

**NOTICE OF ADOPTION**

I, Teri Davis, do hereby certify:

1. That I am the Clerk of Council of the Council of the City of Centerville, Ohio;  
and
2. That on the 20th day of September, 2021,  
Ordinance No. 13-21 was adopted by the Centerville City Council; and
3. That a certified copy of Ordinance No. 13-21 was published in the  
posting locations prescribed by the City of Centerville Council.

  
\_\_\_\_\_  
Clerk of Council

ORDINANCE NO. 13-21  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCIL MEMBER Bill Serr ON THE 20<sup>th</sup> DAY  
OF SEPTEMBER, 2021

**AN ORDINANCE PROVIDING FOR A \$619,000 SPECIAL  
OBLIGATION STATE INFRASTRUCTURE LOAN, BY THE  
CITY OF CENTERVILLE, OHIO FOR THE PURPOSE OF I-  
675 WILMINGTON INTERCHANGE PRELIMINARY  
ENGINEERING PROJECT, AUTHORIZING THE PLEDGE  
OF REVENUES TO SECURE THE LOAN, AUTHORIZING  
THE EXECUTION OF A LOAN AGREEMENT AND A  
PROMISSORY NOTE, AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Centerville, Ohio (the "City"), the Montgomery County Transportation Improvement District ("MCTID"), Greene County, Ohio (the "County"), and Sugarcreek Township, Greene County, Ohio (the "Township") entered into a Preliminary Term Sheet with the State of Ohio - Ohio Department of Transportation State Infrastructure Bank (the "SIB") dated on or about April 16, 2021, as revised on April 27, 2021 (the "Term Sheet") to provide, among other things, for the design, and engineering of certain roadway improvements to the I-675 Wilmington Interchange Area (the "Project"); and

WHEREAS, as contemplated in the Term Sheet, the MCTID agreed to apply for a borrowing on behalf of the City, the Township and the County from the SIB for certain project costs pursuant to the terms of a preliminary term sheet, loan agreement, promissory note, and certain other documents and the City, the Township and the County agreed to guarantee the MCTID's obligation pursuant to any such borrowing; and

WHEREAS, the fiscal officer (hereinafter called " Director of Finance") of the City of has heretofore estimated that the life of the hereinafter Project is at least twenty (20) years;

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE  
HEREBY ORDAINS:

SECTION 1. That it is hereby declared necessary to enter into a loan agreement with the SIB, the MCTID, the Township and the County in the amount of \$619,000, (the "Loan Agreement") for the purpose of designing and engineering road improvements, consisting of improvements to the I-675 Wilmington Interchange Area, under authority of the general laws of the State of Ohio, and all necessary costs in connection therewith, secured by the Revenues, as defined herein, in accordance with the terms of this Ordinance.

SECTION 2. Said Loan Agreement shall be entered into under the provisions of the Ohio Revised Code, in the principal amount of \$619,000. The

Loan Agreement requires the financial obligations of the City, the County and the Township under the Loan Agreement be evidenced by a promissory note in the amount of \$619,000 (the "Promissory Note"). Said Promissory Note shall be dated its date of execution and, be payable not later than one hundred twenty months from its dated date. Said promissory note shall bear interest at a rate of zero percent (0.00%) for the first twelve months and at a rate of three percent (3.00%) per annum thereafter.

SECTION 3. That the Promissory Note shall be a special obligation of the City, and only revenue of the City received from Motor Vehicle Gasoline Tax Funds, as defined in the Loan Agreement (the "Revenues") are pledged for the payment of the same.

In order to secure the payment of the principal of and interest on the Promissory Note as the same shall become due and payable, the City Manager and the Director of Finance are each authorized and directed to take any and all actions and to execute such documents, financing statements, assignments, certificates and other instruments that may be necessary or appropriate in the opinion of Dinsmore & Shohl LLP, as Special Counsel, in order to perfect the pledge of and to secure the Revenues for the benefit of the SIB.

The Promissory Note is not a general obligation of the City; the SIB shall have no right to have any ad valorem property taxes or income taxes levied or collected for the repayment of the Promissory Note.

Anything in this legislation or the notes notwithstanding, neither this legislation the Loan Agreement nor the Promissory Note constitutes a debt, or a pledge of the faith or credit, or taxing power of the City, the State or any political subdivision thereof, and the holders or owners of the Promissory Note shall have no right to have ad valorem property taxes levied by the City, the General Assembly of the State, or the taxing authority of any political subdivision of the State for the payment of the principal of and interest on the Promissory Note. Nothing herein shall be deemed to prohibit the City from lawfully using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this legislation, the Loan Agreement or the Promissory Note.

SECTION 4. The Loan Agreement and Promissory Note are hereby approved and authorized in substantial form as are currently on file with the Director of Finance and attached hereto as Exhibits A and B and incorporated herein, and the City Manager is hereby authorized and directed to execute the Loan Agreement, the Promissory Note and any other documents required to effectuate the Loan Agreement. The signature of the City Manager on such documents will evidence acceptance of the final form and terms of such documents.



SECTION 5. The proceeds of the Promissory Note, plus other lawfully available funds of the City, shall be used as set forth in the Loan Agreement and the Term Sheet.

SECTION 6. From and after the date of execution of the Promissory Note, the annual Revenues shall first be used to pay Annual Debt Service on the Promissory Note and then shall be used for any legal purpose of the Revenues.

Annual Debt Service shall be the City's share of the annual principal and interest due on the Promissory Note, as set forth in the Term Sheet and Schedule A to the Promissory Note.

SECTION 7. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Note Legislation, or in the Promissory Note, or under any judgment obtained against the City or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the City, either directly or through the City, or otherwise, for the payment for or to the City or any receiver thereof, or for or to any

SECTION 8. So long as Promissory Note is outstanding, the City shall not issue, on a parity with the Promissory Note, any additional notes, bonds or other obligations payable from the Revenues. The City shall have the unrestricted right to issue additional notes, bonds or other obligations subordinate to the Promissory Note, or payable from other taxes or other revenues of the City, other than the Revenues pledged herein.

SECTION 9. The City hereby covenants and agrees with the holder of the Promissory Note from time to time, so long as the Promissory Note is outstanding, as follows:

- (a) The City will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purpose of the Loan Agreement and the Promissory Note and this legislation.
- (b) All of the obligations set forth and covenants made under this legislation are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.
- (c) The City will observe and will satisfactorily and punctually perform all its agreements and obligations provided for by the Loan Agreement and the Promissory Note and this legislation.

SECTION 10. All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such closing certificates, financing statements and other instruments or agreements as are, in the opinion of bond counsel, necessary or appropriate, in order to effect the execution of the Loan Agreement and the Promissory Note and to carry out the purposes of this Ordinance.

SECTION 11. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 12. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

SECTION 13. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the City for the reason that the immediate execution of said Loan Agreement and Promissory Note is required to provide for the timely financing of the project including obtaining a favorable interest rate, and it shall take effect immediately upon its adoption.

PASSED THIS 20<sup>th</sup> day of September, 2021.

  
\_\_\_\_\_  
Mayor of the City of Centerville, Ohio

ATTEST:

  
\_\_\_\_\_  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio,  
hereby certifies the foregoing to be a true and correct copy of Ordinance  
No. 13-21, passed by the Council of the City of Centerville,  
Ohio on the 20<sup>th</sup> day of September, 2021.

  
Clerk of the Council

Approved as to form, consistency  
with the Charter and Constitutional  
Provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney

**CERTIFICATE AS TO MAXIMUM MATURITY OF  
BONDS AND BOND ANTICIPATION NOTES**

Based upon information provided by and in reason to the request of the City Council of the City of Centerville, Ohio, the Director of Finance of the City of Centerville, Ohio, being the fiscal officer of the City of Centerville, Ohio, within the meaning of Section 133.01 of the Uniform Public Securities Law of the Ohio Revised Code, hereby certifies that the estimated life of the improvements to be acquired with the proceeds of the \$619,000 Loan Agreement and Promissory Note, for the purpose of designing and engineering road improvements, and related costs, is at least five (5) years and that the maximum maturity of bonds, calculated in accordance with Section 133.20 of the Uniform Public Securities Law of the Ohio Revised Code, is twenty (20) years and notes issued in anticipation thereof is twenty (20) years.

IN WITNESS WHEREOF, I have hereunto set my hand this 21<sup>st</sup> day of September, 2021.

  
\_\_\_\_\_  
Director of Finance

**LOAN AGREEMENT**

**amongst**

**OHIO DEPARTMENT OF TRANSPORTATION**

**and**

**GREENE COUNTY**

**and**

**CITY OF CENTERVILLE**

**and**

**SUGARCREEK TOWNSHIP**

**and**

**MONTGOMERY COUNTY TRANSPORTATION  
IMPROVEMENT DISTRICT**

**[I-675/WILMINGTON INTERCHANGE PRELIMINARY ENGINEERING  
PROJECT]**

**Dated**

**as of**

**August\_\_\_\_, 2021**

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and is only for convenience of reference.)

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## LOAN AGREEMENT

THIS LOAN AGREEMENT (this “Loan Agreement”) made and entered into as of August \_\_\_\_, 2021, amongst the Director of the Ohio Department of Transportation (“ODOT”), The Montgomery County Transportation Improvement District (“District”), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, Greene County, a political subdivision duly organized and validly existing under the laws of the State of Ohio (“the County”), City of Centerville, a political subdivision duly organized and validly existing under the laws of the State of Ohio (“the City”), and Sugarcreek Township, a political subdivision duly organized and validly existing under the laws of the State of Ohio (“the Township”), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are being used therein as defined in Article I hereof):

A. Pursuant to the Act, ODOT is authorized, among other things, to make loans to assist in the financing of a Qualified Project.

B. The County, the City, the Township and the District have requested that ODOT provide the financial assistance for the Project hereinafter described.

C. ODOT has determined that the Project constitutes a Qualified Project and that the financial assistance to be provided pursuant to this Loan Agreement is appropriate under the Act and will be in furtherance and in implementation of the public policy set forth in the Act.

D. The financial assistance to be provided pursuant to this Agreement has been reviewed and approved by ODOT, pursuant to the Act.

NOW, THEREFORE, in consideration of the promises and the representations and agreements hereinafter contained, ODOT, District, County, City and the Township agree as follows:

### ARTICLE I DEFINITIONS

Section 1.1 Use of Defined Terms. In addition to the words and terms elsewhere defined in this Loan Agreement or by reference to other instruments, the words and terms set forth in Section 1.2 hereof shall have the meanings therein set forth unless the context or use expressly indicates a different meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms therein defined.

Section 1.2 Definitions. As used herein:

“Act” means Section 5531.09, Ohio Revised Code, as from time to time enacted and amended.

“Application” means the Application of the District, the County, the City and the Township submitted to the SIB last dated April 7, 2021, requesting assistance under the Act.

“Closing Date” means August \_\_, 2021, the date of execution and delivery of the Loan Documents.

“Commitment” means the Preliminary Term Sheet between ODOT, District, County, City and the Township last dated June 17, 2021.

“Disbursement Date” means each date, including the Final Disbursement Date, upon which the proceeds of the Loan are disbursed to, or for the benefit of the Township.

“Event of Default” means any of the events described as an event of default in Section 5.1 hereof

“Final Disbursement Date” means no later than May 31, 2022, or such subsequent date as may be established by ODOT in writing in accordance with Section 3.5 hereof for the disbursement of the Loan.

“Force Majeure” means, without limitation:

- (a) acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; nuclear accidents; lightning; earthquakes; fires; hurricanes; tornadoes; storms, droughts; floods; arrests; restraint of government and people; explosions, breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or
- (b) any cause, circumstances or event not reasonably within the control of the County, City or Township.

“Governing Instruments” means the ordinances, resolutions and agreements pursuant to which the County, City and Township are governed.

“Governmental Authority” means, collectively, the State, any political subdivision thereof, any municipality, and any agency, department, board or bureau of any of the foregoing having jurisdiction over the Project.

“Loan” means the loan by ODOT to the County, City, Township and District in the total sum of the Loan Amount, to be disbursed pursuant to Section 3.5 hereof.

“Loan Agreement” means this Loan Agreement, as from time to time amended or supplemented.

“Loan Amount” means the amount of Six Hundred Nineteen Thousand Dollars (\$619,000) of the Cost of the Project.

“Loan Documents” means all documents, instruments and agreements delivered to or required by ODOT to evidence or secure the Loan as required by the Commitment and this Loan Agreement, as the same may be amended, modified, supplemented, restated or replaced from time to time.

“Motor Vehicle Gasoline Tax Fund” means that portion of the excise and motor fuel tax administered by the Ohio Department of Taxation and allocated to the County, City and Township.

“Note” means the County, City and Township to repay the Loan, as the same may be amended, modified supplemented, restated or replaced from time to time.

“Notice Address” means:

As to ODOT:	Ohio Department of Transportation ATTN: State Infrastructure Bank 1980 West Broad Street, Mail Stop 2130 Columbus, Ohio 43223 FAX: (614) 887-4962
As to the County:	Greene County 35 Greene Street Xenia, Ohio 45385
As to the City:	City of Centerville 100 West Spring Valley Road Centerville, Ohio 45458
As to the Township:	Sugarcreek Township 2090 Ferry Road Sugarcreek Township, Ohio 45305



As to District:

Montgomery County Transportation  
Improvement District  
451 West Third Street, 10<sup>th</sup> Floor  
Dayton, Ohio 45422-1075  
FAX: (937) 225-6036

or such additional or different address, notice of which is given under Section 6.2 hereof.

“Petroleum” means petroleum as defined under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, as from time to time amended.

“Plans and Specifications” means the plans and specifications or other appropriate documents describing the Project prepared by or at the direction of ODOT.

“Project” means the financing of the preliminary engineering and study to provide a comprehensive analysis of the existing and projected traffic, evaluation of alternatives, and a master document to prioritize projects for the next several years for the I-675/Wilmington Pike Interchange.

“Project Site” means the Project in the Township of Sugarcreek, City of Centerville, Greene and Montgomery Counties, described in Exhibit B attached hereto.

“Project Purposes” means the financing of the Project.

“Provision” means, as applicable, the acquiring, financing, constructing, reconstructing, rehabilitating, renovating, enlarging, installing, improving, or furnishing of the Project.

“Qualified Project” means a qualified project within the meaning of the Act.

“Security Documents” means, collectively, the County, City and Township Certificates of Available Resources and any ancillary documents, as from time to time amended or supplemented.

“State” means the State of Ohio.

“State Infrastructure Bank” or “SIB” means the State Infrastructure Bank created by the Act.

“Toxic Chemicals” means toxic chemicals as defined under Title III of the Superfund Amendments and Reauthorization Act of 1986 (also cited as the Emergency Planning and Community Right-to-Know Act) 42 U.S.C. Section 11001, as from time to time amended.

Section 1.3 Certain Words and References. Any reference herein to ODOT shall include those succeeding to ODOT's functions, duties or responsibilities pursuant to or by operation of law or lawfully performing such functions. Any reference to a section or provision of the Constitution of the State or to the Act or to a section, provision, chapter or title of the Ohio Revised Code shall include such section, provision, chapter or title as from time to time amended.

The terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Loan Agreement; and the term "heretofore" means before, and the term "hereafter" means after, the Closing Date. Words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

## ARTICLE II DETERMINATIONS AND REPRESENTATIONS

Section 2.1 Determinations of ODOT. Pursuant to the Act and on the basis of the representations and other information provided by the County, City, Township and District, ODOT hereby determines that the financial assistance to be provided by the State pursuant to this Loan Agreement will conform to the requirements of the Act, and will further implement the purposes of the Act by (i) encouraging public and private investment in transportation facilities that contribute to the multimodal and intermodal capabilities of the State; and (ii) improving the efficiency of the State transportation system by using and developing the particular advantages of each transportation mode to the fullest extent.

Section 2.2 Representations and Warranties of the District, the County, the City and the Township. The County, the City, the Township and District hereby represents and warrant, as applicable (for purposes of clarity, none of the District, the County, the City, or the Township makes any representation or warranty related to any of the others), that:

- (a) The County is a political subdivision duly organized and validly existing under Title III of the Ohio Revised Code, the City is a political subdivision duly organized and validly existing under Title VII of the Ohio Revised Code, the Township is a political subdivision duly organized and validly existing under Title V of the Ohio Revised Code and the District is a body corporate and politic duly organized and validly existing under Chapter 5540 of the Ohio Revised Code.
- (b) The County, City, Township and District have full power and authority to execute, deliver and perform its obligation under the Loan Documents, and the Security Documents, and carry out the transactions contemplated thereby. Such execution, delivery and performance do not, and will not, violate any provision of law applicable to the County, City, Township and District or the Governing Instruments of the County, City, Township and the District and do not, and will not, conflict with or result in a default under any agreement or

instrument to which County, City, District or the Township is a party or by which District or the County, City, Township or any property or assets of District or the Township is or may be bound. The Loan Documents and the Security Documents have, by proper action, been duly authorized, executed and delivered and all necessary actions have been taken in order for the Loan Documents and the Security Documents, to constitute legal, valid and binding obligations of the County, City, Township and District.

- (c) The Provision of the Project will be completed by the County, the City, the Township and the District.
- (d) The provision of financial assistance pursuant to this Loan Agreement induced the County, the City, the Township and District to pay all costs of the Project, thereby materially contributing to the economic revitalization of the State and improving the economic welfare of all the people of the State.
- (e) There are no actions, suits or proceedings pending or threatened against or affecting District or the County, City, Township or the Project which, if adversely determined, would individually or in the aggregate materially impair the ability of District or the County, City or Township to perform any of District's or the County, City or Township's obligations under the Loan Documents, or the Security Documents, or adversely affect the financial condition of District or the County, City or Township.
- (f) The County, City, Township and District are not in default under any of the Loan Documents, or the Security Documents, or in the payment of any indebtedness for borrowed money or under any agreement or instrument evidencing any such indebtedness, and no event has occurred, which by notice, the passage of time or otherwise would constitute any such event of default.
- (g) No representation or warranty made by District or the County, City and Township and contained in the Loan Documents, or the Security Documents, and no statement contained in any certificate, schedule, list, financial statement or other instrument furnished to ODOT by or on behalf of District or the County, City and Township (including, without limitation, the Application), contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading.
- (h) All proceeds of the Loan shall be used for the payment or reimbursement for previous payments of costs relating to Provision of the Project. No part of any such proceeds shall be knowingly paid to or retained by District or the County, City and Township or any partner, officer, shareholder, director or employee of District or the County, City and Township as a fee, kick-back or consideration of any type. District and the County, City and Township have no identity of

interest with any supplier, contractor, engineer, subcontractor, laborer or material man performing work or services or supplying materials in connection with the Provision of the Project.

- (i) The County, City, Township and District have made no contract or arrangement of any kind, other than the Loan Documents, which has given rise to, or the performance of which by the other party thereto would give rise to, a lien or claim of lien on the County, City and Township's Motor Vehicle Gasoline Tax Funds revenues superior to the interests of ODOT therein.
- (j) During the performance of this Loan Agreement, the District, the County, the City and the Township, for themselves, their assignees, and successors in interest, which includes consultants, agree to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) (prohibits discrimination on the basis of sex)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age)
- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to

include all of the programs or activities of Federal-Aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not)

- Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities)
- The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (prohibits discrimination in the sale, rental, and financing of dwellings on the basis of race, color, religion, sex, national origin, disability, or familial status (presence of child under the age of 18 and pregnant women)
- Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 et seq.) (prohibits discrimination on the basis of sex in education programs or activities)

During the performance of this Loan Agreement, the District, the County, the City and the Township, for themselves, their assignees, and successors in interest further agrees as follows:

1. Compliance with Regulations: The District, the County, the City and the Township (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration



("FHWA"), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Loan Agreement.

2. Non-discrimination: The County, the City, the Township and the District, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The District, the County, the City and the Township will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the County, City, Township or the District for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency.

4. Information and Reports: The District, the County, the City and the Township will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the ODOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the County, City, Township or the District is in the exclusive possession of another who fails or refuses to furnish this information, the Borrower will so certify to the ODOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the County's, the City's, the Township's or District's noncompliance with the Nondiscrimination provisions of this Loan Agreement, ODOT will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

a. withholding payments to the District, County, City or the Township under the Loan Agreement until the District, the County, the City and the Township comply; and/or

b. cancelling, terminating, or suspending the Loan Agreement, in whole or in part.

6. **Incorporation of Provisions:** The County, the City, the Township and the District will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The District, County, City and the Township will take action with respect to any subcontract or procurement as ODOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the County, City, Township or the District becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the County, City, Township or the District may request ODOT to enter into any litigation to protect the interests of ODOT. In addition, the District, County, City and the Township may request the United States to enter into the litigation to protect the interests of the United States.

### ARTICLE III LOAN, PROVISION OF THE PROJECT AND CONDITIONS TO DISBURSEMENT

Section 3.1 Loan and Repayment. On the terms and conditions of this Loan Agreement and the Commitment, ODOT shall lend to the County, City, Township and District the Loan Amount to assist in the financing of the Project. The Loan shall be evidenced by this Loan Agreement and the Note and secured by the Security Documents, and other Loan Documents, as applicable. Those instruments and documents shall be executed by the County, City, Township, District and all other parties, as applicable and delivered by the County, City, Township and District to ODOT on the Closing Date, concurrently with the execution and delivery of this Loan Agreement and the delivery of all other documents and the satisfaction of all other closing conditions required by this Loan Agreement and the Commitment. The Loan shall be disbursed pursuant to Section 3.5 hereof upon the satisfaction of the conditions set forth in Section 3.4 hereof. The Loan shall be disbursed only from, and only to the extent that, on the Disbursement Dates funds not heretofore committed are available to make the Loan from moneys provided for in accordance with the Act.

The terms of repayment of the Loan shall be as set forth in the Note, and the County, City, Township and District shall make all payments required to be made under the Note as and when due.

Section 3.2 Provision of the Project. The District, County, City and the Township (a) have commenced or shall promptly hereafter commence the Provision of the Project, and (b) shall pay all expenses incurred in such Provision from funds made available therefore in accordance with this Loan Agreement, or otherwise.

Section 3.3 The County, City, and Township Required to Pay Costs in Event Proceeds Insufficient. In the event that the proceeds of the Loan are not sufficient to pay all costs of the Project, the County, City, and Township may be required by ODOT, nonetheless and irrespective of the cause of such deficiency to, complete the Project in accordance with the Plans and Specifications and pay all costs of such completion in full, or a lesser amount to be determined as appropriate by ODOT.

Section 3.4 Conditions Precedent to Disbursement. The disbursement of the Loan shall be made in disbursements not more frequently than twice every month during and/or upon the completion of the Provision of the Project (and on or before the Final Disbursement Date), provided ODOT, if not already under the control or within ODOT's knowledge, shall have received the following on or before each Disbursement Date, as applicable:

- (a) this Loan Agreement, duly executed;
- (b) the duly executed Note;
- (c) duly executed County, City and Township Certificates of Available Resources;
- (d) certified copies of the resolutions of the County, City, Township and District, respectively, authorizing execution and delivery of all documents with respect to the Loan Documents and Security Documents and performance thereunder, as applicable;
- (e) an opinion of the County, City, Township's and District's counsel, which sets forth substantially the following:
  - (1) the County, City, Township and District have full power and authority to execute and deliver the Loan Documents, and the Security Documents;
  - (2) the County, City, Township and District have duly authorized the taking of any and all actions necessary to carry out and give effect to the transactions contemplated to be performed on the County, City, Township's and District's part under the Loan Documents, and the Security Documents;
  - (3) each of the Loan Documents, and the Security Documents has been duly authorized, executed and delivered by the County, City, Township and District, and is a legal, valid and binding obligation of the County, City, Township and District, enforceable in accordance with its terms, except as such enforcement may be limited by the application of bankruptcy,

insolvency, reorganization, fraudulent conveyance, moratorium and other similar laws or equitable principles affecting creditors' rights generally;

- (4) the execution and delivery of each of the Loan Documents, and the Security Documents and the performance by the County, City, Township and District of the actions required of the County, City, Township and District thereby and the consummation of the transactions contemplated therein do not and will not or constitute a default under, conflict with or violate any judgment, decree, indenture, mortgage, deed of trust, guaranty, agreement or other instrument to which the County, City, Township and District are a party or by which the County, City, Township and District are bound, or conflict with or violate any provisions of law, administrative regulation, or court order or consent decree;
- (5) there is no action, temporary restraining order, injunction, suit, proceeding, inquiry or investigation at law or in equity, before or by any judicial or administrative court or agency, pending or to the best knowledge of such counsel threatened against or affecting, or involving the properties, securities or businesses of the County, City, Township and District, and to the best knowledge of such counsel, there is no reasonable basis for any such action, temporary restraining order, injunction, suit, proceeding, inquiry or investigation, which would, individually or in the aggregate, adversely affect the transactions contemplated by the Loan Documents, or the Security Documents, the delivery, validity or enforceability of any of the Loan Documents or the Security Documents or materially and adversely affect the financial condition of the County, City, Township and District;
- (6) the County, City, Township and District have obtained any and all requisite governmental consents, permits, licenses and approvals necessary for each of them to enter into, execute and deliver the Loan Documents, and the Security Documents and to perform the County's, City's, Township's and District's obligations thereunder; and
- (7) to the knowledge of such counsel, the County, City, Township and District are not in default under any contract, agreement or other instrument by which it is bound, in the payment of any monetary obligation or with respect to any judgment, order,

injunction or regulation of any court or governmental authority, and there exists no condition or event which after notice or lapse of time or both would constitute any such default; and

- (8) the security interests granted to ODOT by the Security Documents will constitute a valid senior lien on the County's, City's and Township's Motor Vehicle Gasoline Tax Fund revenues; and
- (f) determination of prevailing wage by the Bureau of Employment Services of the State as well as Certificate of Compliance issued by the Bureau of Employment Services of the State, certifying as to full compliance with Chapter 4115, Ohio Revised Code; and
- (g) such other certifications, documents or opinions as ODOT may reasonably request.

Section 3.5 Disbursement of Loan. At the request of the District, the County, City and Township for disbursement of the Loan Amount hereunder, ODOT shall disburse the Loan by delivering funds as determined by ODOT in ODOT's sole discretion based on each Cost Certification (i.e. Disbursement Form A and B, which are attached hereto, and incorporated as if fully rewritten herein as Exhibit C), to the order of the District, County, City and Township on each Disbursement Date.

Section 3.6 Payment of Costs The County, City, and Township shall pay all costs incident to the Loan incurred by ODOT.

Section 3.7 Plans and Specifications; Inspections. ODOT may revise the Plans and Specifications from time to time; provided that no revision shall be made (a) which would change the Project Purposes to purposes other than those permitted by the Act; (b) without obtaining, to the extent required by law, the approval of any applicable Governmental Authority.

Section 3.8 Pledge. The County, City and Township pledge their rights, title and interest in the County, City and Township's Motor Vehicle Gasoline Tax Fund revenues. These pledges will continue until the Loan and interest are paid in full.

The County, City and Township agree to subordinate any future pledges of their Motor Vehicle Gasoline Tax Fund revenues if in any one calendar year such revenues when divided by their current annual debt service on outstanding obligations is equal to or less than 1.3.

The County, City, and Township represent that the anticipated Motor Vehicle Gasoline Tax Fund revenues will be sufficient to, and covenants that they will not pledge or otherwise commit to other obligations those resources they determine necessary to, pay Loan payments when they come due. However, the County, City and Township shall utilize all other appropriated and legally



available revenues in the event that the County, City and Township's Motor Vehicle Gasoline Tax Fund revenues are insufficient to repay their respective portions of the Note as scheduled.

Section 3.9 Completion Date. The Completion Date shall occur not later than February 28, 2022, and shall be evidenced by a certificate of the County, City, Township and District stating (a) the Completion Date, (b) that all licenses, permits and approvals for the Project required by any Governmental Authority have been procured and/or obtained, (c) that all improvements reflected in the Plans and Specifications have been made and the Provision of the Project has been completed, and (d) that all costs of providing the Project have been paid.

#### ARTICLE IV ADDITIONAL COVENANTS AND AGREEMENTS

Section 4.1 Affirmative Covenants of the County, City, Township and District. Throughout the term of this Loan Agreement, the County, City, Township and District shall:

(a) Deliver Notice. Forthwith upon learning of any of the following, deliver written notice thereof to ODOT, describing the same and the steps being taken by the County, City, Township and District with respect thereto:

(1) the occurrence of an Event of Default or an event or circumstance which would constitute an Event of Default, but for the requirement that notice be given, elapse of time or otherwise; or

(2) any action, suit or proceeding by or against the County, City, Township or District at law or in equity, or before any governmental instrumentality or agency, instituted or threatened which, if adversely determined, would materially impair the right or ability of the County, City, Township or District to carry on the business which is contemplated in connection with the Project or would materially impair the right or ability of the County, City, Township or District to perform the transactions contemplated by the Loan Documents, or Security Documents, or would materially and adversely affect the County, City, Township's or District's business, operations, properties, assets or condition;

(3) any material communication adversely affecting the Project, and the County, City,

Township and District will promptly respond fully to any inquiry of ODOT made with respect thereto.

(b) Inspection Rights. Permit ODOT, or any agents or representatives thereof, to examine and make copies of and abstract from the records and books of account of the County, City and Township related to the Project or collateral for the Loan, visit the Project, and discuss the general business affairs of the County, City, Township or District with any of the County, City, Township's or District's officers.

(c) Compliance with Laws, Etc. Comply in all material respects with all statutes, laws, ordinances and governmental rules, regulations and orders to which it is subject or which are applicable to the Project.

(d) Maintain Existence. Do or cause to be done all things necessary to preserve and keep in full force and effect the County, City, Township's and District's existence and ownership of its material rights and franchises.

(e) Maintain Property. Maintain and keep the Project in good repair, working order and condition; provided that such obligation shall not apply to the District.

(f) Furnish Information. Furnish or cause to be furnished to ODOT:

(1) Certificate of Available Resources. Within one hundred eighty (180) days after the last day of each Fiscal Year, a duly executed Certificate of Available Resources by the County, City and Township for the next fiscal year.

(2) Certificate; No Default. With each of the certificates required to be furnished pursuant to this Section, a certificate of the County, City and Township's and District's chief financial officer stating that (a) no Event of Default has occurred and is continuing and no event or circumstance which would constitute an Event of Default, but for the requirement that notice be

given or time elapse or both, has occurred and is continuing, or, if such an Event of Default or such event or circumstance has occurred and is continuing a statement as to the nature thereof and the action which the County, City, Township or District shall propose to take with respect thereto, and (b) no action, suit or proceeding by the County, City, Township, or District, or against the County, City, Township, or District, at law or in equity, or before any governmental instrumentality or agency, is pending or, to the best of the County, City, Township's or District's knowledge; threatened, which, if adversely determined, would materially impair the right or ability of the County, City, Township or District to carry on the business which is contemplated in connection with the Project or would materially impair the right or ability of the County, City, Township or District to perform the transactions contemplated by the Loan Documents, all as of the date of such certificate, except as disclosed in such certificate.

Section 4.2 Negative Covenants of the County, City, Township and District. Throughout the term of this Loan Agreement, the Township shall not:

(a) Agreements. Enter into any agreement containing any provision which would be violated or breached by the performance of the County, City, Township or District's obligations hereunder or under any instrument or document delivered or to be delivered by the County, City, Township or District hereunder or in connection herewith.

(b) Assignment. In whole or in part, assign this Loan Agreement.

(c) Financial Covenants. Violate any financial covenant contained in any agreement evidencing, relating to or securing any indebtedness for borrowed money in excess of Five Hundred Thousand Dollars (\$500,000).

(d) Creation of Liens. Create or suffer to exist any pledge, security interest, encumbrance or other lien affecting the

County, City or Township's Motor Vehicle Gasoline Tax Fund revenues superior to the interests of ODOT therein.

ARTICLE V  
EVENTS OF DEFAULT, REMEDIES AND TERMINATION

Section 5.1 Events of Default. Each of the following shall be an "Event of Default":

(a) Failure by the County, City, Township or District to pay when due any amount payable pursuant to the Note or this Loan Agreement, or any other Loan Document on the date on which payment is due and payable; or

(b) the County, City, Township or District shall fail to observe and perform any agreement, term or condition contained in this Agreement other than as required pursuant to subsection (a) above, and such failure continues for a period of thirty (30) days after the County, City, Township or District has knowledge thereof; *provided*, however, that such thirty (30) day cure period shall not apply to (i) any failure which in the good faith opinion of ODOT is incapable of cure, (ii) any failure which has previously occurred, or (iii) any failure to maintain and keep in effect any insurance required by the Loan Documents; or

(c) the County, City, Township or District commences a voluntary case concerning it under Title 11 of the United States Code entitled "Bankruptcy" as now or hereafter in effect, or any successor thereto (the "Bankruptcy Code"); or the Township is not generally paying the County, City or Township's debts as such debts become due; or a custodian (as defined in the Bankruptcy Code) is appointed for, or takes charge of, all or substantially all of the property of the County, City, Township or District; or the County, City, Township or District commences any other proceeding under any reorganization, arrangement, readjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect; or there is commenced against the County, City, Township or District any such proceeding which remains undismissed for a period of ninety (90) days; or the County, City, Township or District is

adjudicated insolvent or bankrupt; or the County, City, Township or District fails to controvert in a timely manner any such case under the Bankruptcy Code or any such proceeding or any case or proceeding for the appointment of any custodian or the like of or for the County, City, Township or District or any substantial part of the County, City, Township or District's property or suffers any such appointment to continue undischarged or unstayed for a period of ninety (90) days; or the County, City, Township or District makes a general assignment for the benefit of creditors; or any action is taken by the County, City, Township or District for the purpose of effecting any of the foregoing; or a receiver or trustee or any other officer or representative of the court or of creditors, or any court, governmental officer or agency, shall under color of legal authority, take and hold possession of any substantial part of the property or assets of the County, City, Township or District for a period in excess of ninety (90) days; or

(d) any representation or warranty made by the County, City, Township or District, or any of the County, City, Township or District's officers, herein or in any of the other Loan Documents, or the Security Documents, or in connection herewith or therewith shall prove to have been incorrect in any material respect when made; or

(e) any Event of Default under the Note or any other Loan Documents shall have occurred and be continuing.

Section 5.2 Remedies. If an Event of Default shall have occurred and be continuing, ODOT, at any time, at ODOT's election, may exercise any or all or any combination of the remedies conferred upon or reserved to ODOT under this Loan Agreement, the Note, any of the other Loan Documents or any instrument or document collateral thereto, or now or hereafter existing at law, or in equity or by statute. Subject to the foregoing, any or all of the following remedies may be exercised:

- (a) if the Loan has not been disbursed, termination of any and all of ODOT's obligations under this Loan Agreement and the Commitment;
- (b) declaration that the entire unpaid balance of all indebtedness owed to ODOT is immediately due and payable;
- (c) exercise of all or any rights and remedies as ODOT may have under this Loan Agreement, Security Documents, and any of the other Loan Documents;

- (d) ODOT may inspect, examine and copy the books, records, accounts and financial data of the County, City, Township or District;
- (e) ODOT may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Loan Agreement, Security Documents or any other Loan Document, or to enforce the performance and observance of any other obligation or agreement of the County, City, Township or District under the Loan Documents.

Section 5.3 No Remedy Exclusive. No remedy conferred upon or reserved to ODOT by this Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement, each other Loan Document, Security Documents or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle ODOT to exercise any remedy reserved to ODOT in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly provided for herein or required by law.

Section 5.4 Agreement to Pay Expenses and Attorneys' Fees. If an Event of Default shall occur and ODOT shall incur expenses, including reasonable attorney's fees, in connection with the enforcement of this Loan Agreement, County, City, and Township shall reimburse ODOT for the expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount thereof, together with interest thereon from the date of demand for payment at the rate specified in the Note for any default under the Note, shall constitute additional indebtedness secured by the Security Documents, and in any action brought to collect such indebtedness or to enforce the Security Documents, ODOT shall be entitled to seek the recovery of such expenses in such action.

Section 5.5 No Waiver. No failure by ODOT to insist upon the strict performance by the County, City, Township or District of any provision hereof shall constitute a waiver of ODOT's right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the County, City, Township or District to observe or comply with any provision hereof.

## ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.1 Term of Loan Agreement. This Loan Agreement shall be and remain in full force and effect from the date of its delivery until (a) the termination of this Loan Agreement pursuant to Section 5.2(a) hereof or (b) such time as the Loan shall have been fully repaid and all other sums payable by the County, City, Township or District under this Loan Agreement, the Note and any other Loan Documents shall have been paid.

Section 6.2 Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or sent by facsimile and confirmed by telephone, and addressed to the appropriate Notice Address. The County, City, Township or District or ODOT may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or communications shall be sent.

Section 6.3 Extent of Covenants of ODOT; No Personal Liability. All covenants, obligations and agreements of ODOT contained in this Loan Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future ODOT Director in other than such ODOT Director's official capacity acting pursuant to the Act. All covenants, obligations and agreements of the County, the City, the Township, and the District contained in this Loan Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future officer, director, or employee of the foregoing other than in such person's official capacity acting pursuant to applicable law.

Section 6.4 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon ODOT, the County, City, Township, District and their respective successors and assigns. The County, City, Township and District shall not assign any of the County, City, Township or District's rights or obligations under this Loan Agreement without the written consent of ODOT.

Section 6.5 Amendments and Supplements. This Loan Agreement may not be amended or supplemented except by an instrument in writing executed by ODOT, District, County, City and the Township.

Section 6.6 Execution Counterparts. This Loan Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 6.7 Severability. If any provision of this Loan Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative made, entered into or taken in the manner and to the full extent permitted by law.

Section 6.8 Captions; Entire Agreement. The captions and headings in this Agreement shall be solely for convenience of reference and shall in no way define, limit or describe the scope or

intent of any provisions or Sections of this Agreement. All exhibits and schedules to this Agreement shall be annexed hereto and shall be deemed to be part of this Agreement. This Agreement and the exhibits and schedules attached hereto and the Loan Documents embody the entire agreement and understanding between ODOT, District, County, City and the Township and supersede all prior agreements and understandings relating to the subject matter hereof.

Section 6.9 Interpretation. This Agreement shall be deemed to have been prepared jointly by the parties hereto and any uncertainty or ambiguity existing herein shall not be interpreted against any party but shall be interpreted according to the rules for the interpretation of arm's length agreements.

Section 6.10 Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

Section 6.11 Further Assurance. The County, City, Township and District agree to execute such other and further documents and instruments as ODOT may request to implement provisions of the Loan Documents.

IN WITNESS WHEREOF, this Loan Agreement has been executed and delivered all as of the date first herein before written.

OHIO DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Jack Marchbanks, Director

MONTGOMERY COUNTY TRANSPORTATION  
IMPROVEMENT DISTRICT

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Approved as to form:



Cheri L. Stout (#0073725)  
Assistant Prosecuting Attorney  
Greene County Prosecuting  
Attorney's Office

By: \_\_\_\_\_



Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

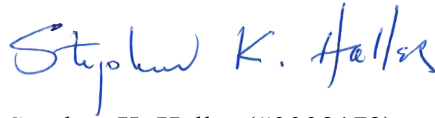
CITY OF CENTERVILLE

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Approved as to form:



Stephen K. Haller (#0009172)  
Civil Division Chief  
Greene County Prosecuting  
Attorney's Office

SUGARCREEK TOWNSHIP

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

**EXHIBIT A**

FORM OF  
PROMISSORY NOTE

**EXHIBIT B**

PROJECT DESCRIPTION

## EXHIBIT C

### CERTIFICATE OF AVAILABLE RESOURCES

This certificate is given in compliance with Section 5705.41, Revised Code. It is attached to the Loan Agreement dated as August \_\_\_\_, 2021 (the "Loan Agreement") amongst the Montgomery County Transportation Improvement District ("District"), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, Greene County, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the County"), City of Centerville, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the City"), and the Township of Sugarcreek, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the Township"). Under Section 3.1 of the Loan Agreement, ODOT has agreed to loan Six Hundred Nineteen Thousand Dollars (\$619,000) to the County, City, District and the Township. The undersigned certifies as follows:

1. The Loan and the Note have been authorized by the Township by Resolution 2021.03.01.05 passed on March 1, 2021.
2. The Note has been executed and delivered to ODOT. Under Section 5705.41(D), Revised Code, amounts required to meet scheduled payments on the Note in the current fiscal year have been lawfully appropriated for such purpose and are either in the treasury, or in the process of collection to the credit of the Township's Motor Vehicle Gasoline Tax Funds revenues as defined in the Loan Agreement, the funds designated by the Township for deposit of funds to pay the Note, free from any previous encumbrances.

Dated: August \_\_\_\_, 2021

\_\_\_\_\_  
Fiscal Officer of Sugarcreek Township

## CERTIFICATE OF AVAILABLE RESOURCES

This certificate is given in compliance with Section 5705.41, Revised Code. It is attached to the Loan Agreement dated as August \_\_\_\_, 2021 (the "Loan Agreement") amongst the Montgomery County Transportation Improvement District ("District"), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, Greene County, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the County"), City of Centerville, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the City"), and the Township of Sugarcreek, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the Township"). Under Section 3.1 of the Loan Agreement, ODOT has agreed to loan Six Hundred Nineteen Thousand Dollars (\$619,000) to the County, City, District and the Township. The undersigned certifies as follows:

1. The Loan and the Note have been authorized by the City by Resolution 33-21 passed on March 15, 2021.
2. The Note has been executed and delivered to ODOT. Under Section 5705.41(D), Revised Code, amounts required to meet scheduled payments on the Note in the current fiscal year have been lawfully appropriated for such purpose and are either in the treasury, or in the process of collection to the credit of the City's Motor Vehicle Gasoline Tax Funds revenues as defined in the Loan Agreement, the funds designated by the City for deposit of funds to pay the Note, free from any previous encumbrances.

Dated: August \_\_\_\_, 2021

\_\_\_\_\_  
Fiscal Officer of City of Centerville

## CERTIFICATE OF AVAILABLE RESOURCES

This certificate is given in compliance with Section 5705.41, Revised Code. It is attached to the Loan Agreement dated as August \_\_\_\_, 2021 (the “Loan Agreement”) amongst the Montgomery County Transportation Improvement District (“District”), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, Greene County, a political subdivision duly organized and validly existing under the laws of the State of Ohio (“the County”), City of Centerville, a political subdivision duly organized and validly existing under the laws of the State of Ohio (“the City”), and the Township of Sugarcreek, a political subdivision duly organized and validly existing under the laws of the State of Ohio (“the Township”), Under Section 3.1 of the Loan Agreement, ODOT has agreed to loan Six Hundred Nineteen Thousand Dollars (\$619,000) to the County, City, District and the Township. The undersigned certifies as follows:

1. The Loan and the Note have been authorized by the County by Resolution 21-3-18-6 passed on March 18, 2021.
2. The Note has been executed and delivered to ODOT. Under Section 5705.41(D), Revised Code, amounts required to meet scheduled payments on the Note in the current fiscal year have been lawfully appropriated for such purpose and are either in the treasury, or in the process of collection to the credit of the County’s Motor Vehicle Gasoline Tax Funds revenues as defined in the Loan Agreement, the funds designated by the County for deposit of funds to pay the Note, free from any previous encumbrances.

Dated: August \_\_\_\_, 2021

\_\_\_\_\_  
Fiscal Officer of Greene County

**EXHIBIT D**

**SIB Disbursement Form A**

Montgomery County Transportation Improvement District

**TO: Ohio Department of Transportation**  
 Division of Finance  
 1980 West Broad Street, Mailstop #2130  
 Columbus, Ohio 43223

Invoice #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Project: \_\_\_\_\_  
 Draw #: \_\_\_\_\_  
 SIB Loan #: \_\_\_\_\_

<i>Payment Item</i>	<i>Original Cost of Project</i>	<i>Previous Payments</i>	<i>Amount Due this Payment</i>	<i>Balance Due to Complete Project</i>
Design Engineering Design				
Construction (Specify)				

**Net Total of Invoice**

**Certification Statement:**

I certify that I have checked and verified the attached detail for partial payment; that to the best of my knowledge and belief it is a true and correct statement of work performed and/or material supplied by the Contractor; that all work and/or materials included in this partial payment has been inspected by me and/or my duly authorized representative or assistants and that it has been performed and/or supplied in full accordance with requirements of the referenced contract; and that partial payment claimed and requested is correctly computed on the basis of work performed and/or material supplied to date.

Also, I further certify that each item for which payment is requested is a cost properly payable out of the loan proceeds in accordance with the terms and conditions of this loan agreement and none of the items for which payment is proposed to be made has formed the basis for any payment theretofore made from the loan proceeds; that each item for which payment is proposed to be made is or was necessary in connection with the Project; and each payee has submitted appropriate waivers of any mechanics\* liens and affidavit as required.

\_\_\_\_\_  
 MCTID Authorized Agent

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 ODOT Approved

\_\_\_\_\_  
 Date

## SIB Disbursement Form B

Montgomery County Transportation Improvement District

Invoice #: \_\_\_\_\_  
Date: \_\_\_\_\_  
Draw #: \_\_\_\_\_  
SIB Loan #: \_\_\_\_\_

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Voucher	\$ Paid	Date	Warrant	\$ Amount
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Total of Invoice: \$

This is to certify that the work as evidenced by an appropriate invoice of actual production, as attached to justify the above amounts, has been completed and in no way represents any degree of duplication of payments and that all costs were incurred in accordance with the terms and conditions of the Agreements listed on the vouchers attached.

\_\_\_\_\_  
MCTID Authorized Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
ODOT Approved

\_\_\_\_\_  
Date



SIB#210006/PID#115160

## PROMISSORY NOTE

\$619,000

August \_\_, 2021

For value received, Montgomery County Transportation Improvement District ("District"), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, the County of Greene, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the County"), the City of Centerville, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the City"), and the Township of Sugarcreek, a political subdivision duly organized and validly existing under the laws of the State of Ohio ("the City"), promises to pay to the order of the Director of Transportation of the State of Ohio (the "Director"), acting on behalf of the State of Ohio, at 1980 West Broad Street, Mailstop #2130, Columbus, Ohio 43223, or at such other address as may be designated in writing by the Director, the principal sum of Six Hundred and Nineteen Thousand Dollars (\$619,000), with interest on the amount of principal from time to time outstanding from the Closing Date as specified under and defined in the Loan Agreement amongst the Director, District, the County, the City and the Township dated as of August \_\_, 2021, (the "Loan Agreement"), (i) at the rate of zero (0%) percent per annum from the Closing Date until, and including, the last day of the twelfth (12<sup>th</sup>) month after the Closing Date; and (ii) three percent (3%) per annum from the first day of the thirteenth (13<sup>th</sup>) month after the Closing Date, until paid. Defined terms used but not otherwise defined herein shall have the respective meanings assigned to them in the Loan Agreement.

The District, the County, the City and the Township shall pay an amount equal to the amount designated in Schedule A attached hereto and incorporated herein in its entirety by this reference.

The entire principal balance hereon, and accrued and unpaid interest thereon, and all other obligations of the District, the County, the City and the Township hereunder, if not sooner paid, shall be due and payable in full on the last day of the one hundred and twentieth (120<sup>th</sup>) month after the Closing Date.

This Note does not of itself constitute a commitment by the Director to make any disbursement of the Loan (as defined in the Loan Agreement) to the District the County, the City and the Township. The conditions for making such a disbursement are set forth in the Loan Agreement. The disbursements made by the Director to the District or the County, or the City or the Township, or on behalf of the District or the County or the City or the Township, shall not exceed the face amount of this Note and the total amount of such disbursement is limited by and subject to the conditions for making disbursement of the Loan as set forth in the Loan Agreement.

The annual rate of interest stated herein shall apply to a 360-day period and amounts of interest due hereunder shall be computed upon the basis of 30-day months. Installments of principal and interest shall be applied first to interest as provided herein and the balance to principal due hereunder.

The District or the County or the City or the Township may prepay all or any portion of the principal sum hereof at any time, but if such prepayment is made during the first three years after the Closing Date a three percent (3%) fee shall be assessed on the amount prepaid. All such prepayments shall be applied to the payment of the principal installments due hereon in the inverse order of their maturity, and shall be accompanied by the payment of accrued interest on the amount of the prepayment to the date thereof.

The payment of this Note and all interest hereon is secured by the County's, City's and Township's pledge of their Motor Vehicle Gasoline Tax Fund's revenues, as set forth in the Loan Agreement. The covenants, conditions and agreements contained in the Loan Agreement are hereby made a part of this Note.

If default be made in the payment of any installment of principal and interest under this Note when any such payment shall have become due and payable, or if an "Event of Default," as defined in the Loan Agreement shall have occurred and be continuing, then, at the option of the Director, the entire principal sum payable hereunder and all interest, if any, accrued thereon shall become due and payable at once, without demand or notice.

For the period during which a default shall exist in the payment of any amount due and payable hereunder (the "Amount Due") a late charge equal to five percent (5%) of Amount Due shall be assessed, in addition to all other sums due hereunder, for each month during which the default exists. In the event the Director elects to accelerate the Loan, the interest rate shall increase to eight percent (8%) per annum on any monies due the Director.

If any provision hereof is in conflict with any statute or rule of law of the State of Ohio or is otherwise unenforceable for any reason whatsoever, then such provision shall be deemed separable from and shall not invalidate any other provision of this Note.

If this Note is placed in an attorney's hands for collection, or collected by suit or through the bankruptcy or probate, or any other court, either before or after maturity, there shall be paid to the holder of this Note reasonable attorney fees, costs and other expenses incurred by the holder in enforcing the terms of this Note.

Nothing in this Note constitutes a pledge of the faith and credit of the County, City or Township, or gives the holder of this Note the right to have taxes levied by the County, City or Township for the payment of this Note.

It is certified and recited that there have been performed and have been met in regular and due form, as required by law, all acts and conditions necessary to be performed by the County, City Township and District or to have been met (i) precedent to and in the issuing of this Note in order to make it legal, a valid and binding obligation of the County, City, Township and District, and (ii) precedent to and in the execution and delivery by the County, City, Township and District of the Loan Agreement; and that no constitutional or statutory limitation have been exceeded in issuing this Note.

This Note is executed in Dayton and Centerville, Ohio, and shall be construed in accordance with the laws of the State of Ohio.

GREENE COUNTY

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

CITY OF CENTERVILLE

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

SUGARCREEK TOWNSHIP

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

MONTGOMERY COUNTY TRANSPORTATION  
IMPROVEMENT DISTRICT

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Ohio Department of Transportation  
State Infrastructure Bank  
Montgomery County Transportation Improvement District ("MCTID")  
**I-675 / Wilmington Interchange Area Improvement Project**

Schedule I  
**Sources and Uses of Funds and Financing Terms**

**I. Sources and Uses**

**Sources**

State Infrastructure Bank Loan	\$	619,000.00
<b>Total Sources of Funds</b>	<b>\$</b>	<b>619,000.00</b>

**Uses**

Preliminary Engineering	\$	520,000.00
TID Project Management		75,000.00
Legal & Accounting		20,000.00
SIB Closing Costs		4,000.00
<b>Total Uses of Funds</b>	<b>\$</b>	<b>619,000.00</b>

**II. Financing Terms**

Loan Term (years)					10.00
Interest Rate from	06/15/21	to	06/14/22		0.000%
Interest Rate from	06/15/22	to	06/14/31		3.000%
Accrued Interest from	06/15/22	to	06/14/23	\$	18,570.00
Semi-Annual Payments beginning on	12/15/23	to	06/15/31	\$	45,117.69

Total Greene County Obligations (1/3 of the semi-annual payment)  
Total City of Centerville Obligations (1/3 of the semi-annual payment)  
Total Sugarcreek Township Obligations (1/3 of the semi-annual payment)

Ohio Department of Transportation  
State Infrastructure Bank  
Montgomery County Transportation Improvement District ("MCTID")  
**I-675 / Wilmington Interchange Area Improvement Project**

Schedule II  
**Estimated Total Payment Schedule**

Date	Principal	Interest 3.00%	Accrued Interest	Total Payment	Outstanding Balance
06/15/21					\$ 619,000.00
12/15/21	\$ -	\$ -	\$ -	\$ -	619,000.00
06/15/22	-	-	-	-	619,000.00
12/15/22	-	-	(9,285.00)	-	628,285.00
06/15/23	-	-	(9,285.00)	-	637,570.00
12/15/23	35,554.14	9,563.55	-	45,117.69	602,015.86
06/15/24	36,087.45	9,030.24	-	45,117.69	565,928.41
12/15/24	36,628.76	8,488.93	-	45,117.69	529,299.65
06/15/25	37,178.20	7,939.49	-	45,117.69	492,121.45
12/15/25	37,735.87	7,381.82	-	45,117.69	454,385.58
06/15/26	38,301.91	6,815.78	-	45,117.69	416,083.67
12/15/26	38,876.43	6,241.26	-	45,117.69	377,207.24
06/15/27	39,459.58	5,658.11	-	45,117.69	337,747.66
12/15/27	40,051.48	5,066.21	-	45,117.69	297,696.18
06/15/28	40,652.25	4,465.44	-	45,117.69	257,043.93
12/15/28	41,262.03	3,855.66	-	45,117.69	215,781.90
06/15/29	41,880.96	3,236.73	-	45,117.69	173,900.94
12/15/29	42,509.18	2,608.51	-	45,117.69	131,391.76
06/15/30	43,146.81	1,970.88	-	45,117.69	88,244.95
12/15/30	43,794.02	1,323.67	-	45,117.69	44,450.93
06/15/31	44,450.93	666.76	-	45,117.69	0.00
<b>Totals</b>	<b>\$ 637,570.00</b>	<b>\$ 84,313.04</b>	<b>\$ (18,570.00)</b>	<b>\$ 721,883.04</b>	

Ohio Department of Transportation  
 State Infrastructure Bank  
 Montgomery County Transportation Improvement District ("MCTID")  
**I-675 / Wilmington Interchange Area Improvement Project**

Schedule III  
**Breakout Repayment Schedule**

*Greene County Obligations*

*City of Centerville Obligations*

*Sugarcreek Township Obligations*

Date	Principal	Interest 3.00%	Total County Payment	Principal	Interest 3.00%	Total City Payment	Principal	Interest 3.00%	Total Township Payment	Accrued Interest	Outstanding Balance
06/15/21											\$ 619,000.00
12/15/21	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-	619,000.00
06/15/22	-	-	-	-	-	-	-	-	-	-	619,000.00
12/15/22	-	-	-	-	-	-	-	-	-	(9,285.00)	628,285.00
06/15/23	-	-	-	-	-	-	-	-	-	(9,285.00)	637,570.00
12/15/23	11,851.38	3,187.85	15,039.23	11,851.38	3,187.85	15,039.23	11,851.38	3,187.85	15,039.23	-	602,015.86
06/15/24	12,029.15	3,010.08	15,039.23	12,029.15	3,010.08	15,039.23	12,029.15	3,010.08	15,039.23	-	565,928.41
12/15/24	12,209.59	2,829.64	15,039.23	12,209.59	2,829.64	15,039.23	12,209.59	2,829.64	15,039.23	-	529,299.65
06/15/25	12,392.73	2,646.50	15,039.23	12,392.73	2,646.50	15,039.23	12,392.73	2,646.50	15,039.23	-	492,121.45
12/15/25	12,578.62	2,460.61	15,039.23	12,578.62	2,460.61	15,039.23	12,578.62	2,460.61	15,039.23	-	454,385.58
06/15/26	12,767.30	2,271.93	15,039.23	12,767.30	2,271.93	15,039.23	12,767.30	2,271.93	15,039.23	-	416,083.67
12/15/26	12,958.81	2,080.42	15,039.23	12,958.81	2,080.42	15,039.23	12,958.81	2,080.42	15,039.23	-	377,207.24
06/15/27	13,153.19	1,886.04	15,039.23	13,153.19	1,886.04	15,039.23	13,153.19	1,886.04	15,039.23	-	337,747.66
12/15/27	13,350.49	1,688.74	15,039.23	13,350.49	1,688.74	15,039.23	13,350.49	1,688.74	15,039.23	-	297,696.18
06/15/28	13,550.75	1,488.48	15,039.23	13,550.75	1,488.48	15,039.23	13,550.75	1,488.48	15,039.23	-	257,043.93
12/15/28	13,754.01	1,285.22	15,039.23	13,754.01	1,285.22	15,039.23	13,754.01	1,285.22	15,039.23	-	215,781.90
06/15/29	13,960.32	1,078.91	15,039.23	13,960.32	1,078.91	15,039.23	13,960.32	1,078.91	15,039.23	-	173,900.94
12/15/29	14,169.73	869.50	15,039.23	14,169.73	869.50	15,039.23	14,169.73	869.50	15,039.23	-	131,391.76
06/15/30	14,382.27	656.96	15,039.23	14,382.27	656.96	15,039.23	14,382.27	656.96	15,039.23	-	88,244.95
12/15/30	14,598.01	441.22	15,039.23	14,598.01	441.22	15,039.23	14,598.01	441.22	15,039.23	-	44,450.93
06/15/31	14,816.98	222.25	15,039.23	14,816.98	222.25	15,039.23	14,816.98	222.25	15,039.23	-	(0.00)
<b>Totals</b>	<b>\$ 212,523.33</b>	<b>\$ 28,104.35</b>	<b>\$ 240,627.68</b>	<b>\$ 212,523.33</b>	<b>\$ 28,104.35</b>	<b>\$ 240,627.68</b>	<b>\$ 212,523.33</b>	<b>\$ 28,104.35</b>	<b>\$ 240,627.68</b>	<b>\$ (18,570.00)</b>	

