

OHIO PUBLIC WORKS COMMISSION

PROJECT GRANT / LOAN AGREEMENT

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, 2014** 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 **Montgomery County, Montgomery County** (hereinafter referred to as the "Recipient"), located at **451 West Third Street, Dayton, OH 45422-1260**, in respect of the project named **Woodland Hills Phase I Water Main & Street Improvements**, and as described in Appendix A of this Agreement to provide an amount not to exceed **Nine Hundred Eighty-Five Thousand Dollars (\$985,000)** 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.

Subdivision Code: **113-00113**

OPWC Project Grant Control No. **CD35R**
OPWC Project Loan Control No. **CD36R**

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 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 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 6 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 6 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 section 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 6 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 2. 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 3. 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 4. 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 5. 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 6. Disbursements. All payments made by the OPWC shall be made directly to the Contractor that performed the work and originated the invoice, unless the OPWC expressly authorizes the 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 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 6(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 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 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:

- (i) 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;
- (ii) If the request is for disbursement to the Recipient pursuant to Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative Code, 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;
- (iii) The Project Manager's certification pursuant to Section 6(b) of this Agreement;
- (iv) 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
- (v) 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 2 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 2 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 7. 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 8. 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 9. 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.

(i) 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 (ii) or (iii) of this subsection shall not be regarded as a Private Business Use.

(ii) 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"):

(1) 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)(ii) will be subject to the requirements of (A) through (F) of this subparagraph (f)(ii)(1); and

(2) If the Recipient is subject to subparagraph (f)(ii)(1) above and it enters into contracts with Private Persons described in subparagraph (f)(ii)(1), 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.

(iii) 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)(iii)(1), subparagraph (f)(iii)(2) or subparagraph (f)(iii)(3) are met:

(1) 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)(iii)(1) will be subject to the requirements of (A) through (F) of this subparagraph; or

(2) 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)(iii)(2) will be subject to the requirements of (A) through (F) of this subparagraph; and

(3) If the Recipient is subject to the subparagraphs (f)(iii)(1) or (f)(iii)(2) 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)(iii)(1) or (f)(iii)(2), 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.

(iv) The Recipient may depart from any of its agreements contained in subparagraphs (f)(i) through (f)(iii) 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 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 Law;

(ii) All of the Project is owned, or will be owned, by the Recipient or another Tax-Exempt organization;

(iii) 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

(iv) The Recipient may depart from any of its agreement contained in subparagraph (iii) 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 2 of this Agreement to fund the Project to completion;

(j) Ohio Preference. 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;

(k) Equal Employment Opportunity. Recipient shall, and shall require that all contractors and subcontractors working on the Project, comply with the equal employment opportunity requirements contained in Section 164.07(A) of the Revised Code and rule 164-1-32 of the Administrative Code;

(l) Prevailing Wage. The Recipient shall comply and 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), 4115.03 through 4115.16; and

(m) Construction Bonds, Insurance and Supervision.

(i) 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.

(ii) 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.

(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 10. 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 11. 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 12. 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 13. 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, good, 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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. **CD35R/CD36R** as of the date first written above.

RECIPIENT

GRANTOR

STATE OF OHIO, OHIO PUBLIC WORKS COMMISSION

Joseph Tuss, Administrator

By: _____
Michael Miller, Director

Montgomery County
451 West Third Street
Dayton, OH 45422-

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: Woodland Hills Phase I Water Main & Street Improvements**

b) **SPECIFIC LOCATION: The project is located in Montgomery County and Harrison Township. The project is located from I-75 east to Webster Street; From Timer Lane south to Keenan Avenue. Roads included in the project include Timber Lane (2,625'), Keenan Avenue (2,500'), Coronette Avenue (2,787') and Woodland Hills Boulevard (3,150'). The water main replacement includes the full length of the streets within the boundaries.**

(Project Location Zip Code - 45414-)

c) **PROJECT TYPE; MAJOR COMPONENTS: The project will include road resurfacing of milling off 1.5" of old asphalt and replacing with new 1.5" asphalt on Keenan, Woodland Hills and Coronette. The water main work will include 48 six inch and eight inch valves; 24 fire hydrants; 216 service taps, 5,499' of 8" DI water main replacement; 5,802' of 12" DI water main replacement; 13,175' of asphalt restoration of trench. See engineer's estimate in project application for approved bid items and quantities.**

d) **PHYSICAL DIMENSIONAL CHARACTERISTICS: The existing facility consists of approximately 5,499 feet of 6" or 8" cast iron water main with appurtenances. The project is to replace all 6" and 8" water mains on two streets with 8" ductile cast iron. Keenan and Timber lane have approximately 5,820' of 10" cast iron water main with appurtenances. The project is to replace the 10" main with 12" ductile cast iron main.**

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	03/01/2014	01/01/2015
Bidding Process	02/01/2015	03/20/2015
Construction	04/01/2015	05/31/2016

NOTE: 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 6(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.) **Joseph Tuss/Administrator** to act as the Chief Executive Officer;
- 2.) **Vijay Chitkara/Finance Director** to act as the Chief Fiscal Officer; and
- 3.) **Edward Schlaack, P.E./Engineer** 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

GRANT

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 State Capital Improvements Fund which constitutes the proceeds of the Infrastructure Bonds, in an amount not to exceed **Four Hundred Ninety-Two Thousand, Five Hundred Dollars (\$492,500)**. This financial assistance shall be provided in the form of a **Grant**. **The OPWC Grant Control No. is CD35R.**

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 2 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 attached hereto and made a part hereof as Appendix C-1.
- (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 **Four Hundred Ninety-Two Thousand, Five Hundred Dollars (\$492,500)**, 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 6 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 8 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 all Appendices thereto, which failure shall continue for thirty (30) days after receipt of written notice thereof from the OPWC.
- (c) Any representations made by the Recipient in Section 9.1 shall at any time during the Term prove to be false.

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 4, 6(a), 6(b), 6(c), and 7 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 C-1

PROMISSORY NOTE

\$492,500

**Montgomery County
CD36R**

July 1, 2014

FOR VALUE RECEIVED, the undersigned (the "Recipient") promises to pay to the order of the Ohio Public Works Commission (hereinafter the "Lender," which term shall include any holder hereof), at its office located at **65 E. State Street, Suite 312, Columbus, OH 43215**, or at such other place as the holder hereof may, from time to time, designate in writing, the principal sum of **Four Hundred Ninety-Two Thousand, Five Hundred Dollars (US\$492,500)**, or so much thereof as shall be advanced by Lender and remain unpaid, together with all costs herein provided and interest from the first day in January or July following project completion and thereon until said amounts have been paid in full at a rate equal to **Zero** percent (**0.00%**) per annum, or the "Default Rate" (as hereinafter defined), as the case may be.

Principal and interest due under this Note shall be payable as follows:

The first payment due hereunder shall be made on the last business day in January or the first day in July following the date of project completion, whichever date first occurs, which date shall be referred to herein as the "Initial Payment Date."

After the Initial Payment Date, principal and interest shall be due and payable in equal consecutive semi-annual installments commencing on the last business day in January or July 1 following the Initial Payment Date (the "Second Payment Date") and continuing on the last business day in January and July 1 thereafter until maturity. Subject to adjustment as provided herein, the amount of each such semi-annual installment of principal and interest shall be the amount which would fully amortize the unpaid principal balance of the indebtedness evidenced by this Note as of the Second Payment Date, such amortization to be based upon (i) an amortization period of **Twenty** years (**20**) commencing on the Second Payment date, except for a zero (0) percent loan which would commence on the Initial Payment Date and (ii) interest being calculated on the basis of thirty (30) day calendar months in a 360 day year; provided that in the event the Lender makes additional disbursements following the Second Payment Date, the amount of the semi-annual installments of principal and interest required hereunder shall be increased to the amount it would take to fully amortize this Note based upon (i) the new principal balance and (ii) the above-referenced amortization period, less the number of years (or parts thereof) which have elapsed since the Second Payment Date. The unpaid principal sum of this Note and all accrued and unpaid interest and other charges hereunder shall be payable in full on the Maturity Date which would be either the last business day in January or July 1 following the loan term. The Recipient acknowledges that if the semi-annual payments set forth above do not fully amortize this Note, the payment due on the Maturity Date will be a balloon payment, consisting of (i) all accrued and unpaid interest and other charges and (ii) the entire unpaid principal balance hereof.

If Recipient shall fail to make any payment hereunder when due, and the same is not corrected within thirty (30) days, then the amount of such default shall bear interest thereafter at the rate of eight percent (8%) per annum (the "Default Rate") from the date of the default until the date of the payment thereof, and the entire principal hereof then remaining unpaid, together with all accrued interest and other charges, shall, at the Lender's option, become immediately due and payable and/or the Lender by and through its Director may, in the Director's sole and complete discretion and in accordance with Section 164.05 of the Ohio Revised Code, direct the county treasurer of the county in which the Recipient is located to pay the amount due hereunder from funds which would otherwise be appropriated to the Recipient from such county's undivided local government fund pursuant to Section 5747.51 to 5747.53 of the Revised Code. The Lender may exercise this option to direct the county treasurer to pay the amount due from the local government fund without any notice or demand during any default by Recipient regardless of any prior forbearance. The lender shall be entitled to collect all costs incurred by the Lender in curing such default, including, but not limited to court costs and reasonable attorney fees from a suit brought to collect this Note. In addition, if the Lender exercises its option to direct the county treasurer to pay the amount due from the local government fund, the Lender shall be entitled to collect all reasonable costs and expenses of any efforts by the Lender to collect the amount due from the

local government fund, including but not limited to reasonable attorneys' fees. Lender may, at its option, delay in or refrain from exercising some or all of its rights and remedies without prejudice thereto and regardless of any prior forbearance.

The Recipient and any endorser, guarantor and surety now or hereafter liable for the payment of the principal or interest due on this Note, or any part thereof, does hereby expressly agree that any renewal, extension or modification of the terms of the Project Agreement including the terms or the time for the payment of any part of this Note may be made or extended without notice and without releasing or otherwise affecting liability of said parties on this Note.

NOTE: If a project completion report is not received within sixty (60) days from the estimated project completion date the project may be terminated at the sole discretion of the Director. Upon notification of termination a revised amortization schedule will be provided based on the actual amount of OPWC financial assistance borrowed. After project termination no further disbursement activity will be allowed.

The waiver by Lender or failure to enforce any other term, covenant or condition of this Note, or the Project Agreement and all appendices thereto or to declare any default hereunder or thereunder, shall not operate as a waiver of any subsequent default or affect the right of Lender to exercise any right or remedy not expressly waived in writing by Lender. The unenforceability or invalidity of any one or more provisions of this Note shall not render any other provision herein contained unenforceable or invalid.

This Note and all of the Project Agreement and all Appendices thereto have been executed and delivered in the State of Ohio and shall be governed by and construed in accordance with the laws of the State of Ohio. Any notice to the Recipient provided for in this Note shall be given by mailing such notice by certified mail, addressed to the Recipient at the following address: **451 West Third Street , Dayton, OH 45422-1260**. Any notice to the Lender shall be given by mailing such notice by certified mail, return receipt requested, to the Lender at the address of the Lender as may have been otherwise designated by notice to the Recipient.

This Note was executed in **Montgomery** County, Ohio. The Recipient represents that it has received all of the necessary approvals from its legislative or authorizing body to execute and deliver this Note to the Lender.

By: _____
Vijay Chitkara/Finance Director
Montgomery County, Ohio

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 **60%** percent of the total Project Cost. The OPWC participation percentage shall be **40%** percent. 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) <u>PROJECT FINANCIAL RESOURCES:</u>	
i) Local In-kind Contributions	\$0
ii) Local Public Revenues	\$1,462,063
iii) Local Private Revenues	\$0
iv) Other Public Revenues:	
- ODOT/FHWA	\$0
- OEPA	\$0
- OWDA	\$0
- CDBG	\$0
- Other _____	<u>\$14,927</u>
 SUBTOTAL	 <u>\$1,476,990</u>
 v) OPWC Funds:	
- Grant	\$492,500
- Loan	\$492,500
 SUBTOTAL	 <u>\$985,000</u>
 TOTAL FINANCIAL RESOURCES	 <u>\$2,461,990</u>
 b) <u>PROJECT ESTIMATED COSTS:</u>	
i) Project Engineering Costs:	
- Preliminary Engineering	\$0
- Final Design	\$180,000
- Construction Administration	\$3,800
ii) Right-of-Way	\$0
iii) Construction Costs	\$2,112,190
iv) Materials Purchased Directly	\$0
v) Permits, Advertising, Legal	\$1,000
vi) Construction Contingencies	\$165,000
 TOTAL ESTIMATED COSTS	 <u>\$2,461,990</u>

**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 6 of the Project Agreement (the "Agreement") executed between the Director of the Ohio Public Works Commission (the "Director") and **Montgomery County, (113-00113), Montgomery County** (the "Recipient"), dated **July 1, 2014**, 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 **Woodland Hills Phase I Water Main & Street Improvements, CD35R/CD36R**.

EXPENDITURES PROGRESS:

	(1) AS PER <u>AGREEMENT</u>	(2) PAID PRIOR <u>TO THIS DRAW</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	\$0	\$ _____	\$ _____	\$ _____
2) Final Design	\$180,000	\$ _____	\$ _____	\$ _____
3) Construction Administration	\$3,800	\$ _____	\$ _____	\$ _____
B) Right-of-Way	\$0	\$ _____	\$ _____	\$ _____
C) Construction Costs	\$2,112,190	\$ _____	\$ _____	\$ _____
D) Materials Purchased Directly	\$0	\$ _____	\$ _____	\$ _____
E) Permits, Advertising, Legal	\$1,000	\$ _____	\$ _____	\$ _____
F) Construction Contingencies	\$165,000	\$ N/A	\$ N/A	\$ N/A
G) Totals	\$2,461,990	\$ _____	\$ _____	\$ _____

FINANCING PROGRESS:

	(1) AS PER <u>AGREEMENT</u>	(2) USED PRIOR <u>TO THIS DRAW</u>	(3) AS PART OF <u>THIS DRAW</u>	(4) USED TO DATE <u>(Column 2 + 3)</u>
H) OPWC Funds	\$985,000	\$ _____	\$ _____	\$ _____
I) Local Share				
1) In-kind Contributions	\$0	\$ _____	\$ _____	\$ _____
2) Public Revenues	\$1,462,063	\$ _____	\$ _____	\$ _____
3) Private Revenues	\$0	\$ _____	\$ _____	\$ _____
J) Other Public Revenues				
1) ODOT/FHWA	\$0	\$ _____	\$ _____	\$ _____
2) OEPA	\$0	\$ _____	\$ _____	\$ _____
3) OWDA	\$0	\$ _____	\$ _____	\$ _____
4) CDBG	\$0	\$ _____	\$ _____	\$ _____
5) Other _____	\$14,927	\$ _____	\$ _____	\$ _____
K) Total Local and Other Public Revenues	\$1,476,990	\$ _____	\$ _____	\$ _____
L) Totals (H+K for each column)	\$2,461,990	\$ _____	\$ _____	\$ _____

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

Subdivision Name: Montgomery County Montgomery County
Project Name: Woodland Hills Phase I Water Main & Street Improvements
OPWC Control No.: CD35R/CD36R
Project Manager: Edward Schlaack, P.E./Engineer

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: _____ (initial)
Approval by: _____ (signature)	Auditor: _____ (initial)
Date: ____/____/____	



The Ohio Public Works Commission
65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
<i>Commissioners</i>	Janine Conrad Alan Ross	Lonnie Miles Tom Waniewski	William Morgan Dave Wondolowski

July 1, 2014

Joseph Tuss
Administrator
Montgomery County
451 West Third Street
Dayton, OH 45422-

Re: Project No. CD35R/CD36R

Dear Mr. Tuss:

Your request for financial assistance has been approved for the project entitled Woodland Hills Phase I Water Main & Street Improvements in the amount of \$985,000. The enclosed Project Agreement defines your responsibilities in accepting this financial assistance. Please adhere to the following:

- Review the document carefully to be sure you understand your responsibilities and to check that it accurately describes your project. If there are errors or information please contact us.
- Changes to officers may be noted in a transmittal letter.
- Do not separate the pages of the Agreement.
- Sign both copies of the Agreement and have your signature witnessed.
- Have the promissory note, Appendix C-1 of the Agreement, signed by the Chief Fiscal Officer.
- Return one copy of the Agreement to us and retain one for your records.
- Use the above referenced project number in your correspondence with our office as it will help expedite our ability to respond.

Do not proceed with construction or purchase of materials until the following has been completed:

- Return one executed copy of the Agreement.
- Prepare and forward a Request to Proceed to our office once bidding is complete.
- Receive a Notice to Proceed from us.

The Project Manager named in the Agreement will receive a separate mailing pertaining to our program requirements detailed on our web site at <http://www.pwc.state.oh.us/> including the Request to Proceed, contractual requirements for bid documents, and reporting of in-kind or force account contributions.

If you have questions please contact your Program Representative, Donna Kirkbride, at 614/644-1942.

Respectfully,

Michael Miller
Director

cc: District Committee



The Ohio Public Works Commission
65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
<i>Commissioners</i>	Janine Conrad Alan Ross	Lonnie Miles Tom Waniewski	William Morgan Dave Wondolowski

July 1, 2014

Joseph Tuss
Administrator
Montgomery County
451 West Third Street
Dayton, OH 45422-

Re: Project No. CD35R/CD36R

Dear Mr. Tuss:

Your request for financial assistance has been approved for the project entitled Woodland Hills Phase I Water Main & Street Improvements in the amount of \$985,000. The enclosed Project Agreement defines your responsibilities in accepting this financial assistance. Please adhere to the following:

- Review the document carefully to be sure you understand your responsibilities and to check that it accurately describes your project. If there are errors or information please contact us.
- Changes to officers may be noted in a transmittal letter.
- Do not separate the pages of the Agreement.
- Sign both copies of the Agreement and have your signature witnessed.
- Have the promissory note, Appendix C-1 of the Agreement, signed by the Chief Fiscal Officer.
- Return one copy of the Agreement to us and retain one for your records.
- Use the above referenced project number in your correspondence with our office as it will help expedite our ability to respond.

Do not proceed with construction or purchase of materials until the following has been completed:

- Return one executed copy of the Agreement.
- Prepare and forward a Request to Proceed to our office once bidding is complete.
- Receive a Notice to Proceed from us.

The Project Manager named in the Agreement will receive a separate mailing pertaining to our program requirements detailed on our web site at <http://www.pwc.state.oh.us/> including the Request to Proceed, contractual requirements for bid documents, and reporting of in-kind or force account contributions..

If you have questions please contact your Program Representative, Donna Kirkbride, at 614/644-1942.

Respectfully,

Michael Miller
Director

cc: District Committee



The Ohio Public Works Commission
65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
<i>Commissioners</i>	Janine Conrad Alan Ross	Lonnie Miles Tom Waniewski	William Morgan Dave Wondolowski

July 1, 2014

Vijay Chitkara
Finance Director
Montgomery County
451 West Third Street
Dayton, OH 45422-

SUBJECT: Notification of Project Approval
Project No.: CD35R/CD36R
Project Name: Woodland Hills Phase I Water Main & Street Improvements

Dear Mr. Chitkara:

Montgomery County's request for financial assistance has been approved for the project listed above in the amount of \$985,000. The project's Chief Executive Officer, Joseph Tuss, has been mailed the Agreement for review, execution and return to our office. You may view the Agreement on our web site at <http://www.pwc.state.oh.us/>.

As the Chief Fiscal Officer designated in the Project Agreement, your role in carrying out the project is important. The following information is available on our web site on the Chief Financial Officers Page (Financial Tab) to assist you.

- Instructions for the completion of Appendix E describe how to complete the Appendix E (disbursement form) that is attached to the Agreement. This three-page form must always contain original color-inked signatures of the three authorized authorities. If any of the authorities change we must be notified in writing. The disbursement process is also described in Section 6 of the Project Agreement entitled "Disbursements". Your local share of this project will be the percentage of actual costs approved by the Commission based on the Participation Percentages as defined in Section 1 of the Agreement.
- Auditor of State Technical Bulletin 2002-04 explains the accounting methods to be used for Commission funded projects.
- W-9 and Vendor Information forms are only required for those vendors who have not done business with the State of Ohio, and if you'll be requesting us to pay your vendors directly.
- A sample "Payment Confirmation letter" which will be mailed to you for all disbursements made for this project. Letters are mailed monthly during the third week for the prior month's activity. Review your letters carefully and advise us of any errors or omissions. Please note that for grant/loan combinations there will be a letter for funds disbursed under the grant number and a separate letter for funds disbursed under the loan. Grant funds are typically drawn on first but exceptions apply, especially if the loan serves as a portion of or all of the required local match.

Mr. Chitkara
Page 2
July 1, 2014

In addition to the above information on our web site we have enclosed various loan documents as follows: Loan Guidance, Instruction for Declaring Official Intent, Notification of Disbursement Method, Sample Resolution, and the initial Amortization Schedule. Please review this information carefully.

For projects administered by the Ohio Department of Transportation (ODOT) there is a separate disbursement relationship between the Commission and ODOT. Our office provides ODOT with the Project Agreement which ODOT uses as a "letter of credit" in place of the local subdivision's actual cash payment or "escrow deposit". If your subdivision has already deposited funds to an escrow account with ODOT, they will refund the amount of funds offset by the Commission to the local subdivision.

To facilitate timely payments for this project your vendors are encouraged to enroll in the Ohio Shared Services' EFT Program. This program can reduce processing time by 2-3 business days in that disbursements are completed electronically to your vendor's bank account. The vendor may apply for EFT through our web site's CFO Page (referenced above) which provides the link to Ohio Shared Services. Questions should be directed to them at 877/644-6771.

We will not make a disbursement to any vendor unless we have received and authorized a Request to Proceed. We recommend that you meet with your Project Manager to discuss the Request to Proceed, disbursement process, and your respective responsibilities.

If you have questions contact your Program Representative, Donna Kirkbride, at 614/644-1942. Please reference your project number when calling or writing to us in order to expedite service.

Respectfully,

Michael Miller
Director

Enclosures (5)

**Ohio Public Works Commission
Loan Guidance
CD36R
Woodland Hills Phase I Water Main & Street Improvements**

Notification of Disbursement Method Form

Pursuant to the Project Agreement executed for this loan, there are two methods by which funds can be disbursed. The first method is for the Ohio Public Works Commission (OPWC) to pay vendors directly. The second method is for the Commission to reimburse the subdivision after project costs have been incurred and paid by the subdivision. For loans only, the OPWC needs to be formally notified in advance as to which method the subdivision plans to utilize. Please refer to the enclosure entitled "Notification of Disbursement Method" and the accompanying "Instructions for Declaring Official Intent". In deciding which method to use please consider the following:

- Discuss your disbursement options and preferences with your Project Manager, Edward Schlaack, P.E., prior to making a selection.
- Passing a Resolution of Intent for the entire loan amount doesn't do you any harm and can actually be beneficial in the event the Commission needs to reimburse the subdivision in the event of an overpayment.
- At any point during the life of the project you can always have the OPWC pay contractors directly even if you have passed a Resolution.
- If you need to pass a Resolution, we encourage subdivisions to do so as early as possible. At a minimum, a Resolution must be adopted no later than 60 days after the date of construction related project costs for which the subdivision will seek reimbursement from us.

Promissory Note

The Promissory Note is Appendix C-1 of the Project Agreement. The Chief Financial Officer is required to sign the Promissory Note and return it with the fully executed Project Agreement to us. As noted in the letter contained with this information, your Chief Executive Officer has been mailed the Project Agreement for signature. Please do not remove the staple from the Agreement.

Amortization Schedule

An initial amortization schedule is enclosed. It was prepared using your estimated completion date in the Project Agreement and the full loan amount. It should be considered a preliminary glance at the anticipated loan payments and due dates for this loan. Please retain this schedule until the project is completed and the loan is put into billing. At that time, a revised amortization schedule will be provided to you.

Billing

- All invoices are mailed by the Commission on a semiannual basis 45 days prior to the due date. Payments are due on the last business day in January and on July 1st of each year.
- The loan may be paid in full at any time; however, the OPWC does not accept loan payments over the invoiced amount if the loan is not being paid in full.
- Should the repayment amount equal \$5,000 or less, it must be paid in two equal payments according to the billing cycle described above.
- We do not accept electronic funds transfers or lock box deposits.

Questions

Call Abbey DeHart, Loan Officer, at 614.728.2466 or e-mail her at abbey.dehart@pwc.state.oh.us. Additional information is located on the loan page of our web site at <http://www.pwc.state.oh.us>.

Ohio Public Works Commission
Instructions for Declaring Official Intent for Loan Projects

Due to tax regulations issued by the Internal Revenue Service, the Ohio Public Works Commission (OPWC) must follow guidelines relating to the disbursement of funds to local subdivisions who have received a loan. These regulations apply only when the OPWC is reimbursing the local subdivision for paid construction-related project costs already incurred, including in-kind and force account work.

If the local government does not plan to seek reimbursement from the OPWC for project costs, i.e., the Commission will pay all contractors directly, these regulations do not affect you. If you are not seeking reimbursement, you only need to return the enclosed "Notification of Disbursement Method" to us indicating this choice. NOTE: If you elect to change your selection you must resubmit the form with an adopted Declaration of Official Intent as described below. You may only resubmit if you are within 60 days of the start of construction (see item 2. below).

If the local government plans to seek reimbursement from the Commission for any project construction costs, a "Declaration of Official Intent" (i.e. Resolution) must be adopted. Enclosed is a sample Resolution. If you intend to seek reimbursement, you must return the enclosed "Notification of Disbursement Method" indicating this choice AND your passed Resolution to our office.

The Resolution will allow the OPWC and local subdivision to comply with the federal regulations which pertain to the proceeds of tax exempt debt, the funding source for your loan. The "Official Intent" means that at the time the local subdivision makes a payment for construction-related project costs from its own funds, the local subdivision intends to seek reimbursement for those costs from us. Prior to passing the Resolution please keep the following in mind:

1. A Declaration of Official Intent is required only if the local subdivision is planning to seek reimbursement from the Commission for project costs already incurred and paid for by the local subdivision. Payments by the OPWC for in-kind and force account work is considered a reimbursement. If the local subdivision plans to have the OPWC pay contractors directly, check the "will NOT seek reimbursement" box on the Notification of Disbursement Method form and return the form to the OPWC prior to starting work on the project.
2. If seeking reimbursement, the Declaration must be adopted not later than 60 days after the date of construction-related project costs for which the local subdivision will seek reimbursement.
3. Preliminary Expenditures including engineering, survey, soil testing and similar costs are not subject to the Resolution requirement.
4. Reimbursement by the OPWC must occur within 18 months after the latter of (A) the date the project costs are paid by the local subdivision; or (B) the date the project is placed in service or abandoned, but in no event more than 3 years after the project costs are paid by the local subdivision.
5. Not following these procedures may prevent the OPWC from disbursing funds for your project.
6. Complete the italicized sections on the Sample Resolution. A fillable pdf version is available on our web site at <http://www.pwc.state.oh.us/> Note that Section 2 requires the estimated maximum amount you expect to receive from the OPWC in the form of a reimbursement. If you think your disbursement process will be a mixture of reimbursements to the subdivision and payments directly to contractors, then pass the Resolution for the entire loan amount. You are then covered regardless of the mix of reimbursements and direct payments during the life of the project.



The Ohio Public Works Commission

Michael Miller, Director

Noti

ification of Disbursement Method

Montgomery County
CD36R
Woodland Hills Phase I Water Main & Street Improvements
\$492,500

Please select the appropriate box below, sign, and return this form to the Commission. You may return the form by either faxing it to 614.466.4664 OR by mail to:

Ohio Public Works Commission
Attn: Abbey DeHart, Loan Officer
65 East State Street, Suite 312
Columbus, Ohio 43215

- ❖ Please return only one copy of this form.
- ❖ The OPWC does not require original signatures for this form.
- ❖ If seeking reimbursement, then include your Declaration of Official Intent.

CHECK ONE OF THE FOLLOWING:

- Montgomery County **will not seek reimbursement** for project costs related to the referenced project. All requests for disbursements will be for the Commission to pay the vendor directly. In-kind and force account work will be a credit toward the local share.
- Montgomery County **may need to seek reimbursement** for the referenced project. Check applicable item below pertaining to Declaration of Official Intent.
 - A Declaration of Official Intent will be adopted by this government. A copy will be provided to the Commission when passed and prior to seeking reimbursement for project-related costs.
 - A Declaration of Official Intent has been passed and is enclosed with this form.

Joseph Tuss, Administrator

Date

SAMPLE RESOLUTION

A RESOLUTION DECLARING THE OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE (INSERT NAME OF SUBDIVISION) ON BEHALF OF THE STATE OF OHIO (THE BORROWER) TO REIMBURSE ITS (INSERT NAME OF FUND) FOR THE (INSERT PROJECT NAME), (INSERT LOAN PROJECT NUMBER) WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO.

BE IT RESOLVED by the (INSERT NAME OF SUBDIVISION) on behalf of the State of Ohio that:

- Section 1. The (INSERT NAME OF SUBDIVISION) reasonably expects to receive a reimbursement for the project named (INSERT PROJECT NAME) as set forth in Appendix A of the Project Agreement with the proceeds of bonds to be issued by the State of Ohio.
- Section 2. The maximum aggregate principal amount of bonds, other than for costs of issuance, expected to be issued by the State of Ohio for reimbursement to the local subdivision is \$(INSERT AMOUNT ACCORDING TO INSTRUCTIONS, ITEM #6).
- Section 3. The Clerk of the (INSERT NAME OF SUBDIVISION) is hereby directed to file a copy of this Resolution with the (INSERT NAME OF SUBDIVISION) for the inspection and examination of all persons interested therein and to deliver a copy of this Resolution to the Ohio Public Works Commission.
- Section 4. The (INSERT NAME OF SUBDIVISION) finds and determines that all formal actions of this (INSERT TYPE OF LOCAL SUBDIVISION, E.G. CITY, COUNTY, TOWNSHIP) concerning and relating to the adoption of this Resolution were taken in an open meeting of the (INSERT NAME OF SUBDIVISION) and that all deliberations of this (INSERT TYPE OF LOCAL SUBDIVISION) and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.
- Section 5. This Resolution shall be in full force and effect from and immediately upon its adoption.

Upon roll call on the adoption of the resolution, the vote was as follows:

Resolution adopted: _____, 20____

The foregoing is a true and correct excerpt from the minutes of the meeting on _____, 20 of the (INSERT NAME OF SUBDIVISION) of (INSERT NAME OF COUNTY) showing the adoption of the resolution hereinabove set forth.

Clerk, _____



The Ohio Public Works Commission

65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
<i>Commissioners</i>	Janine Conrad Alan Ross	Lonnie Miles Tom Waniewski	William Morgan Dave Wondolowski

July 1, 2014

Edward Schlaack, P.E.
Engineer
1850 Spaulding Road
Kettering, OH 45432-

Project No.: CD35R/CD36R
Project Name: Woodland Hills Phase I Water Main & Street Improvements

Dear Mr. Schlaack:

Montgomery County's request for financial assistance has been approved for the project listed above in the amount of \$985,000. The project's Chief Executive Officer, Joseph Tuss, has been mailed the Agreement for review, execution and return to our office. You may view the Agreement on our web site at <http://www.pwc.state.oh.us/>.

As the Project Manager designated in the Project Agreement, your role in carrying out the project is important. The following information is available on our web site on the Project Managers page (Project Tab) to assist you.

- Contractual requirements for bid documents.
- OPWC In-Kind Contributions Allowable Costs - Information on how to document labor, equipment and materials.
- Instructions for the completion of Appendix E describe how to complete the Appendix E (disbursement form) that is attached to the Agreement. This three-page form must always contain original color-inked signatures of the three authorized authorities. If any of the authorities change we must be notified in writing. The disbursement process is also described in Section 6 of the Project Agreement entitled "Disbursements". Your local share of this project will be the percentage of actual costs approved by the Commission based on the Participation Percentages as defined in Section 1 of the Agreement.
- Request to Proceed form and instructions
- Program Advisories

For projects administered by the Ohio Department of Transportation (ODOT) there is a separate disbursement relationship between the Commission and ODOT. Our office provides ODOT with the Project Agreement which ODOT uses as a "letter of credit" in place of the local subdivision's actual cash payment or "escrow deposit". If your subdivision has already deposited funds to an escrow account with ODOT, they will refund the amount of funds offset by the Commission to the local subdivision.

Mr. Schlaack
Page 2
July 1, 2014

To facilitate timely payments for this project your vendors are encouraged to enroll in the Ohio Shared Services' EFT Program. This program can reduce processing time by 2-3 business days in that disbursements are completed electronically to your vendor's bank account. The vendor may apply for EFT through our web site's CFO Page (referenced above) which provides the link to Ohio Shared Services. Questions should be directed to them at 877/644-6771.

We will not make a disbursement to any vendor unless we have received and authorized a Request to Proceed. We recommend that you meet with the Chief Financial Officer to discuss the Request to Proceed, disbursement process including the disbursement method (Notification of Disbursement Resolution), and your respective responsibilities.

If you have questions contact your Program Representative, Donna Kirkbride, at 614/644-1942. Please reference your project number when calling or writing to us in order to expedite service.

Respectfully,

Michael Miller
Director



The Ohio Public Works Commission
65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
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Joseph Tuss
Administrator
Montgomery County
451 West Third Street
Dayton, OH 45422-

Re: Project No. CD35R/CD36R

Dear Mr. Tuss:

Your request for financial assistance in the form of a grant/loan has been approved for the project entitled Woodland Hills Phase I Water Main & Street Improvements in the amount of \$985,000. Please note the following:

- A. An Agreement will be released by the Commission on July 1, 2014, assuming budget authority is in place.
- B. You must not award a construction contract or begin construction until our Agreement has been fully executed and returned.
- C. You must not begin construction until you have forwarded a Request to Proceed for the contractor and received a Notice to Proceed in return.
- D. You may initiate at your own risk engineering and design services.
- E. You may advertise for bids providing: 1) you follow the contractual requirements as posted on our web site at <http://www.pwc.state.oh.us/>, and 2) you meet conditions B & C above.

The Project Manager, Edward Schlaack, P.E., as named in your application will receive a separate mailing detailing other program requirements including Equal Employment Opportunity, reporting in-kind contributions and Requests to Proceed. This information is also provided on our web site noted above. Your Chief Fiscal Officer will also receive a mailing pertaining to project financial information.

If you have questions please contact your Program Representative, Donna Kirkbride, at 614/644-1942.

Respectfully,

Michael Miller
Director

cc: Edward Schlaack, P.E., Vijay Chitkara



The Ohio Public Works Commission
65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
<i>Commissioners</i>	Janine Conrad Alan Ross	Lonnie Miles Tom Waniewski	William Morgan Dave Wondolowski

COPY of CEO Letter

Edward Schlaack, P.E.
Engineer
1850 Spaulding Road
Kettering, OH 45432-

Re: Project No. CD35R/CD36R

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If you have questions please contact your Program Representative, Donna Kirkbride, at 614/644-1942.

Respectfully,

Michael Miller
Director

cc: Edward Schlaack, P.E., Vijay Chitkara



The Ohio Public Works Commission
65 East State Street, Suite 312, Columbus, Ohio 43215-4213

<i>Commission Chair</i>	Michael Keenan	<i>Director</i>	Michael Miller
<i>Commissioners</i>	Janine Conrad Alan Ross	Lonnie Miles Tom Waniewski	William Morgan Dave Wondolowski

COPY of CEO Letter

Vijay Chitkara
Finance Director
Montgomery County
451 West Third Street
Dayton, OH 45422-

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If you have questions please contact your Program Representative, Donna Kirkbride, at 614/644-1942.

Respectfully,

Michael Miller
Director

cc: Edward Schlaack, P.E., [Vijay Chitkara](#)

