

**ODOT AGREEMENT NUMBER 35703**  
**MAINTENANCE AGREEMENT**  
**BETWEEN THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION**  
**AND THE BUTLER COUNTY COMMISSIONERS**

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 the Board County Commissioners of Butler County, Ohio, hereinafter referred to as the "COUNTY", 315 High Street, Hamilton, Ohio 45011.

Whereas, Sections 5501.11(A)(4) and 5501.31 of the Ohio Revised Code provides that the STATE may cooperate with counties 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 the STATE 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 COUNTY to construct improvements to the State Route 129 interchange with Interstate Route 75 and Liberty Way, including a new roadway connection from the existing State Route 129 terminus, eastward to Cox Road, Project BUT SR 129 25.00 Liberty Way (PID #104195), hereinafter referred to as the PROJECT.

Whereas, as part of the PROJECT, the COUNTY has proposed to construct a new roadway extension from the current SR 129 terminus to Cox Road, including new structure BUT-129-2561C (SFN: 0901816) carrying the extension over interchange Ramps F, J and a private hospital drive, hereinafter referred to as the IMPROVEMENT.

Whereas, the COUNTY has agreed to perform all future Ohio Revised Code mandated maintenance on the same IMPROVEMENT for the life of the roadway, structure, and appurtenances.

Whereas, the maintenance responsibilities are generally delineated in Figure 1 attached.

Whereas, the COUNTY provided the costs associated with the design of the IMPROVEMENT and are willing fully to cooperate with STATE in completing and maintaining the IMPROVEMENT and STATE 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 COUNTY's 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 COUNTY prepared plans and specifications for the addition of the IMPROVEMENT. Such plans and specifications were prepared in accordance with the appropriate ODOT and AASHTO Manuals and Standards. The COUNTY has submitted its plans and specifications to the STATE and has subsequently received the STATE's approval.

### **Section 2 - MAINTENANCE**

- 2.1 DEFINITIONS & CONDITIONS:
  - A. "IMPROVEMENT INSPECTION" shall mean an inspection of the said improvements as stipulated in the Ohio Revised Code to determine the condition, safety, and maintenance needs of the IMPROVEMENT. This includes responding to the public complaints, as needed.
  - B. "NBIS Inspection" shall mean the physical inspection of the bridge to determine condition, preparation of the National Bridge Inspection Standards (NBIS) inventory and submittal of data to the Federal Highway Administration (FHWA) and load rating as necessary to determine safe load capacity.
  - C. "Routine IMPROVEMENT Maintenance" shall mean all ordinary and normal maintenance of the IMPROVEMENT, as required by the Ohio Revised Code.
  - D. "Repairs" shall mean all work necessary to restore the IMPROVEMENT to a

- sound state after decay, corrosion, or damage has occurred.
- E. The COUNTY agrees to keep interchange Ramps F & J open to traffic at all times, as practicable, while performing maintenance activities.
  - F. The COUNTY 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 of 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 COUNTY, 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 COUNTY agrees to perform, at no cost to the STATE, all routine IMPROVEMENT maintenance and repairs necessary for the sole life of the IMPROVEMENT. The COUNTY agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees, or agents in the performance of COUNTY's obligations made or agreed to herein.
- 2.3 In accordance with Section 4 below, the COUNTY agrees that, in the event the IMPROVEMENT falls into a state of disrepair, STATE may repair the IMPROVEMENT, at the expense of the COUNTY, or remove portion(s) of the IMPROVEMENT in accordance with STATE standards at the expense of the COUNTY.
- 2.4 In accordance with Section 5501.47 of the Ohio Revised Code, the STATE agrees to perform the NBIS Inspection on Bridge BUT-129-2561C (SFN: 0901816).
- 2.5 In accordance with Section 5501.47 of the Ohio Revised Code, the COUNTY agrees to perform all other necessary IMPROVEMENT inspection.
- 2.6 The STATE agrees to perform routine snow and ice removal activities for the IMPROVEMENT (SR 129 terminus to Cox Road).

### **Section 3 - Reimbursement**

- 3.1 The COUNTY 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 COUNTY 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 COUNTY 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 COUNTY's control. The COUNTY, 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 COUNTY 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 COUNTY 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 COUNTY 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 COUNTY, 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 COUNTY 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 If a dispute arises between the parties concerning any activity conducted pursuant to this

Agreement, the disputing party shall send notice, in writing, to the other party within 90 days of discovery of such dispute. Notice to STATE shall be sent to the District 8 Deputy Director at the address stated in Section 6.1 of this Agreement. Notice to COUNTY shall be sent to the Butler County Engineer at the address stated in Section 6.1 of this Agreement. In such notification, the disputing party shall present such evidence as may support its position. Within a reasonable period of time, for purposes of resolving the dispute, the District 8 Deputy Director and the Butler County Engineer shall review the facts and circumstances surrounding the dispute. The parties shall employ their best efforts to resolve the dispute 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 COUNTY.

### **Section 6 - NOTICE**

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

Butler County Engineer  
1921 Fairgrove Avenue  
Hamilton, OH 45011

Ohio Department of Transportation  
District 8 Deputy Director  
505 South S.R. 741  
Lebanon, Ohio 45036

### **Section 7 - Equal Employment Opportunity**

- 7.1 In carrying out this contract, the COUNTY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, disability, or age. The COUNTY 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 Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
- 7.2 The COUNTY agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination

clause. The COUNTY will, in all solicitations or advertisements for employees placed by or on behalf of the COUNTY, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, disability, or age. The COUNTY 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 COUNTY agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. The COUNTY 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 COUNTY 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 COUNTY agrees to comply with all applicable state and federal laws regarding a drug free workplace. The COUNTY shall make a good faith effort to ensure that all COUNTY 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 STATE 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.
- 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 WHEREOF, the parties, by their authorized representatives, have caused this agreement to be executed on the dates stated below, pursuant to each party's duly adopted resolution or ordinance.

STATE OF OHIO  
DEPARTMENT OF TRANSPORTATION

BOARD OF COUNTY COMMISSIONERS  
OF BUTLER COUNTY, OHIO

BY: \_\_\_\_\_

Cindy Carpenter  
President

NAME: Jack Marchbanks, PH.D.

[Signature]  
Vice President

TITLE: Director

[Signature]  
Commissioner

DATE: \_\_\_\_\_

DATE: May 24, 2021

Approved as to Form Only:

BY: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

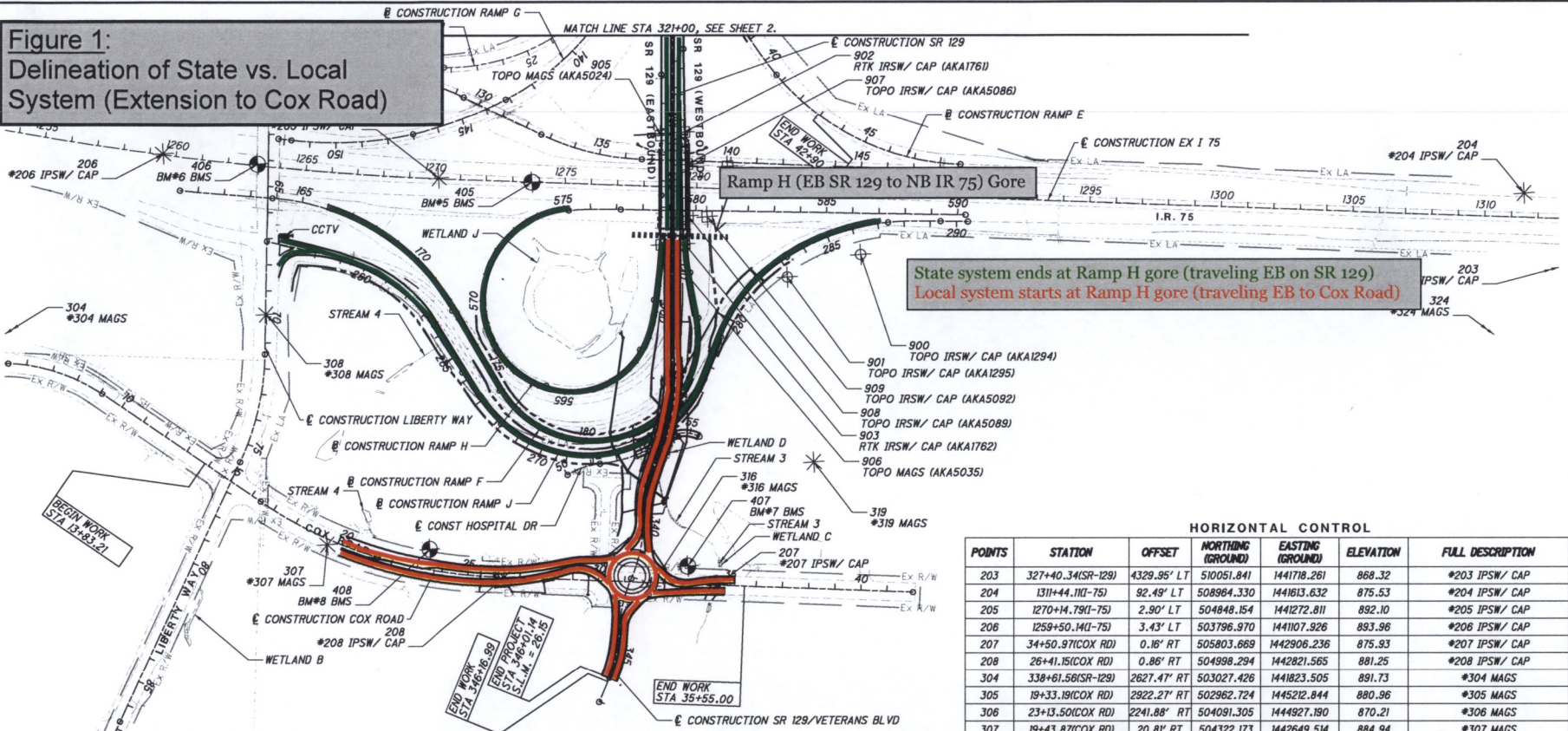
Approved as to Form Only:

Mary Anne Nardiello

BY: \_\_\_\_\_  
Assistant Prosecuting Attorney  
Butler County, Ohio

Date: April 22, 2021

**Figure 1:**  
Delineation of State vs. Local System (Extension to Cox Road)



State system ends at Ramp H gore (traveling EB on SR 129)  
Local system starts at Ramp H gore (traveling EB to Cox Road)

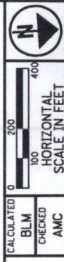
**VERTICAL CONTROL**

| BENCHMARK | STATION           | OFFSET      | ELEVATION | DESCRIPTION   |
|-----------|-------------------|-------------|-----------|---|
| BM#3      | 326+99.99(SR-129) | 4367.36' LT | 868.48    | CHISELED "X" ON A BOLT AT THE SOUTHEAST CORNER OF A SOUND BARRIER LOCATED ON THE WEST SIDE OF INTERSTATE 75, BEING APPROXIMATELY 615 FEET NORTH FROM THE BETHANY ROAD OVERPASS. |
| BM#4      | 326+84.99(SR-129) | 3420.61' LT | 869.08    | CHISELED "X" ON THE EAST BOLT OF A LIGHT POLE LOCATED ON THE WEST SIDE OF INTERSTATE 75, BEING THE FIRST LIGHT POLE SOUTH OF THE BETHANY ROAD OVERPASS.                         |
| BM#5      | 326+64.55(SR-129) | 534.04' RT  | 894.08    | CHISELED SQUARE ON THE SOUTHEAST CORNER OF A CONCRETE MEDIAN WALL LOCATED 480 FEET SOUTH OF THE STATE ROUTE 129 BRIDGE OVER INTERSTATE 75.                                      |
| BM#6      | 325+93.56(SR-129) | 1593.66' RT | 893.16    | MAG NAIL SET ON THE EAST SIDE OF A SOUTH COLUMN WITHIN THE MEDIAN FOR INTERSTATE 75, BEING A COLUMN FOR THE LIBERTY WAY BRIDGE OVER INTERSTATE 75.                              |
| BM#7      | 341+10.51(SR-129) | 188.26' LT  | 876.07    | CHISELED "X" ON THE EAST FLANGE BOLT OF A FIRE HYDRANT LOCATED ON THE WEST SIDE OF COX ROAD, BEING THE SEVENTH FIRE HYDRANT NORTH OF THE INTERSECTION WITH LIBERTY WAY.         |
| BM#8      | 342+92.45(SR-129) | 769.47' RT  | 881.34    | CHISELED "X" ON THE EAST FLANGE BOLT OF A FIRE HYDRANT LOCATED ON THE WEST SIDE OF COX ROAD, BEING THE THIRD FIRE HYDRANT NORTH OF THE INTERSECTION WITH LIBERTY WAY.           |

**HORIZONTAL CONTROL**

| POINTS | STATION               | OFFSET      | NORTHING (GROUND) | EASTING (GROUND) | ELEVATION | FULL DESCRIPTION         |
|--------|-----------------------|-------------|-------------------|------------------|-----------|--------------------------|
| 203    | 327+40.34(SR-129)     | 4329.95' LT | 510051.841        | 144178.261       | 868.32    | #203 IPSW/ CAP           |
| 204    | 1311+44.11(I-75)      | 92.49' LT   | 508964.330        | 1441613.632      | 875.53    | #204 IPSW/ CAP           |
| 205    | 1270+14.79(I-75)      | 2.90' LT    | 504848.154        | 1441272.811      | 892.10    | #205 IPSW/ CAP           |
| 206    | 1259+50.11(I-75)      | 3.43' LT    | 503796.970        | 1441107.926      | 893.96    | #206 IPSW/ CAP           |
| 207    | 34+50.97(COX RD)      | 0.16' RT    | 505803.669        | 1442906.236      | 875.93    | #207 IPSW/ CAP           |
| 208    | 26+41.15(COX RD)      | 0.86' RT    | 504998.294        | 1442821.565      | 881.25    | #208 IPSW/ CAP           |
| 304    | 338+61.56(SR-129)     | 2627.47' RT | 503027.426        | 1441823.505      | 891.73    | #304 MAGS                |
| 305    | 19+33.19(COX RD)      | 2922.27' RT | 502962.724        | 1445212.844      | 880.96    | #305 MAGS                |
| 306    | 23+13.50(COX RD)      | 2241.88' RT | 504091.305        | 1444927.190      | 870.21    | #306 MAGS                |
| 307    | 19+43.87(COX RD)      | 20.81' RT   | 504322.173        | 1442649.514      | 884.94    | #307 MAGS                |
| 308    | 69+91.47(LIBERTY WAY) | 2.37' LT    | 504146.256        | 1441749.197      | 905.74    | #308 MAGS                |
| 316    | 31+97.05 (COX RD)     | 16.23' RT   | 505549.471        | 1442895.453      | 876.26    | #316 MAGS                |
| 317    | 33+74.07(COX RD)      | 2737.93' RT | 505438.604        | 1445620.650      | 865.08    | #317 MAGS                |
| 318    | 1288+97.90(I-75)      | 3893.82' RT | 506315.605        | 1445344.633      | 858.84    | #318 MAGS                |
| 319    | 336+06.32(SR-129)     | 581.45' LT  | 506203.702        | 1442460.071      | 880.16    | #319 MAGS                |
| 324    | 334+51.21(SR-129)     | 3685.20' LT | 509337.152        | 1442605.428      | 875.80    | #324 MAGS                |
| 405    | 1273+73.09(I-75)      | 0.55' RT    | 505204.095        | 1441313.866      | 894.08    | BM#5 BMS                 |
| 406    | 1263+10.65(I-75)      | 5.83' LT    | 504151.699        | 1441171.416      | 893.16    | BM#6 BMS                 |
| 407    | 33+35.65(COX RD)      | 68.20' LT   | 505696.200        | 1442826.102      | 876.07    | BM#7 BMS                 |
| 408    | 23+35.74(COX RD)      | 76.94' LT   | 504716.963        | 1442694.139      | 881.34    | BM#8 BMS                 |
| 900    | 286+08.49 (RAMP J)    | 103.75' RT  | 506435.684        | 1441676.015      | 892.53    | TOPO IRSW/ CAP (AKA1294) |
| 901    | 282+85.16 (RAMP J)    | 64.51' RT   | 506150.442        | 1441743.058      | 890.94    | TOPO IRSW/ CAP (AKA1295) |
| 902    | 324+73.63(SR-129)     | 45.36' LT   | 505795.076        | 144162.549       | 913.16    | RTK IRSW/ CAP (AKA1761)  |
| 903    | 329+02.46(SR-129)     | 46.30' LT   | 505767.031        | 1441590.461      | 913.09    | RTK IRSW/ CAP (AKA1762)  |
| 904    | 326+04.50(SR-129)     | 210.63' LT  | 505951.128        | 1441304.286      | 888.00    | TOPO IRSW/ CAP (AKA5000) |
| 905    | 324+86.75(SR-129)     | 43.69' RT   | 505705.346        | 144169.620       | 912.80    | TOPO MAGS (AKA5024)      |
| 906    | 329+04.32(SR-129)     | 41.49' RT   | 505679.311        | 1441586.381      | 912.65    | TOPO MAGS (AKA5035)      |
| 907    | 325+97.70(SR-129)     | 56.14' LT   | 505797.451        | 1441287.061      | 888.62    | TOPO IRSW/ CAP (AKA5086) |
| 908    | 327+95.27(SR-129)     | 59.16' LT   | 505787.108        | 1441484.387      | 887.95    | TOPO IRSW/ CAP (AKA5089) |
| 909    | 327+97.80 (SR-129)    | 132.69' LT  | 505860.291        | 1441491.881      | 887.75    | TOPO IRSW/ CAP (AKA5092) |

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SCHEMATIC PLAN

BUT-129-25.00



Board of County Commissioners  
Butler County, Ohio

**EXECUTIVE SUMMARY**

21-05-00710

**Cindy Carpenter**  
President

**Donald L. Dixon**  
Vice President

**T.C. Rogers**  
Member

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**Contract Award without Bid**

**Engineer**

**Target Meeting: 5/24/21**

**Purchase of Goods/Services**

**Summary**

Approve and execute ODOT Agreement Number 35703 for the purpose of coordinating activities with the State to establish, construct, reconstruct and improve public roads and bridges as related to the State Route 129 / Liberty Way / Interstate 75 improvement project.

**Justification**

To construct improvements to the State Route 129 interchange with Interstate Route 75 and Liberty Way, including a new roadway connection from the existing State Route 129 terminus, eastward to Cox Road, Project SR129-25.00 Liberty Way (PID #104195).

**Recommendation**

Department recommends approval.

**Approved by:**

**Alan Steele**

Alan Steele, Accounting/HR Manager 4/30/2021



Board of County Commissioners  
Butler County, Ohio

**RESOLUTION**

21-05-00710

**Cindy Carpenter**  
President

**Donald L. Dixon**  
Vice President

**T.C. Rogers**  
Member

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**Contract Award without Bid**

The Board of County Commissioners of Butler County, Ohio met in Regular Meeting on the 24th day of May, 2021 in the Commission Chambers of the Butler County Government Services Center, 315 High Street, 2nd Floor, Hamilton, Ohio 45011.

**Whereas** the Engineer's Office has prepared and presented to the Board of County Commissioners the attached contract (the "Contract") with the Ohio Department of Transportation (ODOT)(the "Contractor") for the maintenance agreement to improve the State Route 129 interchange with Interstate Route 75 and Liberty Way which is reasonably necessary for the proper and convenient conduct of its functions;

**Whereas** no competitive bidding is required for the acquisition of the goods or services which are the subject of the Contract; now, therefore be it

**Resolved** that the Board of County Commissioners hereby approves the Contract and authorizes the County Administrator to execute on behalf of the Board the Contract in the form approved by the Prosecuting Attorney and executed by the Contractor.

Commissioner Rogers moved for the adoption of the foregoing resolution, Commissioner Dixon seconded the motion and upon call of the roll, the vote resulted as follows:

**RESULT:** Adopted

**AYES:** Cindy Carpenter, Donald Dixon, T.C. Rogers

**State of Ohio, County of Butler,** on this 24th day of May, 2021, the Clerk of the Board does hereby certify that 21-05-00710 is a true, exact, complete and unaltered electronic record of the Butler County Board of Commissioners.

ADOPTED  
MAY 24, 2021

*Flora Butler*

Flora Butler, Clerk of the Board

