

RESOLUTION NO. 19-88
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Brooks Compton ON THE
29th DAY OF August, 1988.

A RESOLUTION RATIFYING THE ACTION TAKEN BY
THE CITY MANAGER TO ENTER INTO AN AGREEMENT
BY AND AMONG THE BOARD OF COUNTY COMMISSIONERS,
GREENE COUNTY, THE COUNCIL OF THE CITY
OF KETTERING, AND THE COUNCIL OF THE
CITY OF CENTERVILLE, OBLIGATING PAYMENT OF THEIR
SHARE FOR CERTAIN IMPROVEMENTS TO WHIPP ROAD.

THE MUNICIPAL OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the action taken by the City Manager
to enter into an agreement by and among the Board of County
Commissioners of Greene County, Ohio, the Council of the City of
Kettering, Ohio, and the Council of the City of Centerville,
Ohio, to obligate payment for improvements to Whipp Road within
their respective boundaries, as detailed on plans and
specifications prepared by Woolpert Consultants, which Plans are
on file with each of the parties herein; is hereby ratified.
Said Agreement is attached hereto, marked "Exhibit "A" and is
hereby made a part hereof.

SECTION 2. That this Resolution shall become effective
immediately upon passage.

PASSED this 29th day of August, 1988.

Shirley F. Steinhilber
Mayor of the City of Centerville,
Ohio

ATTEST:

Marie J. McLaughlin
Clerk of the Council of the
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a correct and true copy of Resolution Number 19-88, passed by the Council of the City of Centerville, Ohio, on the 29th day of August, 1988.

Maile J. McLaughlin
Clerk of Council

Approved as to form, consistency
with existing ordinances, the
charter and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

AGREEMENT

by and among

**BOARD OF COUNTY COMMISSIONERS
OF GREENE COUNTY, OHIO,**

COUNCIL OF THE CITY OF KETTERING, OHIO

and

COUNCIL OF THE CITY OF CENTERVILLE, OHIO

Dated as of August __, 1988

AGREEMENT

This Agreement ("Agreement") is entered into as of August __, 1988, pursuant to Section 307.15 of the Ohio Revised Code, by and among the BOARD OF COUNTY COMMISSIONERS OF GREENE COUNTY, OHIO ("Board"), the COUNCIL OF THE CITY OF KETTERING, OHIO ("Kettering Council"), and the COUNCIL OF THE CITY OF CENTERVILLE, OHIO ("Centerville Council") under the following circumstances:

A. Pursuant to Section 727.12 of the Ohio Revised Code, the Centerville Council has passed a resolution on _____, 1988 (the "Resolution"), declaring the necessity for certain improvements to Whipp Road and related improvements (the "Project"). The Resolution is attached hereto, marked Exhibit A, and by this reference made a part hereof.

B. The Board desires to effect certain improvements to Wilmington Pike and Feedwire Road (the "County Improvements") and the Kettering Council desires to effect certain improvements to Whipp Road (the "Kettering Improvements"), both within their respective boundaries and all as detailed in Section 5 of the Resolution and in the plans and specifications prepared by Woolpert Consultants ("Plans"), which Plans are on file with each of the parties (herein, together, the "Contracting Parties"). The Centerville Council is willing, incident to the Project, to undertake to make the County Improvements and the Kettering Improvements in behalf of

the Board and the Kettering Council, respectively, in consideration of the monies to be paid to the City of Centerville under this Agreement.

The Contracting Parties, intending to be contractually bound, hereby agree as follows:

SECTION 1. Preambles. Preambles A and B hereto are operative parts of this Agreement.

SECTION 2. Construction of Project and Improvements. The Centerville Council, unless prevented by circumstances beyond its control, will proceed in accordance with Chapter 727 of the Ohio Revised Code and other applicable law to construct the Project; the County Improvements (in behalf of the Board); and the Kettering Improvements (in behalf of the Kettering Council), all in accordance with the Resolution and Preambles A and B. The Centerville Council agrees that no material change will be made in the Plans as they describe or affect the Board Improvements without the written approval of the Greene County Engineer, or as they describe or affect the Kettering Improvements without the written approval of the Kettering Manager or his designee.

SECTION 3. Payment Procedures. In its contract or contracts for the Project, the Board Improvements and the Kettering Improvements, the Centerville Council or the Centerville Manager at its direction, will require that draw requests under such contract or contracts specifically identify amounts attribute to the Board Improvements and the Kettering

Improvements. True copies of such draw requests shall promptly be transmitted from time to time as received to the Board or the Kettering Council, or to their respective designees, as the case may be, for approval (which shall not unreasonably be withheld) and payment to the City of Centerville within thirty (30) days of the date of transmittal.

SECTION 4. Amendments; Counterparts. This Agreement may be amended from time to time by agreement of all of the Contracting Parties, and may be executed in any number of counterparts, each of which shall be deemed an original.

In Witness Whereof, the Contracting Parties, duly authorized by appropriate legislation passed or adopted by each of them, have executed this Agreement as of the date set forth above, but actually on the date or dates set forth opposite the signatures below.

_____, 1988

BOARD OF COUNTY COMMISSIONERS
OF GREENE COUNTY, OHIO

By: _____
County Administrator

_____, 1988

COUNCIL OF CITY OF KETTERING,
OHIO

By: _____
Manager

_____, 1988

COUNCIL OF CITY OF CENTERVILLE,
OHIO

By: _____
Manager

Approved as to form:

_____, 1988
Prosecuting Attorney
Greene County, Ohio

_____, 1988
Director of Law
City of Kettering

_____, 1988
Municipal Attorney
City of Centerville, Ohio

C E R T I F I C A T E

The undersigned, County Auditor of Greene County, Ohio, hereby certifies that the moneys required to meet the obligations of the Board of County Commissioners of said County during the year 1988 under the aforesaid Agreement have been lawfully appropriated by said Board for such purposes and are in the treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Date: _____, 1988

County Auditor

C E R T I F I C A T E

The undersigned, Director of Finance of the City of Kettering, Ohio, hereby certifies that the moneys required to meet the obligations of the Council of said City during the year 1988 under the aforesaid Agreement have been lawfully appropriated by said Council for such purposes and are in the treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Date: _____, 1988

Director of Finance
City of Kettering

C E R T I F I C A T E

The undersigned Director of Finance of the City of Centerville, Ohio, hereby certifies that the moneys required to meet the obligations of the Council of said City during the year 1988 under the aforesaid Agreement have been lawfully appropriated by said Council for such purposes and are in the treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Date: _____, 1988

Director of Finance
City of Centerville

This Agreement prepared by:

**Frederick O. Kiel
Taft, Stettinius & Hollister
1800 Star Bank Center
425 Walnut Street
Cincinnati, Ohio 45202**

**(as Bond Counsel to the
City of Centerville, Ohio)**