

C O N T R A C T
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of Avon, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

WHEREAS, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: RECITALS

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: PURPOSE

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: LEGAL REFERENCES

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

The project consists of repair and resurfacing of SR 83 from Detroit Road to Lake Road, lying within the City of Avon.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **One Hundred Eighty Two Thousand Six Hundred Sixteen and - - - - 00/100 Dollars, (\$182,616.00).**
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid NOACA funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.
7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;
 - B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,
 - C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
 - D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;

- E. To place and maintain all traffic control devices conforming to the Ohio Manual on Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows:

City of Avon
36080 Chester Road
Avon, Ohio
44011

Ohio Department of Transportation
Office of Estimating
1980 West Broad Street, 1st Floor
Columbus, Ohio 43223

SECTION X: FEDERAL REQUIREMENTS

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, disability, or age. Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, or age. If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

SECTION XI: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.
6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

SECTION XI: SIGNATURES

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL
(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

**LOCAL PUBLIC AGENCY
City of Avon**

Director of Transportation

Mayor

Date

Date

Approved:
Mike DeWine
Attorney General of Ohio

By: _____
Stephen H. Johnson
Chief, Transportation Section

Date: _____

FISCAL OFFICER'S CERTIFICATE
(Chapter 5521 and Section 5705.41, Ohio Revised Code)

I hereby certify to that the money, to wit: **\$182,616.00** required for the payment of the cost other than that thereof assumed by the **Federal** Government, for the improvement of that portion of **State Route 83**, lying within the corporate limits of the City of Avon, more particularly described as follows:

The project consists of repair and resurfacing of SR 83 from Detroit Road to Lake Road, lying within the City of Avon; and

has been lawfully appropriated for such purpose and is in the treasury to the credit of, or has been levied placed on the duplicate and in process of collection for the appropriate fund, and not appropriated for any other purpose; or is being obtained by sale of bonds issued on account of said improvement, which bonds are sold and in process of delivery.

I further certify that this certificate was made, sealed and filed with the legislative authority of the City of Avon, Ohio, after said legislative authority passed the final resolution in connection with the within described project; and that this certificate was forthwith recorded in the record of the proceedings of said legislative authority, namely:

Legislative Authority's Journal, Volume _____, at Page _____,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as said fiscal officer, this _____ day of _____, 2016.

(Fiscal Officer's Seal)
(If Applicable)

Fiscal Officer of the City of
Avon, Ohio

**OHIO DEPARTMENT OF TRANSPORTATION
ACCOUNT RECEIVABLE**

Make check payable to: Treasurer of State

Mail to: Jeffrey M. Hisem, Administrator
Attn: Kathy Barthen
Ohio Department of Transportation
Office of Estimating - #4160
1980 West Broad Street, 1st Floor
Columbus, Ohio 43223

PID No. 92880
 Project No. _____ (2016)
 Invoice No. 10695

To: **Bill Logan**
Director of Finance
36080 Chester Road
Avon, Ohio
44011

Federal Project No. E140(788)
Lorain County
City of Avon
State Route 83
Section 17.94

PLEASE ENCLOSE ONE COPY OF THIS INVOICE TO IDENTIFY YOUR REMITTANCE

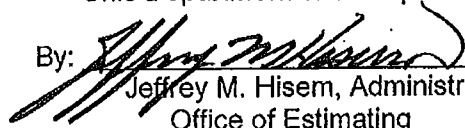
Proposal of Participation	Type of Agreement	Amount
		\$182,616.00

Contract amount \$177,300.77
 ODOT Engineering amount \$ 5,315.23

For the improvement of that portion of **State Route 83**, more particularly described as follows:

The project consists of repair and resurfacing of SR 83 from Detroit Road to Lake Road, lying within the City of Avon.

Total Amount Due **\$182,616.00**

Ohio Department of Transportation
 By: 
 Jeffrey M. Hisem, Administrator
 Office of Estimating

PID No. 92880
ODOT Project No. _____ (2016)

ESCROW AGREEMENT FOR HIGHWAY IMPROVEMENT

This agreement made and entered at _____, Ohio, this ____ day
of _____, 2016, by and between the Legislative Authority of
_____, Ohio, The Ohio Department of Transportation (ODOT)
and _____ (FINANCIAL INSTITUTION)
_____, Ohio,
_____, (address) _____, (city)
_____, (zip code) _____, (telephone no.)

WITNESSETH

That for and in consideration of the covenants and agreements of the parties herein contained. The ODOT hereby expressly authorizes the City to deposit the pre-bid estimate (or some larger amount) of said City's participation share of project cost in the amount of **One Hundred Eighty Two Thousand Six Hundred Sixteen and - - - - 00/100 Dollars, (\$182,616.00)**, as required by the ODOT's Invoice No. 10695, on project described as: **Lorain County - City of Avon - State Route 83 - Section 17.94 - Federal Project No. E140(788)**, in an interest bearing account, repurchase agreement or certificate of deposit with the FINANCIAL INSTITUTION. The City hereby agrees to deposit into the aforementioned account funds in the amount of \$ _____

. The Financial Institution shall fax confirmation of this act (ex: deposit slip - not escrow agreement) to Kathy Barthen, Office of Estimating, within 24 hours of deposit. Such funds shall thereupon remain on deposit for the credit of the ODOT and said City, until such time as payment of the City's estimated participation share, as determined after receipt of bids, is ordered to be paid by the Administrator of the Office of Estimating or the Director of ODOT. Upon receipt of such order for payment, IN THE FORM OF A REVISED INVOICE, the FINANCIAL INSTITUTION hereby agrees to deliver and pay over to The ODOT, by return mail within Twenty-four (24) hours, the funds so requested (but in no event more than the amount of the pre-bid estimate), and to deliver and pay over to the City the accrued interest thereon and any balance that may remain. (The City's ultimate share of the cost shall be determined in accordance with the FINAL RESOLUTION and the CONTRACT).

It is understood and agreed that funds on deposit pursuant to this agreement may be invested by the FINANCIAL INSTITUTION as provided herein and in accordance with applicable law and regulations. It is also expressly understood that the Local Public Agency shall not withdraw any funds.

Legislative Authority of the City of
Avon, Ohio

Attest

Clerk of City Council

Attest

Mayor

Attest

Presiding Office of
Legislative Authority

The Ohio Department of Transportation

(Financial Institution)



Director of Transportation

(Address)

4-25-16

(Date)

(City)

(Zip Code)

by:

(Signed by officer of Financial Institution)

(Please print bank officer's name)

(Title)

(Date)