _____
4) CDBG	\$0	\$ _____	\$ _____	\$ _____
5) Other _____	\$0	\$ _____	\$ _____	\$ _____
K) Total Local and Other Public Revenues	\$49,050	\$ _____	\$ _____	\$ _____
L) Totals (H+K for each column)	\$188,654	\$ _____	\$ _____	\$ _____

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

Disbursement Request # _____

Is this the final request for disbursement of OPWC funds? YES NO

If the answer is YES or if this disbursement uses the remainder of your OPWC assistance, your project file will be closed upon processing this request. As described in Appendix D of the Project Agreement, your minimum Percentage Contribution is 26% of the total project cost.

AUTHORIZED CERTIFICATIONS

Changes to project officials must be submitted in writing.

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 _____%.

Jeff Baumann/Public Works Director

_____/_____/_____
Date

() -
Phone

CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER CERTIFICATION:

Pursuant to Section VI. B. and VI. 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. The undersigned further certify that:

- 1) Each item of project cost documentation attached hereto is properly payable by the OPWC 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 OPWC;
- 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 _____, 20____.

I. Salvatore Talarico/Finance Director

CFO Phone: () - _____

Rob Hillard/City Manager

Subdivision Name: The City of Oberlin Lorain County
Project Name: Oberlin-Elyria Road Improvements
OPWC Control No.: CI15V/CI16V
Project Manager: Jeff Baumann/Public Works Director

Disbursement Request # _____

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 the OPWC \$ _____

PAYEE:

Address:

Phone:

Federal Tax ID #:

2) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC \$ _____

PAYEE:

Address:

Phone:

Federal Tax ID #:

3) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC \$ _____

PAYEE:

Address:

Phone:

Federal Tax ID #:

4) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC \$ _____

PAYEE:

Address:

Phone:

Federal Tax ID #:

OPWC Use Only

Accounting: _____

Approval by: _____

Auditor: _____

Date: ____/____/____