

ODOT AGREEMENT Number 33534

**MAINTENANCE AGREEMENT
BETWEEN THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION AND
West Chester Township**

This Agreement is made by and between the State of Ohio, Department of Transportation (ODOT), hereinafter referred to as the STATE, 1980 West Broad Street, Columbus, Ohio 43223 and West Chester Township (Township) hereinafter referred to as the TOWNSHIP, 913 Cincinnati-Dayton Road, West Chester, Ohio 45069. This Agreement is associated with the Union Centre BLVD DDI at I-75.

Whereas, Sections 5501.11(D) and 5501.31 of the Ohio Revised Code provides that ODOT may cooperate with municipal corporations in the establishment, construction, reconstruction, and improvement of public roads and bridges.

Whereas, Section 5501.03(A)(3) of the Ohio Revised Code provides that the Director of Transportation may coordinate the activities of ODOT with other appropriate public authorities and enter into contracts/agreements with such authorities as necessary to carry out its duties, powers and functions.

Whereas, the STATE is allowing the TOWNSHIP in the area of I-75 and Union Centre BLVD through the planting of shade trees, evergreens, and perennial flowers. Additionally, the project involves some minor grading work and the installation of decorative retaining walls to provide suitable planting beds. The location and size of all plantings and retaining walls shall comply with ODOT's landscaping guidelines

Whereas, the Township in conjunction with Butler County has proposed work that consists of converting an existing diamond interchange to a diverging diamond interchange, reconstruction of ramps from I-75 to Union Centre BLVD, widening along I-75, ramp metering, retaining walls, and decorative fencing.

Whereas, the TOWNSHIP has agreed to perform all future maintenance on the following IMPROVEMENTS for the life of the enhancements on this project:

- Decorative fencing- Including but not limited to all mesh, posts, horizontal members, connections, and the concrete railing in the immediate vicinity of the anchorage
- All sidewalks on Union Centre BLVD and on the structure over I-75

Whereas, the TOWNSHIP is willing to provide the costs associated with the design of the IMPROVEMENT and is willing fully to cooperate with ODOT in completing and maintaining the IMPROVEMENT and ODOT is willing to accept the contribution under certain conditions.

Whereas, in accordance with Ohio Revised Code 5501.31, the STATE is willing to accept the TOWNSHIP IMPROVEMENT under certain terms and conditions.

Therefore, for and in consideration of the mutual covenants hereinafter stipulated to be kept performed, it is agreed by the parties as follows:

Section 1 - Construction

- 1.1 The TOWNSHIP agrees to prepare, or cause to be prepared, at no cost to the STATE, plans and specifications for the addition of the IMPROVEMENT. Such plans and specifications shall be prepared in accordance with ODOT's 2016 Construction & Materials Specifications. The TOWNSHIP shall submit its plans and specifications to the STATE for the STATE's approval.

The TOWNSHIP agrees to provide all construction engineering, inspection and testing necessary to construct said IMPROVEMENT in accordance with the 2016 ODOT Construction & Material Specifications. The construction activities will be provided without compensation from ODOT. ODOT will support the TOWNSHIP with technical expertise should construction questions arise.

Section 2 - Maintenance

- 2.1 DEFINITIONS:

- A. "IMPROVEMENT INSPECTION" shall mean an annual inspection of the said improvements to determine the condition, safety and maintenance needs of the IMPROVEMENT. A letter shall be provided by the TOWNSHIP to the STATE summarizing their findings and action plan if necessary. In addition to an annual inspection, IMPROVEMENT INSPECTION shall include responding to public and ODOT complaints as needed.
- C. "Routine IMPROVEMENT Maintenance" shall mean all ordinary and normal care and work.
- D. "Repairs" shall mean all work necessary to restore the IMPROVEMENT to a sound state after decay, corrosion, or damage has occurred.
- E. The TOWNSHIP agrees to keep the exit and entrance ramps to the interchange and corridor of I-75 open to traffic at all times while performing maintenance activities, unless otherwise agreed to by the STATE.
- F. The TOWNSHIP agrees to perform all maintenance activities required by industry practices to maintain the IMPROVEMENT in an attractive manner.
- G. All work requiring vehicles and workers on the pavement or shoulders shall comply with all the requirements of the Ohio Manual of Uniform Traffic Control Devices and Item 614 (Maintaining Traffic) of the Ohio Department of Transportation Construction and Materials Specifications. Failure to comply with the requirement will be cause for immediate suspension of work until the proper traffic control devices have been provided.
- H. The TOWNSHIP, upon completion of the work, shall leave the highway clean of all rubbish, excess material, equipment and all parts of the highway disturbed by maintenance activities associated with the IMPROVEMENT shall be left in an acceptable condition.

- 2.2 The TOWNSHIP agrees to perform, at no cost to the STATE, all IMPROVEMENT inspections, routine IMPROVEMENT maintenance and repairs necessary for the sole life of the IMPROVEMENT. The TOWNSHIP is responsible for any harm or damage to other parties as a result of negligent design, inspection, construction or maintenance of the IMPROVEMENT.
- 2.3 In accordance with Section 4 below, the TOWNSHIP agrees that, in the event the IMPROVEMENT falls into a state of disrepair, ODOT may repair the IMPROVEMENT, at

the expense of the TOWNSHIP, or remove the IMPROVEMENT or portion(s) of the IMPROVEMENT in accordance with ODOT standards at the expense of the TOWNSHIP.

- 2.4 In accordance with Section 5501.47 of the Ohio Revised Code, the STATE agrees to perform all necessary inspections of the bridge exclusive of the IMPROVEMENT inspection.

Section 3 - Reimbursement

- 3.1 The TOWNSHIP shall perform all routine IMPROVEMENT maintenance at no cost to the STATE.
- 3.2 In the event that the STATE removes any portion of the IMPROVEMENT for falling into a state of disrepair, the TOWNSHIP agrees to pay for the costs of the total removal and any replacement cost.

Section 4 - Negligence. Default. and Dispute Resolution

- 4.1 Neglect or failure of the TOWNSHIP to maintain IMPROVEMENT or to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, shall be an event of default, unless such failure is the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the TOWNSHIPs control. The TOWNSHIP, however, shall remedy as soon as possible each cause preventing its compliance with this Agreement.
- 4.2 If notified by the STATE, in writing, that any portion of the IMPROVEMENT is in disrepair, or that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the TOWNSHIP shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the TOWNSHIP shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty days and failure by the TOWNSHIP to remedy, or to satisfactorily commence the remedy of, the default shall result in the STATE, at its discretion, terminating this Agreement.
- 4.3 The TOWNSHIP, upon receiving a notice of termination from the STATE for default,

shall terminate all contracts and other agreements it has entered into relating to such covered maintenance.

- 4.4 No remedy herein conferred upon or reserved by the STATE 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 at law or in equity. No delay or omission to exercise any right or option accruing to the STATE upon any default by the TOWNSHIP 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 the STATE.
- 4.5 In the event a dispute arises regarding payment of any charges for repair or removal of the IMPROVEMENT by the STATE, notification of such dispute shall be sent to the Director of the Ohio Department of Transportation and a designated representative of the TOWNSHIP, in writing, within 90 days of discovery of such dispute. In such notification, the disputing party shall present such evidence as may support their position. Within a reasonable time, the Director and a designated representative of the TOWNSHIP shall review the facts and circumstances surrounding the dispute for the purpose of determination. Said dispute regarding payment shall be resolved within a reasonable period of time.

Section 5 - Time of Performance

- 5.1 This Agreement shall not expire unless agreed to in writing by both the STATE and the TOWNSHIP. Should an interchange modification, a bridge rehabilitation or replacement project of the bridge require removal of the IMPROVEMENT or portion thereof and the TOWNSHIP chooses to re-construct the same IMPROVEMENT or portions thereof, the cost of such a reconstruction shall be at the TOWNSHIP expense.

Section 6 - Notice

- 6.1 Notice under this agreement shall be directed as follows:

West Chester Township
Administration
9113 Cincinnati-Dayton Road

Ohio Department of Transportation
Permits Department
505 S. State Route 741

Section 7 - Equal Employment Opportunity

- 7.1 In carrying out this contract, the TOWNSHIP shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, disability, or age. The TOWNSHIP will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, disability, or age. 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 Payer other forms of Compensation; and Selection for Training including Apprenticeship.
- 7.2 The TOWNSHIP agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The TOWNSHIP will, in all solicitations or advertisements for employees placed by or on behalf of the TOWNSHIP, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, disability, or age. The TOWNSHIP shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

Section 8 - Compliance with Law

- 8.1 The TOWNSHIP agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. The TOWNSHIP accepts full responsibility for payment of all taxes, including, without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by the TOWNSHIP in the performance of the work authorized by this Agreement. The STATE shall not be liable for any taxes under this contract.

Section 9 - Drug Free Workplace

- 9.1 The TOWNSHIP agrees to comply with all applicable state and federal laws regarding a drug free workplace. The TOWNSHIP shall make a good faith effort to ensure that all TOWNSHIP employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

Section 10 - General Provisions

- 10.1 This Agreement constitutes the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement.
- 10.2 Neither this Agreement nor any rights, duties, or obligation described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 10.3 Any change to the provisions of this agreement must be made in a written amendment executed by both parties.
- 10.4 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 law of Ohio shall be deemed void and of no effect. 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 there under, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 10.5 This Agreement shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
- 10.6 All provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors or parties hereto.

SECTION 11 - Signatures

11.1 Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS THEREOF, the parties hereunto have caused this Agreement to be executed by officials thereunto duly authorized as of the day and year last written below.

STATE OF OHIO

DEPARTMENT OF TRANSPORTATION

By: Pamela Boratyn/DAG

Name & Title: Pamela Boratyn, Director

Date: 01/09/2025

West Chester Township

By: Larry D. Burks

Name & Title: Larry D. Burks, Administrator

Date: 9/25/24

Additional Maintenance Agreements relative to interchange between I-75 and Union Centre BLVD in Butler County:

Traffic Signals (Butler County)

Butler County - 33532