

First Reading: April 24, 2007
Second Reading: Dispensed, 2007
Third Reading: Dispensed, 2007

RESOLUTION NO. 2007 - 10

**A FINAL RESOLUTION PERTAINING TO THE TRAFFIC SIGNAL INTERCONNECT
IN THE VILLAGE, DISPENSING WITH THE SECOND AND THIRD READINGS AND
DECLARING AN EMERGENCY**

WHEREAS, on the 30th day of December, 2004, the Village of Newtown enacted legislation proposing cooperation with the Director of Transportation for the described project:

Installation of complete traffic signal systems at Church Street and Valley Drive and Round Bottom Road and Valley Drive intersections. Installation of interconnect cable for six signalized intersections; and

WHEREAS, the Village of Newtown shall cooperate with the Director of Transportation in the above described project as follows:

The Village agrees to assume and bear the entire cost and expense of the improvement, less the Federal-aid O.K.I. funds, set aside by the Director of Transportation of the State of Ohio for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation, and further, the Village agrees to bear one hundred percent (100%) of the cost of the following items:

1. Preliminary Engineering, excluding in-house preliminary engineering charges incurred by the State.
2. Right-of-Way. In addition, the Village also agrees to assume and bear one hundred percent (100%) of the cost of any construction items requested by the Village on the entire improvement, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

WHEREAS, in view of the fact that the Village's share of the project is now estimated in the amount of Zero and --- 00/100 Dollars (\$0.00) therefore, the Village will not be required to deposit any funds at this time. The Village's ultimate share of the cost will be determined when final actual costs and allocations are determined.

WHEREAS, the Director of Transportation has approved the legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of same to this Village Council; and

WHEREAS, this Village Council desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW THEREFORE, be it resolved by the Council of the Village of Newtown, State of Ohio:

SECTION 1. That the Village of Newtown hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.

SECTION 2. That the Village of Newtown enter into a contract with the State, and that Mayor and/or Fiscal Officer be, and are hereby authorized to execute said contract for improving the described project.

SECTION 3. That the Village of Newtown transmit to the Director of Transportation a fully executed copy of this Resolution.

SECTION 4. The Council of the Village of Newtown, by at least a three-fourths vote of all its members, dispenses with the requirement that this Resolution be read on three separate days and authorizes its passage upon the first reading.

SECTION 5. This Resolution is hereby declared to be an emergency measure, necessary for the preservation of the public peace, health, welfare, and safety of the Village of Newtown. The reason for the emergency is to provide safe roads and streets in the Village in a timely manner.

VOTE RECORD:

Mr. Cosby YES

Mr. Evans YES

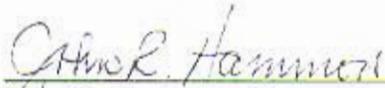
Ms. Hueber YES

Mr. Kobasuk YES

Ms. McCarthy YES

Mr. Pulskamp YES

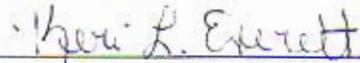
PASSED this 24th day of April, 2007.



John R. Hammon, Mayor
Village of Newtown, Ohio

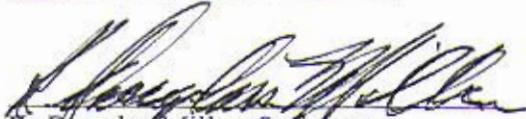
AUTHENTICATION

This is to certify that this resolution was duly passed and filed with the Village of Newtown Fiscal Officer, this 24th day of April, 2007.



Keri L. Everett, Fiscal Officer
Village of Newtown, Ohio

APPROVED AS TO FORM:



R. Douglas Miller, Solicitor
Village of Newtown, Ohio

CONTRACT
(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 Village of **Newtown**, (hereinafter referred to as the Legislative Authority or Local Public Agency (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, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment (if applicable) 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:

Installation of complete traffic signal systems at Church Street and Valley Drive and Round Bottom Road and Valley Drive intersections. Installation of interconnect cable for six signalized intersections.

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 (if applicable) 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. In view of the fact that the LPA's share of the project is now estimated in the amount of **Sixty Two Thousand Seven Hundred and - - - - 00/100 Dollars (\$62,700.00)**, less **Check No. 4046 Deposited applied in the amount of Sixty Four Thousand Three Hundred Fifty and - - - - 00/100 Dollars (\$64,350.00)**, leaving a balance in the amount of **Zero and - - - - 00/100 Dollars, (\$0.00)**, therefore, the Village will not be required to deposit any funds at this time. The LPA's ultimate share of the cost will be determined when final actual costs and allocations are determined.

5. The Village agrees to assume and bear the entire cost and expense of the improvement, less the Federal-aid O.K.I. funds, set aside by the Director of Transportation of the State of Ohio for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation, and further, the Village agrees to bear one hundred percent (100%) of the cost of the following items:

1. Preliminary Engineering, excluding in-house preliminary engineering charges incurred by the State.

2. Right-of-Way. In addition, the Village also agrees to assume and bear one hundred percent (100%) of the cost of any construction items requested by the Village on the entire improvement, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

6. The LPA agrees that change orders and extra work contracts required to fulfill 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 provide adequate maintenance for the PROJECT in accordance with all applicable state and federal law, including, but not limited to, Title 23, U.S.C., Section 116;
 - 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

Village of **Newtown**
3536 Church Street
Newtown, Ohio
45244

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

SECTION X: 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.

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
Village of Newtown**

James A. Beasley Jr.
Director of Transportation

Paul R. Hammon
Mayor and/or Fiscal Officer

5-3-07
Date

4/24/2007
Date