

## SIGNAL MAINTENANCE AGREEMENT

ODOT Owned/Local Operated and Maintained

This Agreement is entered into by and between the Ohio Department of Transportation whose address is 505 South State Route 741, Lebanon, Ohio 45036 (hereinafter referred to as "ODOT"), and the Butler County Engineer whose address is 1921 Fairgrove Avenue, Hamilton, Ohio 45011 (hereinafter referred to as the "COUNTY"), collectively referred to as "the Parties".

WHEREAS, the Parties have existing Agreements for the COUNTY to operate, control and maintain four (4) existing traffic signals located at:

- 1) the intersection of I-75 NB and Union Centre Boulevard (BUT-75-1.70); and
- 2) the intersection of I-75 SB and Union Centre Boulevard (BUT-75-1.70); and
- 3) the intersection of I-75 NB and Tylersville Road (BUT-75-5.38); and
- 4) the intersection of I-75 SB and Tylersville Road (BUT-75-5.39.)

WHEREAS, the Parties desire to consolidate the agreements and update the terms and conditions of the Parties' responsibilities regarding these signals.

NOW THEREFORE, in consideration of the mutual covenants herein and for the purpose of the COUNTY continuing to operate, control and maintain these signals, the Parties agree to rescind all prior agreements and amendments and enter into this Agreement as follows:

### I. EQUIPMENT

A. The COUNTY shall own all traffic signal equipment and appurtenances including any battery backup system installed on State right-of-way at the following intersections and with the corresponding ODOT Traffic Signal Inventory System numbers ("OSIS"):

1. the intersection of I-75 NB and Union Centre Boulevard (BUT-75-1.70) (OSIS #1366); and
2. the intersection of I-75 SB and Union Centre Boulevard (BUT-75-1.70) (OSIS #1365).

B. ODOT shall own all traffic signal equipment and appurtenances including the battery backup system installed on State right-of-way by ODOT at the following intersections and with the corresponding ODOT Traffic Signal Inventory System numbers ("OSIS"):

1. the intersection of I-75 NB and Tylersville Road (BUT-75-5.38) (OSIS #774); and
2. the intersection of I-75 SB and Tylersville Road (BUT-75-5.39) (OSIS #775.)

C. The COUNTY shall pay for the installation of any equipment furnished by ODOT.

D. The COUNTY shall own all traffic signal monitoring devices (fiber, terminal panel, switches, etc.) installed by the COUNTY at their cost to assist the COUNTY in detecting and responding to traffic signal outages and other issues.

## II. OPERATION

A. The COUNTY shall be responsible for the signal timing of the signalized corridor system of these traffic signals to efficiently control the ingress and egress of traffic at said locations.

1. The COUNTY shall ensure that only qualified employees or contractors approved by ODOT shall operate the traffic signals.
2. All timing patterns must be approved by ODOT before they are put into operation. The COUNTY shall ensure that all timing patterns will not threaten the operation of the ramps or mainline. The operational system shall automatically select a predetermined and ODOT approved pre-emptive response pattern favoring ramp operations if the traffic signals are configured to detect ramp conditions and employ response patterns.
3. The COUNTY shall ensure that the traffic signals have adequate security to prevent unauthorized access.

B. The COUNTY agrees to annually review the timing patterns, traffic flow and day-to-day operations of these traffic signals.

C. The COUNTY shall prepare and provide ODOT with signal timing plans, annual conflict monitor test reports, and annual signal inspection reports, and any other reports requested by ODOT as referred to in subsection II.A.2 of this Agreement within 60 days of renewal of this Agreement and as requested by ODOT.

## III. MODIFICATION OF SIGNAL HARDWARE AND/OR OPERATIONS

A. If either Party determines or believes that modified timing or coordination of the equipment or additional or modified equipment is necessary to improve the flow of traffic at the location, the Parties shall consult on the modification(s) felt necessary and, to the extent reasonably possible, shall agree on the modifications to be made, which Party will perform such work, and which Party will be responsible for the payment of any associated costs. If the Parties do not agree, ODOT shall make the final determination and make the modifications it deems necessary to best serve the traveling public.

B. If agreed by the Parties, an invoice to recover the actual cost of materials, labor and equipment for the modification will be submitted by the Party performing the work to the other Party for payment within thirty (30) days after completion of the work. Payment of the invoice shall be made within thirty (30) days after receiving the invoice.

#### IV. MAINTENANCE

A. The COUNTY shall provide all maintenance required for the efficient operation of the traffic control signals at the COUNTY's sole cost. Maintenance shall include those functions necessary for the traffic signals to be operational at all times including but not limited to, repair, replacement or upgrading of all malfunctioning signal components or those that may be damaged by accident, forces of nature, or deterioration. The COUNTY shall also be responsible for the maintenance of any equipment or system added pursuant to section III of this Agreement.

B. The COUNTY shall inspect and repair all battery backup systems. ODOT shall replace batteries according to the schedule found in the current version of ODOT's Traffic Engineering Manual ("TEM").

C. The COUNTY shall conduct annual inspections and provide the results to ODOT.

D. The COUNTY shall develop a written policy on traffic signal maintenance to include a maximum two (2) hour response time in the case of an emergency outage or malfunction.

#### V. MAINTENANCE FEE

A. ODOT shall pay an annual maintenance fee of Three Thousand Dollars (\$3,000.00) per signal for a total annual payment of Twelve Thousand Dollars (\$12,000.00) to the COUNTY. The COUNTY shall issue an invoice to ODOT after the annual inspections are complete. The invoice must be submitted within sixty (60) calendar days after the annual inspections are completed. Invoice amount shall be payment in full for the maintenance.

B. In the event that a single unusual occurrence causes the COUNTY to expend funds in excess of \$5,000.00, ODOT agrees to reimburse the COUNTY for any expenses in excess of \$5,000.00 provided, however, that the COUNTY's expenditure of any amount in excess of 5,000.00 be subject to prior approval by ODOT. Any reimbursement shall be requested only after all attempts to collect from all available insurance and other sources and shall only be in the amount not paid by any collateral source.

#### VI. ELECTRICAL ENERGY CHARGES

It shall be the responsibility of ODOT to furnish and assume the cost of all electrical energy charges for the operation of these traffic signals.

#### VII. RIGHT OF ENTRY

ODOT grants to the COUNTY, its employees and any of its authorized agents the Right of Entry upon its rights of way for the purpose of maintaining these traffic signals. This Right of Entry is made subject to all other easements, dedications, uses or restrictions affecting said rights-of-way whether of record or otherwise, except that the COUNTY shall not be subject to unrecorded conditions unless notified in writing by ODOT of the exact nature of such conditions. ODOT reserves all rights in the property which is the subject of this Right of Entry.

## VIII. REMOVAL

When it is determined by ODOT that any or all of the traffic signal or its appurtenances are no longer essential to the safety, convenience or welfare of the traveling public, or that the maintenance of traffic in general would be better served by the discontinuance of any or all of the traffic signals, then all such equipment, material and devices shall be removed by ODOT at no expense to the COUNTY. If any signal at an I-75/Tylersville Road intersection is discontinued, all salvageable materials and equipment from the discontinued signal shall be returned to ODOT's signal inventory and the Parties shall be relieved of all further obligations regarding that signal under this Agreement. If any signal at an I-75/Union Centre Boulevard intersection is discontinued, all salvageable materials and equipment from the discontinued signal shall be returned to COUNTY's signal inventory and the Parties shall be relieved of all further obligations regarding that signal under this Agreement. The determination that the traffic signal is no longer useful or desirable shall be made by ODOT, in any reasonable manner, including, but not limited to, findings based on a traffic engineering study.

## IX. SPECIAL PROVISIONS

If at any time ODOT determines that these traffic signals are being operated in an unsafe manner or improperly maintained, their control and operation will be returned to ODOT after written notification to the COUNTY by ODOT.

## X. GENERAL PROVISIONS

A. This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management as required by Ohio Revised Code Section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement will terminate on the date funding expires.

B. This Agreement does not alter or relieve ODOT from its responsibility to regulate traffic on its roads and highways.

C. This Agreement and the performance thereof shall be governed and interpreted solely by the laws of the State of Ohio. 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, under R.C. 5501.22.

D. 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 the ability to enforce the remainder of this agreement. All provisions of this agreement shall be deemed severable.

E. This Agreement shall be to the benefit of and be binding upon the Parties, their successors, and assigns.

F. Each Party shall be responsible for liability associated with that Party's own errors, actions or failures to act. Nothing in this Agreement shall be deemed a waiver of any immunity the COUNTY may have under the general government immunity statute (R.C. section 2744.02).

G. If either Party breaches or defaults on any of the terms or conditions of this Agreement, and if that breach is not remedied within thirty (30) days after written notification by the other Party of that breach or default, the non-breaching or non-defaulting Party may terminate this Agreement.

H. The Parties agree to make a good faith effort to resolve any disputes which may arise between them concerning the interpretation of, or performance pursuant to this Agreement, with the exception of matters identified in this Agreement requiring the sole approval or decision by ODOT.

I. Ohio Ethics Law: The Parties, by signing this document, each certify: (1) it has reviewed and understands the Ohio Ethics law and conflict of interest laws as provided by Chapters 102 and 2921 of the Ohio Revised Code, and (2) will take no action inconsistent with those laws.

J. In carrying out this Agreement the parties shall comply with all applicable federal, state, and local laws in the conduct of all work including, but not limited to non-discrimination, equal employment opportunity and drug free workplace.

K. In no event shall the contractors, subcontractors, workers, employees, or agents of either Party be considered agents or employees of the other Party. Each Party shall be responsible for the full payment of all taxes including without limitation, unemployment compensation premiums, income tax deductions, payroll deductions.

L. Neither Party shall assign any interest, duty or right under this Agreement, in whole or in part, without the prior written approval from the other Party.

#### XI. TERM

A. This Agreement shall be effective upon the date of the last signature below and remain in full force and effect until June 30, 2023, or unless terminated earlier as provided in subsection XI.C or removal provided in subsection VIII of this Agreement.

B. All modifications, including renewals of this Agreement, shall be by written amendment and signed by the Parties.

C. Either Party may terminate this Agreement upon providing ninety (90) days of notice to the other Party.

D. Any removal under Section VIII or early termination under subsection XI shall cause the annual Maintenance Fee to be prorated.

XII. NOTICES

Notice under this Agreement shall be directed as follows:

**BUTLER COUNTY ENGINEER:**

1921 Fairgrove Avenue  
Hamilton, Ohio 45011

**ODOT:**

The Ohio Department of Transportation, District 8  
Attn: District Deputy Director  
505 South State Route 741  
Lebanon, Ohio 45036

XIII. RECISSION

Upon the date of the last signature below, all previous Agreements between the Parties regarding these traffic signals are hereby rescinded.

XIV. AUTHORIZATION

Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized to do so.

XV. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

XVI. SIGNATURE

Any Party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or email. Each Party shall be entitled to rely upon a facsimile or electronic signature of any other Party delivered in such a manner as if such signature were an original.

(The remainder of this page is intentionally left blank.)

The Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**STATE OF OHIO  
OHIO DEPARTMENT OF TRANSPORTATION**

By: Jack Marchbanks, TKE  
Jack Marchbanks, Director (DDD Initial)

DATE 3-24-2022

**For Use by ODOT Office of Chief Legal  
Counsel Only: ceg**

Date Reviewed: 3/24/2022

**BUTLER COUNTY ENGINEER:**

By: Gregory J Wilkens

GREGORY J WILKENS  
PRINT NAME AND TITLE

DATE 3/24/22

Approved as to form only:

Mary Anne Nardiello  
Assistant Prosecuting Attorney March 24, 2022  
Butler County, Ohio