

RESOLUTION NO. 69-2008

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A SAFE ROUTES TO SCHOOLS FUNDING AGREEMENT

WHEREAS, the State of Ohio, Department of Transportation has proposed a Safe Routes to Schools program; and

WHEREAS, this Council wishes to authorize the Mayor and the Finance Director to enter into the Safe Routes to Schools Funding Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into a Safe Routes to Schools Funding Agreement, a copy of which Agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

SECTION 2. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

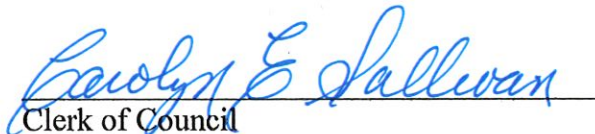
PASSED: 12/16/08


President of Council


Mayor

Dated: 12/16/08

ATTEST:


Clerk of Council

December 10, 2008
CFDA 20.205

PID #
County-Route-Section #
Agreement #

SAFE ROUTES TO SCHOOLS FUNDING AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the Village of Richfield acting by and through the Mayor, hereinafter referred to as the Grantee, 4410 West Streetsboro Road, Richfield, Ohio 44286.

1. PURPOSE

- 1.1. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) establishes the Safe Routes to School Program and provides federal funding to be used, in part, for non infrastructure-related activities to encourage walking and bicycling to school. Funds apportioned to Ohio are administered by ODOT to provide financial assistance to state, local, and regional agencies, including nonprofit organizations that demonstrate an ability to meet program requirements.
- 1.2. Section 5501.03 (A)(3) of the Ohio Revised Code provides that ODOT may coordinate its activities with other appropriate authorities, and enter into contracts with such authorities to carry out its duties, powers and functions, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3. Federal funding is provided to the Grantee for *(INSERT DETAILED PROJECT DESCRIPTION)*, hereinafter referred to as the PROJECT.
- 1.4. The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the administration of the PROJECT.

2. LEGAL REFERENCES AND DEFINITIONS

- 2.1. The Grantee shall comply with all applicable Federal and state laws, regulations, executive orders, and applicable ODOT manuals and guidelines; this agreement incorporates the guidelines as if fully rewritten.
- 2.2. Eligible Costs are defined in the FHWA Program Guidance for Safe Routes to School (SRTS).
- 2.3. ODOT may provide up to 100 percent of total project cost, including but not limited to: creation and reproduction of educational curricula, training workshops, modest incentives for children to encourage continued bicycling and walking over time, additional law enforcement, construction, construction engineering, inspection, testing, planning, environmental studies, right-of-way plans, right-of-way acquisition, plan preparation and environmental remediation, if necessary. For acquisition projects, the sponsor must provide a letter(s) from the landowner(s) indicating a willingness to sell.

3. FUNDING

- 3.1. The total cost for the PROJECT is estimated to be \$ 18,000 . ODOT shall provide to the Grantee \$15,000 in Consultant Task Order services for engineering tasks, and \$3,000, at a rate of 100 percent , for non engineering tasks. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager.
- 3.2. The Grantee shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns.
- 3.3. The Agreement operates on a reimbursement basis only. The costs must first be incurred by the Grantee. Costs claimed for reimbursement are to be true costs incurred in executing the PROJECT and to be eligible, allowable, allocable, reasonable, necessary, and consistent. Final determination of cost eligibility shall rest with ODOT.
- 3.4. Invoices for reimbursement may be submitted on a quarterly basis, unless other arrangements have been agreed upon by the parties. All invoices must include detailed expenditures and documentation as required by ODOT.
- 3.5. All invoices shall be paid within thirty (30) days following receipt. If any invoice is not acceptable, the time for prompt payment is suspended. ODOT will either promptly provide the Grantee with a clear statement regarding any specific cost in eligibility, or inform the Grantee of any invoice deficiencies that must be eliminated prior to acceptance, processing, or payment by ODOT. If notification is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.
- 3.6. Within thirty (30) days after completion of all work under this Agreement, the Grantee shall submit to ODOT a detailed final bill, based on work order accounting covering the actual costs of work performed, and showing where accounts may be audited.

4. DEFAULT

- 4.1. Neglect or failure of the Grantee to comply with any of the terms, provisions or conditions of this Agreement entered into between ODOT and the Grantee or failure of any representation made to ODOT in connection with any Grant Agreement by the Grantee to be true shall be an event of default, provided that if by reason of force majeure the Grantee is unable in whole or in part to carry out its covenants contained herein, the Grantee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, Acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their political subdivisions or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; or any other cause not reasonably in the control of the Grantee. The Grantee shall however, remedy with all reasonable dispatch each cause preventing the Grantee from carrying out its covenants contained herein.
- 4.2. No remedy herein conferred upon or reversed by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing as law or in equity.
- 4.3. No delay or omission to exercise any right or option accruing to ODOT upon any default by the Grantee shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

5. FEDERAL COMPLIANCE

- 5.1. The Grantee shall fully comply with all federal, state, and local laws, regulations, executive orders, and other legal requirements as they apply to the performance of this Agreement.
- 5.2. All limits or standards set forth in this Agreement are minimum requirements. If there is a conflict among federal, state, or local requirements, the Grantee shall inform ODOT in writing so that a resolution may be arranged, if possible.
- 5.3. EQUAL EMPLOYMENT OPPORTUNITY:
 - 5.3.1. In connection with the carrying out of the Project, the Grantee shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. The Grantee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee shall insert the foregoing provision, modified only to show the particular contractual relationship, in all of its contracts in connection with the development or operation of the Project, except contracts for standard commercial supplies or raw materials, and shall require all contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.
 - 5.3.2. If, as a condition of assistance, the Grantee has submitted, and the federal government has approved, an equal employment opportunity program that the Grantee agrees to carry out, such program is incorporated into this Agreement by reference. Such program shall be treated as a contractual obligation; and failure to carry out the terms of that equal employment opportunity program shall be treated as violation of this Contract. Upon notification to the Grantee of its failure to carry out the approved program, US DOT will impose such remedies as it may deem appropriate which remedies may include termination of this Contract.
- 5.4. Grantee shall comply with the provisions of the Clean Air Act, as amended (42 U.S.C. Section 1857 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.), and implementing regulations, in the facilities which are involved in the Project for which Federal assistance is given. The Grantee shall ensure that the facilities under ownership, lease or supervision, whether directly or under contract, that will be utilized in the accomplishment of the Project are not listed on the EPA's List of Violating Facilities. Contracts, subcontracts, and subgrants or amounts in excess of \$100,000 shall contain a provision that requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. Section 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. Section 1368), Executive Order No. 11738, and Environmental Protection Agency (EPA) regulations (40 C.F.R. Part 15). The Grantee shall be responsible for reporting any violations to FHWA and to the EPA Assistant Administrator for Enforcement.
- 5.5. No facilities or equipment shall be acquired, constructed, or improved as a part of the Project unless the Grantee obtains satisfactory assurances that they are (or will be) designed and equipped to limit air pollution in accordance with applicable Federal and State standards.
- 5.6. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49

U.S.C. § 5332, the Contractor shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

6. GENERAL PROVISIONS

- 6.1. In accordance with Executive Order 2007-01S, Vendor or Grantee, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws, and (3) will take no action inconsistent with those laws and this order. The Vendor or Grantee understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this contract or grant and may result in the loss of other contracts or grants with the State of Ohio.
- 6.2. If any term, provision or condition contained in this Agreement is breached by either the Grantee or ODOT and thereafter such breach is waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.
- 6.3. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or enforceability of the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 6.4. In no event shall the Grantee or any of its employees, agents, contractors, subcontractors be considered agents or employees of ODOT, the State or US DOT.
- 6.5. ODOT shall not be subject to any obligations or liabilities of the Grantee or its subcontractors or any other person not a party to this Agreement in connection with the performance of this Project without their express, written consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.
- 6.6. Grantee agrees that none of its employees, agents, contractors, or subcontractors will hold themselves out as, or claim to be, agents, officers or employees of ODOT, or the State and will not, by reason of any relationship with ODOT, make any claim, demand or application to or for any right or privilege applicable to an agent, officer or employee of the State, including but not limited to, rights and privileges concerning worker's compensation and occupational diseases coverage, unemployment compensation benefits, social security coverage or retirement membership or credit.
- 6.7. Grantee shall not assign or subcontract, in whole or in part, or otherwise dispose of this Agreement without the prior written consent of ODOT and such written consent shall not release the Grantee from any obligations of this Agreement.
- 6.8. Grantee covenants and agrees to indemnify and hold ODOT, the State, and their agents harmless against any and all loss, claim, cause of action, damages, liability (including, with limitation, strict or absolute liability in tort or by statute imposed), charge cost or expense (including, without limitation, counsel fees to the extent permitted by law) caused by the Grantee's negligent, intentional, willful or wanton actions or inactions, including such actions or the failure to act of any subcontractors or other employees hired by the Grantee under this Agreement.
- 6.9. In the event of a dispute in the interpretation of the provisions of this Agreement, such dispute shall be settled through negotiation between ODOT and the Grantee. If no agreement can be reached, the dispute will be referred for resolution to the Director of Transportation.

- 6.10. Grantee shall avail itself of all legal and equitable remedies with respect to any third party contract which relates to the Project and shall notify ODOT of any current or prospective litigation pertaining to any such third party contract.
- 6.11. The section captions in this Agreement are for the convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement of any part hereof and shall not be considered in any construction hereof.
- 6.12. Grantee agrees to comply with all applicable state and federal law regarding a drug-free workplace. Grantee shall make a good faith effort to ensure that its employees will not purchase, transfer, use, or possess illegal drugs, or abuse prescription drugs in any way.
- 6.13. This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the Grantee hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 6.14. Notice under this Agreement shall be directed as follows:

IF TO GRANTEE:

IF TO ODOT:

- 6.15. This Grant and each of its provisions shall be binding upon the parties and may not be waived, modified, amended, or altered except by a writing signed by ODOT and the Grantee.
- 6.16. Any person executing this Grant in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Grant on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

GRANTEE: Village of Richfield

STATE OF OHIO
Ohio Department of Transportation

By: _____
Michael K. Lyons,
Mayor

By: _____
James G. Beasley, P.E., P.S..
Director

Date: _____

Date: _____