



## CITY OF PATASKALA

### RESOLUTION 2023-018

Passed February 21, 2023

#### **A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR TO EXECUTE A THIRD INTERGOVERNMENTAL AGREEMENT WITH ETNA TOWNSHIP, LICKING COUNTY, AND THE LICKING COUNTY TRANSPORTATION IMPROVEMENT DISTRICT**

**WHEREAS**, the Licking County Transportation Improvement District (TID) is authorized by R.C. Chapter 5540 (1) to finance, construct, maintain, repair, and operate street, highway, and other transportation projects and (2) to construct, reconstruct, improve, alter, and repair roads, highways, public places, buildings, and other infrastructure and other transportation projects; and

**WHEREAS**, projects undertaken by the TID, pursuant to R.C. Chapter 5540, are essential governmental functions and considered to contribute to the improvement of the prosperity, health, safety, and welfare of the people of Licking County, Ohio and the State, and is consistent with and will promote industry, commerce, distribution, and research activity within Licking County, the region and the State; and

**WHEREAS**, the City of Pataskala, Etna Township, and the TID, in conjunction with Licking County, recognized it is a priority to engage and cooperate to the greatest extent practical, in the development of the transportation improvement project known as the "Refugee Road Improvements Project", which is comprised of certain improvements under study and development to widen Refugee Road from 2 to 3 lanes for a distance of 1.2 miles and construct roundabouts at the project termini of Etna Parkway and Mink Street, with the existing pavement to be reconstructed from a 2-lane, 20 ft. chip seal to a 3-lane facility, structured to accommodate current and future growth of truck and other vehicular traffic with origins and destinations to several area logistics facilities and the traveling public in general; and

**WHEREAS**, with Resolution 2021-035, Council for the City of Pataskala authorized an Intergovernmental Agreement for Phase 1 of the Refugee Road Improvements Project. Then, with Resolution 2022-084, Council for the City of Pataskala authorized an Intergovernmental Agreement for Phase 2 of the Refugee Road Improvements Project; and

**WHEREAS**, now that Phases 1 and 2 are complete, Council for the City of Pataskala needs to enter into a Third (and final) Intergovernmental Agreement that outlines the duties and responsibilities of the parties, with respect to Phase 3 Work and the Phase 3 Supplemental Funding.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF ALL MEMBERS PRESENT CONCURRING THAT:**


Section 1: Council for the City of Pataskala hereby authorizes and directs the City Administrator to execute a Third Intergovernmental Agreement, in substantially the same form and content as the Agreement attached hereto as Exhibit A and incorporated herein by reference, with Etna Township, Licking County, and the Licking County Transportation Improvement District.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of the Council and any of the decision-making bodies of the City of Pataskala which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

Section 3: This Resolution shall take effect at the earliest time allowed by the Charter of the City of Pataskala.

ATTEST:

  
Kathy M. Hoskinson, Clerk of Council

  
Michael W. Compton, Mayor

APPROVED AS TO FORM:

  
Brian M. Zets, Law Director

**THIRD INTERGOVERNMENTAL  
AGREEMENT 2023-01**

By and Between

CITY OF PATASKALA, LICKING COUNTY, OHIO

And

ETNA TOWNSHIP, LICKING COUNTY, OHIO

And

LICKING COUNTY, OHIO acting through its BOARD OF COUNTY  
COMMISSIONERS

And

THE LICKING COUNTY TRANSPORTATION  
IMPROVEMENT DISTRICT

[Refugee Road Improvements: Phase 3 Work and Funding]

### THIRD INTERGOVERNMENTAL AGREEMENT 2023-01

This Third Intergovernmental Agreement 2023-01 (this “Agreement”) is made and entered into on the date last executed below (the “Effective Date”), by and between the CITY OF PATASKALA, OHIO (“PATASKALA”), a political subdivision located in Licking County Ohio and pursuant to Ohio Revised Code (“ORC”) Chapters 715 and its Charter; ETNA TOWNSHIP (“ETNA”), a political subdivision located in Licking County, Ohio, acting through its Board of Township Trustees (the “Board”); LICKING COUNTY (the “COUNTY”), a political subdivision of the State of Ohio acting through its Board of County Commissioners (the “BOCC”) pursuant to ORC Chapters 305 and 307; and, the LICKING COUNTY TRANSPORTATION IMPROVEMENT DISTRICT, a transportation improvement district and a body both corporate and politic created pursuant to ORC Chapter 5540 (the “TID”).

#### Recitals:

A. The TID is authorized by ORC Chapter 5540 (1) to finance, construct, maintain, repair, and operate street, highway, and other transportation projects and (2) to construct, reconstruct, improve, alter, and repair roads, highways, public places, buildings, and other infrastructure and other transportation projects.

B. The projects undertaken by the TID and the exercise of its authority, pursuant to ORC Chapter 5540, are essential governmental functions, are considered to contribute to the improvement of the prosperity, health, safety, and welfare of the people of Licking County, Ohio and the State, and are consistent with its purpose and will promote industry, commerce, distribution, and research activity within the COUNTY, the region and the State.

C. PATASKALA, ETNA and the TID, in conjunction with the COUNTY/ Licking County Engineer’s Office (“LCEO”), have recognized that it is a priority to engage and cooperate to the greatest extent practical, in the development of the transportation improvement project known as the “*Refugee Road Improvements Project*”, which is comprised of certain improvements under study and development to widen Refugee Rd from 2 to 3 lanes for a distance of 1.2 miles and construct roundabouts at the project termini of Etna Parkway and Mink St., with the existing pavement to be reconstructed from a 2-lane, 20 ft. chip seal to a 3-lane facility, structured to accommodate current and future growth of truck and other vehicular traffic with origins and destinations to several area logistics facilities and the traveling public in general, and as further set forth in Exhibit A attached hereto and made part hereof and as further set forth, described and designed on the plans, specifications and documents on file with the TID, PATASKALA, ETNA and the LCEO (the “Refugee Road Improvements Project” or the “Project” and as hereafter defined).

D. The Project was incorporated into the TID Program, pursuant to ORC Section 5540.03(A)(4) and related ORC sections and designated by action of the TID Board of Trustees and the Parties as a project that the TID will manage and administer, with funding required for the Project to be provided for through revenue sources available by and through ETNA, PATASKALA, the Ohio Public Works Commission or “OPWC” (with grant/loan funding through PATASKALA), the TID, the COUNTY and/or other funding sources and grants as were identified and procured, as set forth in Intergovernmental Agreement 2022-01 and Intergovernmental

Agreement 2022-02 between the Parties, and as now further set forth herein.

E. The Parties agreed, as set forth and described in Intergovernmental Agreement 2022-01 and Intergovernmental Agreement 2022-02, to proceed with the Project improvements in 3 phases, as follows: Phase 1, consisting of the Project preliminary engineering and design work; Phase 2, consisting of the right of way acquisition and related work; and, “Phase 3” (as hereafter defined), consisting of the Project construction, including construction engineering and inspection work.

F. Whereas Phase 1 is substantially complete and the Parties accordingly agreed and authorized proceeding with Phase 2, in accordance with the terms and conditions set forth per Intergovernmental Agreement 2022-02, and now the Parties are preparing to proceed with the “Phase 3 Work” to construct the Project.

G. Therefore, in further coordination and collaboration among the TID, ETNA, PATASKALA, the COUNTY and ODOT, it was determined by the Parties to pursue additional funding required to proceed with the Phase 3 Work, as evidenced by the “*State of Ohio - ODOT State Infrastructure Bank Federal Loan Program*” *Proposed Financing Term Sheet*, dated November 23, 2022, as approved and authorized by PATASKALA by its Resolution 2022-096, dated December 5, 2022; by ETNA by its Resolution \_\_\_\_\_, dated December \_\_, 2022; and, the TID by its Resolution 2022-09, dated November 9, 2022, with a *Title 23 Fund Direct Loan*, in an amount of \$7,000,000, through the ODOT State Infrastructure Bank Federal Loan Program (the “SIB Loan” as hereafter defined).

H. In accordance therewith, the TID is prepared to authorize and enter into the “SIB Loan Agreement” (as hereafter defined) with ODOT, contingent upon a pledge of funding to repay the SIB Loan as follows: by PATASKALA, from its annual Income Tax receipts as further described herein and in the SIB Loan Documents (as hereafter defined) and ETNA from Non-Tax Revenues and all JEDD 1, JEDD 2, JEDD 3, JEDD 4, JEDZ 1 and JEDZ 2 Revenues as further described herein and in the SIB Loan Documents (collectively, hereafter defined and referred to as the “Repayment Sources”) in such amounts and by such dates as set forth in Exhibit B “*Schedule II: Estimated SIB Loan Payment Schedule*” attached hereto and made part hereof, which are required by the TID for making repayment of all principal, interest and fees part of the SIB Loan, which loan is required to partially fund the Phase 3 Work.

I. In addition, ETNA and PATASKALA are each prepared to authorize and execute a guaranty agreement with ODOT to guaranty the repayment of the SIB Loan, in the form provided for and required by ODOT to close the SIB Loan (the “Guarantees” as hereafter defined).

J. Furthermore, PATASKALA is hereby committed to provide additional supplemental funding to the TID required to perform and complete the Phase 3 Work, in the amount of \$2,060,000.00 (“PATASKALA Phase 3 Supplemental Funding” as hereafter defined).

K. Moreover, the COUNTY is hereby committed to pledge to the TID additional reserve funding in an amount up to \$1,000,000, if the costs relating to the Project exceed the amount of \$10,000,000, as further set forth and described herein (“COUNTY Funding Pledge” as hereafter defined).



L. The TID is specifically authorized by ORC § 5540.03(A)(10) to receive and accept loans and grants for or in aid of the construction, maintenance, or repair of any Project from the federal or any state or local government; and PATASKALA, ETNA and the COUNTY are specifically authorized by ORC § 5540.02(F) to make appropriations from moneys available to the PATASKALA, ETNA and the COUNTY, and not otherwise appropriated, to pay costs incurred by the TID in the exercise of its functions under Chapter 5540 of the ORC.

NOW, THEREFORE, in consideration of the premises and the mutual representations and agreements in this Agreement, PATASKALA, ETNA, the COUNTY and the TID agree, with the foregoing Recitals incorporated herein by reference and expressly made a binding and integral part of this Agreement, as follows:

### ***Article I Definitions; Construction***

***Section 1.01. Definitions.*** As used in this Agreement, the following terms shall have the following meanings, unless the context or use clearly indicates another meaning or intent:

*“Agreement”* means this Intergovernmental Agreement 2023-01, as the same may be amended from time to time.

*“Business Day”* means any day other than a Saturday, Sunday, or legal holiday.

*“Day”* means a calendar day, unless specifically designated as a Business Day.

*“COUNTY Funding Pledge”* means the pledge by the Licking County Board of Commissioners to provide funding to the TID in an amount not to exceed \$1,000,000, in the event the Project Costs exceed \$10,000,000, upon presentation of an invoice documenting such Project Costs to the COUNTY by the TID.

*“Effective Date”* has the meaning given to such term in the introductory paragraph of this Agreement.

*“ETNA Pledged SIB Loan Repayments”* means the funding, in the total amount of \$4,691,857.89, pledged by ETNA from its Non-Tax Revenues and all JEDD 1, JEDD 2, JEDD, JEDD 4, JEDZ 1 and JEDZ 2 Revenues to be paid to the TID, which amount represents 50 % of the semi-annual debt service for the SIB Loan and in such specific amounts set forth and identified in Exhibit B “Schedule II: Estimated Payment Schedule”, and which listed payments are each due and payable to the TID no less than 40 days prior to each of the identified payment due dates as set forth on said schedule.

*“Guarantees”* means and refers to the guaranty agreements between ETNA and ODOT and PATASKALA and ODOT to guarantee repayment of the SIB Loan, in the form on file with ODOT, ETNA, PATASKALA and the TID and required by ODOT to guaranty repayment of the SIB Loan.

“*ORC*” means the Ohio Revised Code, as the same may be amended from time to time.

“*Party*” means, individually, either PATASKALA, ETNA, the COUNTY or the TID; and  
“*Parties*” means, collectively, PATASKALA, ETNA, the COUNTY or the TID.

“*PATASKALA Pledged SIB Loan Repayments*” means funding, in the total amount of \$4,691,857.89, pledged by PATASKALA from its annual Income Tax receipts to be paid to the TID, which amount represents 50 % of the semi-annual debt service for the SIB Loan and in such specific amounts set forth and identified on Exhibit B “Schedule II: Estimated Payment Schedule”, and which listed payments are each due and payable to the TID no less than 40 days prior to each of the payment due dates as set forth on said schedule.

“*PATASKALA Phase 3 Supplemental Funding*” means funding, in the total amount of \$2,060,000.00 for costs of constructing the Project, to be provided by or through PATASKALA as follows: 1.) \$1,500,000.00, payable to the TID within 14 days after the date the TID Board of Trustees authorizes a construction services contract to construct the Project (the “TPA Amount”); 2.) \$160,000.00, payable to the TID on or before June 7, 2023; and, 3.) \$400,000.00 to be provided by and through the OPWC loan/grant that PATASKALA secured for processing, in coordination and collaboration with the TID, payment of certain eligible Project Cost Items, specifically for construction of the Refugee Road and Etna Parkway intersection improvements. The TID Management Fee will be paid from this PATASKALA Phase 3 Supplemental Funding.

“*Payment Date*” means 40 days prior to the identified payment due dates set forth in Exhibit B for each of the specific payments required to be made by ETNA and by PATASKALA, from the Repayment Sources, to the TID for the required debt service payments on the SIB Loan.

“*Phase 3 Work*” means the activities, services and/or work items, which will be performed and managed by and through the TID in cooperation with the LCEO, as required to construct the Project in accordance with plans, specifications, and documents on file with the TID and LCEO, and the related construction engineering and inspection of the Phase 3 Work.

“*Project Funding*” means, for purposes of this Agreement, the ETNA Pledged SIB Loan Repayments; the PATASKALA Pledged SIB Loan Repayments; the PATASKALA PHASE 3 Supplemental Funding; and, the COUNTY Pledged Amount, which are the sources of funding for the Phase 3 Work and Project Costs.

“*Project*” means the *Refugee Road Improvements Project* and has the meaning given to such term in Recital C.; ORC 5540.01 (C); and, as further described and delineated for purposes of this Agreement in *Exhibit A* attached hereto and in accordance with the developed Project plans, specifications, and documents on file with the TID and LCEO.

“*Project Costs*” means costs incurred by the TID to acquire and construct the Project.

“*Project Cost Item*” or “*Project Cost Items*” means costs of the Phase 3 Work activities, services and/or work items to facilitate and complete the Phase 3 Work, and which includes

the TID Management Fee.

*“Repayment Sources”* means the ETNA Pledged SIB Loan Repayments and the PATASKALA Pledged SIB Loan Repayments, as set forth on Exhibit B *“Schedule II: Estimated SIB Loan Payment Schedule”*, as and for repayment of the principal, interest and fees required for and as part of debt service for the SIB Loan.

*“SIB Loan”* means Loan # 231001/ PID # 115599 made by and through the State of Ohio - ODOT State Infrastructure Bank Federal Loan Program, in the principal amount of \$7,000,000, plus interest and fees, to the TID, as further set forth in the SIB Loan Documents on file with ODOT, ETNA, PATASKALA, the TID and the COUNTY.

*“SIB Loan Documents”* means and includes the following: the State of Ohio - ODOT State Infrastructure Bank Federal Loan Program” Proposed Financing Term Sheet, dated November 23, 2022, approved, accepted and entered into by and between ODOT, the TID, PATASKALA and ETNA; the State of Ohio - ODOT State Infrastructure Bank Federal Loan Program Loan # 31001/PID #115599 Loan Agreement between ODOT and the TID; the ODOT State Infrastructure Bank Federal Loan Program Loan # 231001/PID #115599 Guaranty Agreement between ODOT and ETNA; and, the ODOT State Infrastructure Bank Federal Loan Program Loan #231001/PID#115599 Guaranty Agreement between ODOT and PATASKALA, each in the final form as approved, executed by the relevant Party, and on file with ODOT and any and all related certifications, opinions, affidavits, instruments, resolutions, ordinances, agreements and documents.

*“State”* means the State of Ohio.

*“Term”* has the meaning given to such term in Section 4.01.

*“TID Management Fee”* means the management fee, in the amount of \$150,000, payable from the PATASKALA Phase 3 Supplemental Funding to the TID for the TID administering and managing the Phase 3 Work.

**Section 1.02. Exhibits.** The following Exhibits are attached to and made a part of this Agreement:

*Exhibit A ~ Refugee Road Improvements*

*Exhibit B ~ Schedule II: Estimated SIB Loan Payment Schedule*

**Section 1.03. References to Parties.** Any reference in this Agreement to PATASKALA, ETNA, the COUNTY or the TID, or to any members or officers of the PATASKALA, ETNA, the COUNTY or the TID, includes those entities or officials succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

**Section 1.04. Statutory References.** Any reference in this Agreement to a section or provision of the Constitution of the State, or to a section, provision, or chapter of the ORC shall include such section, provision, or chapter as modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or



superseding section, provision, or chapter shall be applicable solely by reason of this Section if it constitutes in any way an impairment of the rights or obligations of the PATASKALA, ETNA, the COUNTY or the TID under this Agreement.

**Section 1.05. Adverbs; Other References.** Unless the context indicates otherwise, the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” and similar terms used in this Agreement refer to this Agreement; and, unless otherwise indicated, references in this Agreement to articles, sections, subsections, clauses, exhibits, or appendices are references to articles, sections, subsections, clauses, exhibits, or appendices of this Agreement.

**Section 1.06. Number and Gender.** All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number (singular or plural) and any other gender (masculine, feminine, or neuter) as the context or sense of this Agreement or any article, section, subsection, or clause herein may require, the same as if such words had been fully and properly written in the appropriate number and gender.

**Section 1.07. Captions.** The captions or headings at the beginning of each article and section of this Agreement are merely guides or labels for the convenience of the Parties to assist in identifying those articles and sections, are not intended to be a part of the context of this Agreement, and shall not be deemed to modify, to explain, to enlarge, or to restrict any of the provisions hereof

**Section 1.08. Ambiguity.** The Parties have participated jointly in the negotiation and drafting of this Agreement. Should any ambiguity or question of intent or interpretation arise with respect to any provision of this Agreement, including any exhibit hereto, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement.

**Section 1.09. Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law; but, if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

## ***Article II Scope of Agreement***

**Section 2.01. Cooperation and Consent.** The TID, PATASKALA, ETNA, and the COUNTY acknowledge and agree that the Parties shall cooperate to the greatest extent practical in the development, funding and construction of the Project, which is necessary and will contribute to the improvement of the prosperity, health, safety, and welfare of all of the people of PATASKALA, ETNA, and the COUNTY, and, furthermore, PATASKALA, ETNA, and the COUNTY expressly consent and approve of the TID’s administration and management of the Phase 3 Work within the Project area and so as to complete the Project, pursuant to and in

accordance with ORC Chapters 5540 and related sections; this Agreement; and, as authorized by the TID Board of Trustees, and to the extent determined necessary and appropriate by the TID, in consultation with representatives of the Parties.

***Section 2.02. General Agreement Regarding Funding and Phase 3 Work.*** The Parties acknowledge and agree as follows:

- (a) PATASKALA hereby pledges and specifically agrees to provide the PATASKALA Pledged SIB Loan Repayments to the TID no less than 40 days prior to each payment due date and in such corresponding amounts as set forth and identified on Exhibit B “Schedule II: Estimated Payment Schedule”, which payments the TID will apply for the sole purpose of making payment of the debt service as due and owing on the SIB Loan.
- (b) ETNA hereby pledges and specifically agrees to provide the ETNA Pledged SIB Loan Repayments to the TID no less than 40 days prior to each payment due date and in such corresponding amounts as set forth and identified on Exhibit B “Schedule II: Estimated Payment Schedule”, which payments the TID will apply for the sole purpose of making payment of the debt service as due and owing on the SIB Loan.
- (c) PATASKALA hereby agrees to make available the PATASKALA Phase 3 Supplemental Funding amount to the TID, by those dates as set forth above in Section 1.01, to partially fund Project Cost Items incurred by the TID in relation to the Phase 3 Work, which shall be deposited and maintained by the TID in such accounts and accounted for in accordance with all applicable laws, regulations, and accepted accounting standards. In the event a construction services contract for the Phase 3 Work is not awarded by the TID on or before August 31, 2023, the TPA Amount will be returned to PATASKALA by September 14, 2023. Furthermore, if, upon final close out of the Project Work, there is an excess amount remaining of the PATASKALA Phase 3 Supplemental Funding, said amount will be returned to the PATASKALA within 30 days of the date such close out amount is finally determined by the TID.
- (d) The COUNTY hereby pledges and specifically agrees to provide the COUNTY Phase 3 Pledge Amount as required by the TID, upon notification and submission of an invoice for eligible Project Costs by the TID Secretary-Treasurer.
- (e) The TID agrees to:
  - i) enter into the SIB Loan with ODOT contingent upon execution of this Agreement by the Parties and in reliance upon the pledges of revenue provided herein and the acceptance and execution of the Guarantees by PATASKALA and ETNA.

ii) administer and manage the Phase 3 Work, in coordination and collaboration with PATASKALA, ETNA and the LCEO, and perform all the related responsibilities thereby required or appropriate, including, but not limited to, the management, administration and performance of activities required, including retention of a qualified constructions services firm(s) to perform the Phase 3 Work, however, the TID's obligation to complete and deliver the Phase 3 Work is expressly conditioned upon the closing of the SIB Loan; receipt by the TID of the PATASKALA Phase 3 Supplemental Funding; and, to the extent necessary, receipt of additional Project Funding provided by the COUNTY Phase 3 Pledged Amount.

iii) utilize only the funds pledged in sections (a), (b) and (c) above for the Project Cost Items and will allocate those funds so designated for the Phase 3 Work further in accordance with Section 2.03 below, which, as applicable, shall be maintained and accounted for by the TID in such accounts and in such manner as is in accordance with all applicable laws, regulations, and accepted accounting standards. In addition, the TID will cooperate with PATASKALA in providing invoices and proof of payment of Project Cost Items for reimbursement from the OPWC Grant/Loan PATASKALA procured for the Project.

(f) In the event the TID does not receive any of the ETNA Pledged SIB Loan Repayments and/or the PATASKALA Pledged SIB Loan Repayments by the Payment Date, the TID will immediately notify ETNA and/or PATASKALA in writing, by both facsimile transmission and via electronic mail, that it has not made this payment and that the payment is due immediately.

(g) The Parties acknowledge and agree (1) that the ETNA Pledged SIB Loan Repayments; the PATASKALA Pledged SIB Loan Repayments; the PATASKALA Phase 3 Supplemental Funding; and, the COUNTY Pledge Amount constitutes a specific commitment of Project Funding to the TID; and, (2) that the TID is relying upon the Project Funding commitment to complete the Project and will utilize the Project Funding solely to pay for Project Costs in accordance with this Agreement, the SIB Loan Documents, and pursuant to ORC Chapter 5540 and other applicable sections.

(h) The provisions of this Agreement may not be altered or amended without the express written consent of all of the parties hereto.

### ***Section 2.03. Relationship of the Parties.***

(a) Neither this Agreement nor the relationship among the Parties established pursuant to this Agreement shall constitute or be deemed to be that of a partnership, joint venture, employment, master and servant, or principal and agent. Neither Party shall have any authority to make, and neither Party shall make, any representations, warranties, or statements on behalf of the other Party, and neither Party shall bind, or be liable for the debts or obligations of, the other Party. In the performance of its services hereunder, the TID is and shall at all times be an independent contractor, free and clear of any dominion or control by the other Party, except as specifically provided herein. The number of employees, consultants and contractors used by the TID in the performance of its obligations hereunder,

their selection, and the hours of labor and the compensation for services performed shall be reasonably determined by the TID in good faith and in the best interests of the successful completion of the Phase 2 Work. Each Party shall pay, and shall be solely responsible for, its operating expenses, including, but not limited to, the wages of its employees and any and all taxes, licenses, and fees levied or assessed on such Party in connection with or incident to the performance of this Agreement by any governmental agency for unemployment compensation insurance, old age benefits, social security or any other taxes on the wages of such Party, its agents, its employees, and its representatives.

(b) Nothing in this Agreement shall (1) modify, alter, or impair in any way any pre-existing contractual arrangement or agreement between or among PATASKALA, ETNA, and the COUNTY or the TID or (2) preclude any Party from entering into other agreements with respect to matters not specifically addressed in this Agreement.

**Section 2.04. Extent of Covenants; No Personal Liability.** All covenants, obligations, and agreements of the Parties contained in this 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 member, trustee, officer, agent, or employee of any Party in other than his or her official capacity; and neither the ETNA, the COUNTY, the TID or PATASKALA, or any member of their respective Boards or City Council, nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement or by reason of the covenants, obligations, or agreements of the Parties contained in this Agreement.

**Section 2.05. Liability of the Parties.** No Party shall have any liability to any other Party for any mistakes or errors in judgment or for any act or omission believed in good faith to be in the scope of authority conferred upon such other Party by this Agreement.

**Section 2.06. No Third-Party Beneficiary.** Only the Parties shall have any rights under this Agreement. No other persons or entities shall have any rights under this Agreement or be deemed to be third-party beneficiaries of this Agreement.

### ***Article III Representations and Further Agreements***

**Section 3.01. Representations of the TID.** To induce the Parties to enter into this Agreement, the TID Board of Trustees represents as follows:

- (a) it is a transportation improvement district and a body both corporate and politic duly organized and validly existing under the laws of the State;
- (b) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder;
- (c) the execution, delivery, and performance of this Agreement have been duly authorized by all requisite action on the part of the TID and the TID Board of Trustees; and this Agreement, when executed and delivered by the TID, will



constitute a legal, valid, and binding obligation of the TID; and

- (d) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to the TID or (2) result in a default under any agreement or instrument to which the TID is a party or by which it is bound.

**Section 3.02. Representations of ETNA.** To induce the TID to enter into this Agreement, the ETNA Township Board of Trustees represents as follows:

- (a) it is the duly constituted and duly elected governing body of ETNA under the laws of the State;
- (b) it has full power and authority to execute and to deliver this Agreement and to perform its obligations hereunder;
- (c) the execution, delivery, and performance of this Agreement have been duly authorized by all requisite action on the part of ETNA; and this Agreement, when executed and delivered by the ETNA Township Board Trustees, will constitute a legal, valid, and binding obligation of ETNA; and
- (d) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to the ETNA or (2) result in a default under any agreement or instrument to which ETNA is a party or by which either the ETNA Township Board Trustees or ETNA is bound.

**Section 3.03. Representations of PATASKALA.** To induce the TID to enter into this Agreement, the PATASKALA City Council represents as follows:

- (a) it is the duly constituted and duly elected governing body of PATASKALA under its Charter as well as the laws of the State;
- (b) it has full power and authority to execute and to deliver this Agreement and to perform its obligations hereunder;
- (c) the execution, delivery, and performance of this Agreement have been duly authorized by all requisite action on the part of PATASKALA; and this Agreement, when executed and delivered by PATASKALA City Council, will constitute a legal, valid, and binding obligation of PATASKALA; and
- (d) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to PATASKALA or (2) result in a default under any agreement or instrument to which PATASKALA is a party or by which either PATASKALA City Council or PATASKALA is bound.

**Section 3.04. Representations of the COUNTY.** To induce the TID to enter into this Agreement, the Board of County Commissioners (the "BOCC") represents as follows:



- (a) it is the duly constituted and duly elected governing body of the COUNTY under the laws of the State;
- (b) it has full power and authority to execute and to deliver this Agreement and to perform its obligations hereunder;
- (c) the execution, delivery, and performance of this Agreement have been duly authorized by all requisite action on the part of the COUNTY; and this Agreement, when executed and delivered by the COUNTY, will constitute a legal, valid, and binding obligation of the COUNTY; and
- (d) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to the COUNTY or (2) result in a default under any agreement or instrument to which the COUNTY is a party or by which either the BOCC or COUNTY is bound.

**Section 3.05. Good Faith and Fair Dealing.** The Parties hereby acknowledge that this Agreement imposes upon each of them a duty of good faith and fair dealing in its implementation.

**Section 3.06. Notice of Disagreement.** The Parties acknowledge and agree that the performance of certain of the agreements contained herein is to be undertaken in a mutual and cooperative fashion, and, to ensure such cooperative effort, each Party agrees promptly to notify the other of disagreements arising hereunder and to act in good faith to promptly resolve such disagreements.

**Section 3.07. Assignment.** No Party may assign this Agreement, in whole or in part, voluntarily or involuntarily, by operation of law, or otherwise, without the prior written consent of the other Party, which consent shall not unreasonably be withheld.

**Section 3.08. Amendment; Waiver.** This Agreement may not be modified, altered, amended, or discharged, or any rights hereunder waived, except by an instrument in writing executed by all Parties. No waiver of any term, provision, or condition of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, provision, or condition or as a waiver of any other term, provision, or condition of this Agreement.

#### ***Article IV. Term***

**Section 4.01. Term.** This Agreement shall become effective on the Effective Date. Unless sooner terminated pursuant to the other provisions of this Agreement, the term of this Agreement shall be for the period from and after the Effective Date to and including February 16, 2043.

**Section 4.02. Termination.** If the Project has been completed and the SIB Loan has been satisfied and closed-out and related requirements have been met, this Agreement may terminate, prior to the expiration of the Term, upon the mutual agreement of the Parties to terminate this

Agreement.

***Article V Miscellaneous***

***Section 5.01. Time is of the Essence.*** Time is of the essence in the compliance with the terms and conditions of this Agreement. Whenever, under the terms of this Agreement, the time for performance falls on a Day other than a Business Day, such time for performance shall be on the next Business Day.

***Section 5.02. Notices.***

(a) Except as otherwise provided herein, any notice provided for in this Agreement shall be in writing and shall be deemed to have been duly given as follows:

- (1) upon receipt, when delivered personally to a Party at its address as hereinafter set forth; or
- (2) one Business Day after being delivered to a reputable overnight courier service, prepaid, marked for next-day delivery to a Party at its address as hereinafter set forth; or
- (3) on the third Business Day after being mailed by United States mail, registered or certified, return receipt requested, postage prepaid, addressed to a Party at its address as hereinafter set forth; or
- (4) upon confirmation of receipt by telephone at the number specified for confirmation, if sent by facsimile transmission to a Party at its facsimile number as hereinafter set forth.

(b) All notices to be given to the TID pursuant to this Agreement shall be sent to the TID at the following address:

The Licking County Transportation Improvement District  
c/o Jared Knerr, P.E., P.S.  
20 S. Second Street  
Newark, OH 43055  
Facsimile: (740) 670-5295  
Email: jknerr@lcounty.com

(c) All notices to be given to ETNA pursuant to this Agreement shall be sent to the ETNA at the following address:

Etna Township  
Attention: President, Board of Trustees  
81 Liberty Street  
P.O. Box 188  
Etna, OH 43018

Facsimile: (740) 927-1699  
Email: rmckee@etnatownship.com

- (d) All notices to be given to PATASKALA pursuant to this Agreement shall be sent to PATASKALA at the following address:

City of Pataskala  
Attention: Timothy Hickin, City Administrator  
621 West Broad St.  
Suite 2b  
Pataskala, OH 43062  
Facsimile: 740-927-0228  
Email: thickin@ci.pataskala.oh.us

- (e) All notices to be given to the COUNTY pursuant to this Agreement shall be sent to the COUNTY at the following address:

Board of County Commissioners  
Attention: Beverly Adzic  
20 S. Second Street  
Newark, OH 43055  
Facsimile: (740) 670-5119  
Email: badzic@lcounty.com

- (f) Any Party may at any time change its address and/or facsimile number for such notices, requests, demands, or statements by giving the other Parties written notice thereof in accordance Section 5.02(a) hereof.

**Section 5.03. Governing Law; Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Ohio in all respects, including but not limited to matters of construction, validity, and performance.

**Section 5.04. Entire Agreement.** This Agreement (including the recitals and exhibits hereto, which are by this reference incorporated herein and made a part hereof) sets forth all understandings between the Parties respecting the subject matter of this transaction, and all prior agreements, understandings, and representations, whether oral or written, representing this subject matter are merged into and superseded by this written Agreement. No course of prior dealings among the Parties and no usage of trade shall be relevant or admissible to supplement, to explain, or to vary any of the terms of this Agreement, unless the course of prior dealings or usage of trade have been employed, or availed of in implementation of this Agreement or the Project envisioned by it.

**Section 5.05. Binding Effect.** This Agreement, and the terms, covenants, and conditions hereof, shall be binding upon and inure to the benefit of the Parties and, subject to the prohibitions of assignment set forth herein, their respective administrators, successors, and assigns.

**Section 5.06. Counterparts; Facsimile Signatures.** This Agreement may be executed in

one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts. The Parties further agree that facsimile signatures and signatures provided electronically in .pdf format by the Parties shall be binding to the same extent as original signatures.

**IN WITNESS WHEREOF**, this Agreement has been duly executed and delivered for, in the name of, and on behalf of the Parties by their duly authorized officers, all as of the Effective Date.

***TID:***  
**THE LICKING COUNTY  
TRANSPORTATION IMPROVEMENT  
DISTRICT**

By: \_\_\_\_\_  
Secretary-Treasurer

Date: \_\_\_\_\_

***PATASKALA:***  
**THE CITY OF PATASKALA, OHIO**

By: \_\_\_\_\_  
City Administrator

By Ordinance No. \_\_\_\_\_,  
dated \_\_\_\_\_, 202\_\_

Verified and Certified:

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

Approved as to Form:

  
\_\_\_\_\_  
City Director of Law

***ETNA:***  
**THE ETNA TOWNSHIP BOARD OF  
TRUSTEES**

By: \_\_\_\_\_  
Rozland McKee-Flax , President

By: \_\_\_\_\_  
Jeff Johnson, Vice-President

By: \_\_\_\_\_  
Mark Evans, Trustee

Date:

***COUNTY:***  
**COUNTY OF LICKING, OHIO**

By: \_\_\_\_\_  
County Commissioner

By: \_\_\_\_\_  
County Commissioner

By: \_\_\_\_\_  
County Commissioner

Date:

2/22/23





**FISCAL OFFICER'S CERTIFICATE**

The undersigned, Finance Director for the City of Pataskala, Licking County, Ohio (the "City"), hereby certifies that the funds required (if any) to meet the obligations of the City for the year 2023 under the foregoing Third Intergovernmental Agreement 2023-01 have been lawfully appropriated and are in the treasury of the City or are in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Finance Director, City of Pataskala, Ohio

**FISCAL OFFICER'S CERTIFICATE**

The undersigned, Fiscal Officer for the Township of Etna, Licking County, Ohio (the "Township"), hereby certifies that the funds required (if any) to meet the obligations of the Township for the year 2023 under the foregoing Third Intergovernmental Agreement 2023-01 have been lawfully appropriated and are in the treasury of the Township or are in the process of collection to the credit of an appropriate fund free from any previous encumbrances. This Certificate is given in compliance with ORC § 5705.41.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Fiscal Officer, Etna Township, Ohio

**FISCAL OFFICER'S CERTIFICATE**

The undersigned, fiscal officer of Licking County, Licking County, Ohio, hereby certifies that the moneys required (if any) to meet the obligations of the Board of County Commissioners of Licking County for the year 2023 under the foregoing Intergovernmental Agreement have been lawfully appropriated and are in the treasury of Licking County or are in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
\_\_\_\_\_, Fiscal Officer,  
Licking County

**EXHIBIT A**



REFUGEE ROAD IMPROVEMENTS

HULL

Map Scale: 1 inch = 100 feet  
Horizontal Scale: 1 inch = 100 feet  
Vertical Scale: 1 inch = 10 feet

**EXHIBIT B**

Ohio Department of Transportation  
State Infrastructure Bank  
Etna Township & City of Pataskala  
LCTID Refugee Road Widening Project

Schedule II  
Estimated SIB Loan Payment Schedule

Date	Principal		Interest 3.00%		Accrued Interest	Etna Township Payment		City of Pataskala Payment		Total Payment	Outstanding Balance
02/16/23											\$ 7,000,000.00
08/16/23	\$	-	\$	-	\$	-	\$	-	\$	-	7,000,000.00
02/16/24		-		-		-		-		-	7,000,000.00
08/16/24		-		-	(105,000.00)	-		-		-	7,105,000.00
02/16/25		-		-	(105,000.00)	-		-		-	7,210,000.00
08/16/25		152,508.77		108,150.00	-	130,329.39		130,329.39		260,658.77	7,057,491.23
02/16/26		154,796.40		105,862.37	-	130,329.39		130,329.39		260,658.77	6,902,694.82
08/16/26		157,118.35		103,540.42	-	130,329.39		130,329.39		260,658.77	6,745,576.48
02/16/27		159,475.12		101,183.65	-	130,329.39		130,329.39		260,658.77	6,586,101.35
08/16/27		161,867.25		98,791.52	-	130,329.39		130,329.39		260,658.77	6,424,234.10
02/16/28		164,295.26		96,363.51	-	130,329.39		130,329.39		260,658.77	6,259,938.84
08/16/29		171,800.00		88,858.77	-	130,329.39		130,329.39		260,658.77	5,752,118.06
02/16/30		174,377.00		86,281.77	-	130,329.39		130,329.39		260,658.77	5,577,741.06
08/16/30		176,992.66		83,666.12	-	130,329.39		130,329.39		260,658.77	5,400,748.41
02/16/31		179,647.55		81,011.23	-	130,329.39		130,329.39		260,658.77	5,221,100.86
08/16/31		182,342.26		78,316.51	-	130,329.39		130,329.39		260,658.77	5,038,758.60
02/16/32		185,077.39		75,581.38	-	130,329.39		130,329.39		260,658.77	4,853,681.21
08/16/32		187,853.55		72,805.22	-	130,329.39		130,329.39		260,658.77	4,665,827.66
02/16/33		190,671.36		69,987.41	-	130,329.39		130,329.39		260,658.77	4,475,156.30
08/16/33		193,531.43		67,127.34	-	130,329.39		130,329.39		260,658.77	4,281,624.87
02/16/34		196,434.40		64,224.37	-	130,329.39		130,329.39		260,658.77	4,085,190.47
08/16/34		199,380.91		61,277.86	-	130,329.39		130,329.39		260,658.77	3,885,809.56
02/16/35		202,371.63		58,287.14	-	130,329.39		130,329.39		260,658.77	3,683,437.93
08/16/35		205,407.20		55,251.57	-	130,329.39		130,329.39		260,658.77	3,478,030.73
02/16/36		208,488.31		52,170.46	-	130,329.39		130,329.39		260,658.77	3,269,542.42
08/16/36		211,615.64		49,043.14	-	130,329.39		130,329.39		260,658.77	3,057,926.78
02/16/37		214,789.87		45,868.90	-	130,329.39		130,329.39		260,658.77	2,843,136.91
08/16/37		218,011.72		42,647.05	-	130,329.39		130,329.39		260,658.77	2,625,125.19
02/16/38		221,281.89		39,376.88	-	130,329.39		130,329.39		260,658.77	2,403,843.30
08/16/38		224,601.12		36,057.65	-	130,329.39		130,329.39		260,658.77	2,179,242.18
02/16/39		227,970.14		32,688.63	-	130,329.39		130,329.39		260,658.77	1,951,272.04
08/16/39		231,389.69		29,269.08	-	130,329.39		130,329.39		260,658.77	1,719,882.35
02/16/40		234,860.54		25,798.24	-	130,329.39		130,329.39		260,658.77	1,485,021.81
08/16/40		238,383.44		22,275.33	-	130,329.39		130,329.39		260,658.77	1,246,638.36
02/16/41		241,959.20		18,699.58	-	130,329.39		130,329.39		260,658.77	1,004,679.17
08/16/41		245,588.58		15,070.19	-	130,329.39		130,329.39		260,658.77	759,090.58
02/16/42		249,272.41		11,386.36	-	130,329.39		130,329.39		260,658.77	509,818.17
08/16/42		253,011.50		7,647.27	-	130,329.39		130,329.39		260,658.77	256,806.67
02/16/43		256,806.67		3,852.10	-	130,329.39		130,329.39		260,658.77	(0.00)
<b>Totals</b>	<b>\$</b>	<b>7,210,000.00</b>	<b>\$</b>	<b>2,173,715.79</b>	<b>\$</b>	<b>(210,000.00)</b>	<b>\$</b>	<b>4,691,857.89</b>	<b>\$</b>	<b>4,691,857.89</b>	<b>\$ 9,383,715.79</b>



