

RESOLUTION NO. 35-01
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER C. Mark Kingseed ON THE
16th DAY OF April, 2001.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER, ON BEHALF OF THE CITY OF CENTERVILLE, TO EXECUTE A CONTRACT WITH THE MIAMI VALLEY REGIONAL TRANSIT AUTHORITY TO PROVIDE FUNDING FOR AUDIBLE PEDESTRIAN SIGNALS AT ALEXANDERSVILLE-BELLBROOK ROAD AND CUSHWA DRIVE IN THE CITY OF CENTERVILLE.

WHEREAS, the Miami Valley Regional Transit Authority made funds available to jurisdictions to implement transit-related capital projects and transit educational programs through an RTA Community Grant Program; and

WHEREAS, the City of Centerville applied for and was awarded funds not to exceed \$5,500.00 for Audible Pedestrian Signals at Alexandersville-Bellbrook Road and Cushwa Drive.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized and directed to execute a contract with the Miami Valley Regional Transit Authority for Audible Pedestrian Signals at Alexandersville-Bellbrook Road and Cushwa Drive, a copy of said contract, marked as Exhibit "A", is attached hereto and made a part hereof.

Section 2. This Resolution shall become effective immediately upon passage.

PASSED this 16th day of April, 2001.

Sally D. Beak
Mayor of the City of Centerville, Ohio

ATTEST:

Marion Ann Samuel
Clerk of Council, City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 35-01, passed by the Council of the City of Centerville, Ohio, on the 16th day of April, 2001.

Maio J. Saugh
Clerk of Council

Approved as to form, consistency
with the Charter and Constitutional Provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

CONTRACT BETWEEN RTA AND THE CITY OF CENTERVILLE

2001

MIAMI VALLEY REGIONAL TRANSIT AUTHORITY
RTA COMMUNITY GRANT PROGRAM
PROJECT AGREEMENT

THIS AGREEMENT is entered into on the date(s) at the end hereof, by and between the MIAMI VALLEY REGIONAL TRANSIT AUTHORITY, hereinafter referred to as "RTA", and the CITY OF CENTERVILLE, hereinafter referred to as the "Participant".

WITNESSETH:

WHEREAS, on July 11th, 1995, the RTA Board of Trustees approved the earmarking of \$200,000 on an annual basis through the Year 2000 and beyond for the purposes of funding an RTA Community Grant Program; and

WHEREAS, on May 7, 1996, acting on Resolution No. 96-5-1, the RTA Board of Trustees established a process so that political jurisdictions can apply for funds to implement transit-related capital projects and transit educational programs; and

WHEREAS, the RTA has evaluated applications for capital assistance and/or transit educational programs and has referred these applications to the CAC Committee and the RTA's Public Affairs Committee; and

WHEREAS, the RTA Board has approved the expenditure of its public funds specifically for the project to be undertaken by the Participant, and;

WHEREAS, the RTA's Public Affairs Committee has selected the project of the Participant as one which will promote transit-related community development; and

WHEREAS, the RTA and Participant are desirous of mutually cooperating in the funding of a transit-related capital project situated within the boundaries of the Montgomery County, Ohio, known as Audible Pedestrian Signals, hereinafter referred to as the "Project"; and

WHEREAS, the RTA is willing to use some of its earmarked local investment funds to foster same; and

WHEREAS, the Participant has supplied RTA with proof that it possesses sufficient statutory/legal authority and management capability needed to assume the primary administration of the Project; and

WHEREAS, the jurisdiction has approved this contract pursuant to Resolution/Ordinance No. _____, attached as an addendum to this contract.

WHEREAS, as part of the RTA Community Grant program and approved by the RTA Board of Trustees, the Participant was authorized to be awarded a distribution not to exceed \$5,500 to provide funding support for the Project.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties to this Agreement, with the intent to be legally bound, agree as follows:

1. The Participant agrees to assume responsibility of administering the Project, which project is found specifically identified in the Scope of Work, which scope is attached hereto as Exhibit "A", and a budget document for said project, which budget is attached hereto and made a part hereof, as Exhibit "B". The RTA agrees to tender to the Participant the sum of \$5,500 of the RTA earmarked local investment funds to assist the Participant in conducting the Project.

2. The Participant agrees that the earmarked local investment funds referred to in paragraph 1 hereof will be used solely and exclusively by the Participant to offset the cost incurred by it in undertaking the Project, and further agrees that should any or all of the RTA said earmarked local investment funds for this Project be used for any purpose other than that of the Project, the Participant will repay the RTA the amount improperly expended, and will do so within fourteen (14) calendar days of written notice to it by the RTA that such improper expenditure has occurred, stating therein the amount which the RTA believes has been misapplied.

3. Upon execution of this Agreement by both parties, the RTA agrees to tender the amount identified in paragraph 1 hereof to the Participant upon completion of the project or as otherwise arranged. The Participant agrees to supply the RTA's Chief Financial Officer with statements, or invoices, indicating therein the amount of monies expended by the Participant in the

furtherance of the Project, these statements, or invoices, will also contain a statement therein identifying the date of each expenditure, the name of the person or business enterprise paid, and the goods or services provided warranting the payment. The RTA will, upon receipt of such statements or invoices at the completion of the project or as otherwise arranged, reimburse the Participant the amount stated in the Participant's statements or invoices. Should the RTA be of the opinion that any amount of monies identified in the Participant's invoices was expended for purposes other than the furtherance of the Project, the RTA may, in its sole discretion, reduce such payment by the amount of the alleged misapplication, or seek reimbursement as same is provided in paragraph 2 hereof. The parties also agree that the RTA has the authority to meet with the contractor, person or business entity employed by the Participant for the Project, and review documentation as it deems necessary to determine that the RTA's earmarked local investment funds are being expended for Project purposes.

4. The Participant agrees that the RTA's earmarked local investment funds are to be expended by the RTA in its sole discretion, and that the RTA's financial assistance to the Participant is voluntary and that the Participant has no legal or equitable claim to any of the RTA's earmarked or non-earmarked local investment funds.

5. The Participant acknowledges that part of the consideration for this Agreement emanates from the RTA's local revenues, and that as such, said consideration constitutes public funds, and the Participant acknowledges that the RTA is legally authorized to inspect and make copies of the Participant's books and audit the receipt and expenditure of such consideration. The Participant, therefore, agrees to allow the RTA or its representatives, to enter upon its premises during regular business hours and to supply the RTA or its representatives, the book/financial records concerning the Participant's receipt and expenditure of the RTA Community Grant funding received by the Participant pursuant to the Agreement.

6. The Participant shall enter into and administer all construction, procurement and/or professional service contracts for the construction of the project. The Participant agrees to adhere to all bidding procedures and regulations applicable to the Participant and/or the RTA for the reasonable and prudent selection of any and all third parties for this project. The Participant will provide RTA with a summary of competitive bid documentation and/or quotations for work to be contracted under the grant.

7. The Participant agrees that all documentation, financial records and other evidence of project activity under this Agreement shall be maintained by the Participant, consistent with the records retention requirements of the Ohio Revised Code, for a

period of three (3) years after the completion or termination of the Project. After this three-year retention period, the Participant must notify the RTA, in writing, of its intent to destroy said records. The RTA reserves the right to extend the retention period for such records, and if it decides to do so it will notify the Participant in writing, otherwise, the RTA will issue to the Participant a written Certificate of Records Disposal, it being understood that no records in the Participant's possession will be destroyed until the Participant has received this certificate. The Participant also agrees to notify persons or business entities with which it does business in the prosecution of the work called for in the "Project" of the fact that such person or business entity is receiving public funds and that such funds may be audited by the RTA or its representatives even though they have been received by a private person or business entity.

8. The parties acknowledge that this Agreement is made pursuant to the RTA Community Grant program and that the distribution of funds provided for herein is made pursuant to that program and constitutes a distribution to the Participant thereunder.

9. The parties expressly agree that this Agreement shall not be assigned by the Participant without the prior written approval of the RTA, which approval may be withheld at the sole discretion of the RTA.

10. The Participant, or any person claiming through the Participant agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Participant.

11. The Participant shall be the owner of all physical improvements constructed as part of the project. The Participant shall be responsible for the continued maintenance, repair and upkeep of all project property, and such property shall be maintained in a safe, clean and aesthetically pleasing condition.

12. The Participant agrees to include RTA-provided signage at the construction site which communicates RTA's participation in the project.

13. The Participant agrees to provide the RTA with photographs which clearly display the improvements obtained through the project (before and after photographs).

14. The Participant agrees to protect, defend, indemnify and hold the RTA, its Board members, officers, employees, and agents, free and harmless from and against any and all losses, penalties, damages, settlements, costs or liabilities of every kind and character arising out of or in connection with any negligent acts or acts of omission of the Participant, and its employees, officers, agents, successors or independent contractors. The Participant agrees to pay all damages, costs and expenses of the

RTA in defending any action arising out of the aforementioned acts of omissions.

15. Either party may terminate this Agreement by serving written notice on the other party at least fourteen (14) calendar days before the effective date of such termination as is mentioned in the notice conditioned that no work on the Project has been initiated.

16. If said Project is canceled after work has been initiated, the RTA is not obligated to reimburse for any expenses incurred up to that time. If reimbursement of expenses has and the Project is canceled, funds approved under this grant program will be returned to RTA.

17. If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained therein; and this Agreement shall

supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement and approved by proper Resolution of the parties, if necessary.

19. This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of The State of Ohio.

20. Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands this ____ day of _____, 2001.

Signed and acknowledged
in the presence of:

MIAMI VALLEY REGIONAL TRANSIT
AUTHORITY

Witness

By: _____
Executive Director

Witness

Witness

By: _____

Witness

City of Centerville
Name of Jurisdiction

100 West Spring Valley Road
Address

Centerville, OH 45458
City State Zip Code