

EMERGENCY RESOLUTION NO. 49-2017

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF MONROE AND THE BUTLER COUNTY TRANSPORTATION IMPROVEMENT DISTRICT RELATED TO THE SALZMAN ROAD BRIDGE REPAIR PROJECT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Monroe and the Butler County Transportation Improvement District have been working together on the Salzman Road Bridge Repair Project, including grant funding; and

WHEREAS, Council desires to authorize an Intergovernmental Agreement for this project to establish certain terms and conditions related to the construction and funding of the project.


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into an Intergovernmental Agreement by and between the City of Monroe and the Butler County Transportation Improvement District related to the Salzman Road Bridge Repair Project pursuant to the terms and conditions set forth on Exhibit "A" attached hereto and made a part hereof.

SECTION 2: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and further for the reason that Council desires to authorize the execution of the agreement at the earliest possible date to avoid any delay in the needed improvement project. Therefore, this measure shall take effect and be in full force from and after its passage.


PASSED: August 22, 2017

ATTEST:




Clerk of Council

APPROVED:



Mayor

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.



Clerk of Council
City of Monroe, Ohio

Exhibit "A" E Res No. 49-2017

**INTERGOVERNMENTAL
AGREEMENT 2017-01**

By and Between

CITY OF MONROE

And

**THE BUTLER COUNTY TRANSPORTATION
IMPROVEMENT DISTRICT**

[Salzman Road Bridge Repair Project]

Dated as of August 14, 2017

INTERGOVERNMENTAL AGREEMENT 2017-01

This Intergovernmental Agreement 2017-01 (this "Agreement") is made and entered into as of August 14, 2017 (the "Effective Date"), by and between the City of Monroe, a municipal corporation and political subdivision located in Butler County, Ohio, and pursuant to Ohio Revised Code ("ORC") Chapter 715 and its charter ("Monroe"), and THE BUTLER 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 Board of County Commissioners of Butler County, Ohio (the "County") created the TID, which is authorized by ORC Chapter 5540 (1) to finance, construct, maintain, repair, and operate street, highway, and other transportation projects (including, but not limited to, air and rail projects) and (2) to construct, reconstruct, improve, alter, and repair roads, highways, public places, buildings, and other infrastructure.

B. These projects, as contemplated by ORC Chapter 5540, include major transportation and infrastructure improvement projects that involve a coordinated, cooperative, multi-jurisdictional approach towards project integration, development, design and construction, land use planning, environmental stewardship, financial strategy implementation, economic development and public-private partnership opportunities to advance the projects in an innovative, efficient and cost effective manner.

C. These projects undertaken by the TID, pursuant to ORC Chapter 5540, are essential governmental functions and will contribute to the improvement of the prosperity, health, safety, and welfare of the people of the County, and certain political subdivisions therein, and of the State and are essential governmental functions.

D. The exercise by the TID of the authority granted by ORC Chapter 5540 is necessary for the prosperity, health, safety, and welfare of the County and the State and their people and is consistent with and will promote industry, commerce, distribution, and research activity in the County, and certain political subdivisions therein, including, but not limited to, Monroe of Monroe, Ohio and the State.

E. As part of the TID program of projects, established and designated by the TID and pursuant to ORC Section 5540.03(A)(4) and related ORC sections, the TID has been requested by Monroe to assist it in the joint facilitation, administration and management, of the *Salzman Road Bridge Repair Project*, referred to herein as the "*Salzman Road Bridge Project*" or the "Project" (as further defined), which project includes certain roadwork improvements including the structural re-lining of a load restricted bridge on Salzman Road over Coldwater Creek as follows – with a Contech BRIDGECOR Arch reline and Extension of an existing 40-foot long Multi-Plate Super-Span Low Profile Arch and as further described and delineated in plans/documents on file with the TID and Monroe.

F. The TID made successful application to ODOT Office of Jobs & Commerce for “*HB 26 Funding*” to provide funding for the Project Construction Costs (hereinafter defined) of the Salzman Road Bridge Project, which was approved and allocated in July, 2017, in the amount of \$67,500.00 (“TID Grant Funding” and hereinafter defined) and Monroe made successful application to the Ohio Public Works Commission or “OPWC” (hereinafter defined) for emergency fund program, in the amount of \$199,928.00 (“Emergency Funding” and hereinafter defined).

G. Furthermore the Project work is ongoing and being jointly managed and overseen by the TID and Monroe, utilizing the TID Grant funding and the Emergency Funding, together to cover the Project Cost.

H. 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 the Council (hereinafter defined) is specifically authorized by ORC § 5540.02(F) to make appropriations from moneys available to Monroe 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, Monroe 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, as the same may be amended from time to time.

“*BCEO*” means the Butler County Engineer’s Office, an elected office located in the County.

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

“*City of Monroe*” means Monroe of Monroe, Ohio, a municipal corporation and political subdivision of the State.

“*Contractor*” means the construction services firm awarded the construction service contract for the Project Work.

“*County*” means the County of Butler, a county and political subdivision of the State.

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

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

“Emergency Funding” means funding in the amount of \$199,928.00, procured by Monroe by its successful application to through the OPWC emergency fund program and to be utilized to fund the costs of Project construction.

“HB 26 Funding” or “TID Grant Funding” means the Ohio House Bill 26 TID funding, applied for and secured by the TID in July, 2017 from ODOT, in the amount of \$67,500.00, and which is subject to certain oversight, management and reimbursement participation requirements by the TID, as set forth in the ***“ODOT HB 26 Funding Agreement”*** attached hereto as Exhibit A and made part hereof, and which amounts are available on a reimbursement basis, which requires Monroe to subsidize the related payments of eligible Project Construction Costs, by first making payment from Monroe funds of the invoices submitted by the construction services firm selected and retained to perform the Project Work, and then the TID will seek reimbursement from ODOT of such incurred costs from the allocated HB 26 Funding.

“Monroe Council” means Monroe Council of Monroe of Monroe, Ohio.

“Monroe Pledged Amount” means Monroe’s funding commitment and explicit agreement to provide the funding and to pay for Contractor services for Project Work, in the amount of \$67,500.00 from available revenue sources, so as to facilitate access to TID Grant Funding that is provided on a reimbursement basis for eligible costs for Project construction.

“ODOT” means the Ohio Department of Transportation, an agency of the State.

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

“Overage Funding” means additional funding required for Project Construction Costs in excess of the sources and amounts of Project Funding, and if its determined to be required by the Parties for the completion of the Project Work, such funding shall be committed and provided for by Monroe, as determined necessary by the Parties to complete the Project and subject to any appropriate or required action by Monroe Council.

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

“Project Construction Costs” means the costs required to construct the Salzman Road Bridge Project, including, but not limited to, construction and construction engineering and inspection, which costs may be subject to change due to additional costs for Project Work thus requiring Overage Funding.

“Project Funding” means the funding as set forth herein: the Emergency Funding and TID Grant Funding, required to complete the Salzman Road Bridge Project, and, in the event required and to the extent applicable, any required Overage Funding.

“Project Work” means construction services and construction engineering/inspection work for the Salzman Road Bridge Project.

“Salzman Road Bridge Project” or the “Project” means certain roadwork improvements including certain roadwork improvements including the structural re-lining of a load restricted bridge on Salzman Road over Coldwater Creek as follows – with a Contech BRIDGECOR Arch reline and Extension of an existing 40-foot long Multi-Plate Super-Span Low Profile Arch and as further described and delineated in plans/documents on file with the TID, ODOT and Monroe, and as referenced in Recital E. above.

“State” means the State of Ohio.

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

“TID” means The Butler County Transportation Improvement District, a transportation improvement district and a body both corporate and politic created by the Board of County Commissioners pursuant to ORC § 5540.02.

“Trustees” means the Board of Trustees of the TID.

Section 1.02. References to Parties. Any reference in this Agreement to Monroe or its Council, the Trustees or the TID, or to any officers of Monroe 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 1.03. 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 Monroe, or the TID under this Agreement.

Section 1.04. 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 1.05. 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 1.06. 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 1.07. 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 1.08. 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 and Monroe have acknowledged and agreed herein, that it is essential to the welfare of the people of the County, and Monroe, that the Parties cooperate to the greatest extent practical in the development, funding and construction of the Salzman Road Bridge Project which will contribute to the improvement of the prosperity, health, safety, and welfare of all of the people of the County, including Monroe.

Section 2.02. General Agreement Regarding Funding. The Parties acknowledge and agree as follows:

The Parties acknowledge and agree as follows:

- (a) Monroe and the TID explicitly acknowledge and agree:
 - i) to act as co-administrators and managers of the Project, including overseeing the Contractor and the performance of the Project Work, in accordance with applicable law and related requirements, and to perform all related responsibilities as thereby required or appropriate, in coordination and collaboration with the TID and, as appropriate, OPWC and as provided for herein.

- ii) to take such action and provide the necessary funding, including the Monroe Pledged Amount and TID Grant funding, and as otherwise agreed upon by the Parties, to facilitate, fulfill and deliver the Project Work, as committed herein.
- iii) to arrange, in coordination and cooperation with the BCEO, for a schedule of Project work sessions to, to be held on a bi-weekly basis or as the Parties otherwise determine is appropriate and necessary, so as to coordinate and review the progress of the Project Work and related Project issues by and among the TID and Monroe, and any other parties Monroe and the TID deem appropriate, and with the attendance of the Contractor as appropriate. The TID shall provide input and advice regarding the Contractor's work. Monroe and the TID shall, at such appropriate times, conduct concurrent reviews of any Contractor invoices to be submitted for reimbursement from the TID Grant funding, through its designated Project representatives. The Parties acknowledge and agree that any modifications that they may request or believe appropriate to the Project Work, requiring additional funding and work by the Contractor, and thus related changes to the Contractor agreement with Monroe, shall be approved and authorized, in writing, by Monroe, ODOT, as appropriate, and the TID prior to any such changes or additional work or cost under the Contractor agreement and authorization for the Contractor to proceed. Monroe explicitly acknowledges and agrees that its professional services agreement with the Contractor complies with or will be modified to comply with the "Section 7. Federal Requirements" as set forth in the ODOT HB 26 Funding Agreement, attached hereto as Exhibit A and made part hereof, or thereby represent and warrant to the TID that the same, equivalent provisions containing these "Federal Requirements" are currently contained in the current form of its professional services agreement with the Contractor, as already required by OPWC or otherwise per Monroe's continuing role as a Project sponsor.
- (b) Monroe explicitly agrees to provide to the TID, in a timely fashion, but not more than 30 days from date of payment following review under 2.02 (a), paid invoices for Contractor services provided to Monroe for Project Work and proof of payment by Monroe of such invoices. In the event the TID does not receive sufficient information from Monroe to seek TID HB 26 Funding reimbursement from ODOT, the TID will notify Monroe in writing, by both facsimile transmission and via electronic mail, that it has not received the requisite information and Monroe will provide such information as reasonably required within 7 business days, so as to facilitate and not unduly delay the reimbursement payment process.
- (c) The TID explicitly agrees to provide Monroe with the TID HB 26 Funding specifically allocated to and as received by the TID from ODOT for reimbursement of approved and eligible costs incurred in performance of the Project Work, in a total amount not to exceed \$67,500.00, pursuant to and in

accordance with the HB 26 Funding Agreement and as such funding is received by the TID in the form of reimbursement payments from ODOT. The TID shall direct said payments to such account as instructed, in writing, by Monroe. Monroe shall provide the TID with such instructions within 15 business days of the execution of this Agreement.

- (d) Monroe and the Council explicitly acknowledge and agree:
- i) to act as co-administrators and managers of the Project with the TID, including overseeing the Contractor and the performance of the Project Work, in accordance with applicable law and related requirements, and to perform all related responsibilities as thereby required or appropriate, in coordination and collaboration with the TID and, as appropriate, OPWC or ODOT and as provided for herein.
 - ii) to take such action and provide the necessary funding, including Monroe Pledged Amount or as otherwise agreed upon by the Parties, to facilitate, fulfill and deliver the Project Work, as committed herein.
- (e) 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. Additional Agreements of the TID. As long as this Agreement remains in effect, the TID may contribute the following:

- (a) such additional funds as the Parties may mutually agree, at any time and from time to time, shall be necessary to the planning, coordination, implementation and construction of the Salzman Road Bridge Project; and
- (b) such services of or obtained through the TID as the Parties may mutually agree, at any time and from time to time, shall be necessary for the planning, development, coordination, implementation and construction of the Salzman Road Bridge Project.

Section 2.04. Additional Agreements of Monroe. As long as this Agreement remains in effect, Monroe may contribute to the TID the following:

- (a) such loans, contributions and grants as the Parties may mutually agree, at any time and from time to time, shall be necessary for or in aid of the funding, development, construction, maintenance, or repair of the Salzman Road Bridge Project; and
- (b) such other aid or contributions of money, property, labor, or other things of value as the Parties may mutually agree, at any time and from time to time; *provided, however, that any such loans, grants, and contributions to the TID*

shall be held, used, and applied by the TID only for the purposes for which such loans, grants, and contributions are made.

Section 2.05. 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 Project 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 either Monroe or the TID or (2) preclude either Party from entering into other agreements with respect to matters not specifically addressed in this Agreement.

Section 2.06. 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 Monroe Council or any member of its Council or the TID Board or any member of the TID Board, 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 2.07. Liability of the Parties. Neither Party shall have any liability to another 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 Party by this Agreement.

Section 2.08. 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 Monroe to enter into this Agreement, the TID represents to Monroe 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 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 Monroe. To induce the TID to enter into this Agreement, Monroe Council represents to the TID as follows:

- (a) it is the duly constituted and duly elected governing body of Monroe 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 Monroe; and this Agreement, when executed and delivered by Monroe Council, will constitute a legal, valid, and binding obligation of Monroe;
- (d) the execution, delivery, and performance of this Agreement do not, and will not, (1) violate any provision of law applicable to Monroe or (2) result in a default under any agreement or instrument to which either the Monroe Council or the Monroe is a party or by which either the Monroe Council or Monroe is bound; and

Section 3.03. Challenge to Agreement.

- (a) Each Party waives any and all rights it may have to commence or to maintain any civil action or other proceeding to contest, to invalidate, or otherwise to challenge this Agreement or any of the actions required or contemplated by this Agreement, or to take any actions, either directly or indirectly, to oppose in any other way, or to initiate, promote, or support the opposition of, this Agreement or any of the actions required or contemplated by this Agreement.
- (b) In the event of a court action by a third party challenging the validity or enforceability of this Agreement or any of its provisions, all Parties shall fully cooperate to vigorously defend the Agreement.

Section 3.04. 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 3.05. 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 3.06. 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 3.07. 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; provided, that if any amendment, alteration modification or discharge affects the rights and interests of the Insurer, such amendment, alteration, modification or discharge shall be subject to the prior written consent of the Insurer. 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; Remedies

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 August 14, 2017 to and including July 30, 2018 (the "Term").

Section 4.02. Termination. So long as any amount of the Project Funding is outstanding and unpaid, this Agreement shall not be terminated. If no Project Funding is outstanding, this Agreement will terminate, prior to the expiration of the Term, upon the occurrence of any of the following events:

- (a) the mutual agreement of the Parties to terminate this Agreement with respect to the funding of the Project Work; or
- (b) the completion of the Project Work and upon full payment of the Project Funding.

Section 4.03. Waiver of Breach. No waiver by any Party will be effective unless it is in writing and then only to the extent specifically stated and agreed to by all Parties. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power, or remedy by any Party preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. Failure of any Party to demand strict performance of the provisions of this Agreement by any other Party, or any forbearance by any Party in exercising any right or remedy hereunder or otherwise afforded by law, shall not constitute a waiver by such Party of any provision of this Agreement. Any condition, term, or covenant in this Agreement that is not complied with will be considered a breach.

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 Butler County Transportation Improvement District
Attention: David L. Spinney, Director
1921 Fairgrove Avenue
Hamilton, OH 45011
Facsimile: (513) 785-3452
Electronic Mail: dspinney@bctid.org

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

City of Monroe
Attention: William J. Brock, P.E./CM City Manager
233 South Main Street
Monroe, OH 45050
Telephone: (513) 269-7374, option 7
Electronic Mail: brockb@monroeohio.org

- (d) 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 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.

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 by the Parties shall be binding to the same extent as original signatures.

IN WITNESS WHEREOF, this Intergovernmental 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.

**CITY OF MONROE
BUTLER COUNTY, OHIO**

**THE BUTLER COUNTY TRANSPORTATION
IMPROVEMENT DISTRICT**

By: _____
William J. Brock, City Manager

By: _____
Director David Spinney

By: _____