

ORDINANCE NO. 73-21

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR TRAFFIC SIGNAL MAINTENANCE OF THE STATE OWNED TRAFFIC SIGNAL AT SR 18 AND FOOTE ROAD.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor be and is hereby authorized and directed to enter into an Agreement with the Ohio Department of Transportation (ODOT) for traffic signal maintenance of the State owned traffic signal at SR 18 and Foote Road.
- SEC. 2:** That a copy of said the Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: May 10, 2021

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: May 11, 2021

SIGNED: Dennis Hanwell
Mayor

ORD. 73-21
Exh. A

ODOT Agreement No. _____

AGREEMENT

State Owned Signal Maintained by Local

This Agreement, made this 11th day of May, 2021 by and between the Ohio Department of Transportation whose address is 906 North Clark Ave, Ashland, OH 44805 (hereinafter referred to as ODOT), and the City of Medina whose address is 132 North Elmwood Avenue, Medina, OH 44256 (hereinafter referred to as the City);

In consideration of the mutual covenants hereinafter contained and for the purpose of maintaining a traffic signal on State Route 18 and Foote Road, in Medina County, Ohio, in and of the City of Medina; and

WHEREAS, the City and ODOT have identified the need for a coordinated traffic signal system on SR 18, with the City; and

WHEREAS, ODOT and the City desire that the timing of the Signal be controlled by the City as part of a complete closed loop computerized signal system for the surrounding area; and

WHEREAS, each of the aforesaid agencies have an interest in the efficient operation of the traffic signal at the subject intersection and in the surrounding area.

NOW THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

I. MAINTENANCE

The City shall provide all maintenance for the traffic signal. This includes but is not limited to: call outs for signal malfunctions and burned out lamps; repair and replacement of malfunctioning signal components or those damaged either by accident or deterioration; maintenance of pre-emption systems; and replacement or repair of damaged loop detectors or lead-in cables, including the loop detectors installed as a part of the closed loop signal system, located on SR 18 (Medina Road) in the City of Medina.

As a part of the maintenance ODOT requires that an annual inspection form, that will be provided by ODOT be completed by the City on every signal that is a part of this agreement. The completed form shall be returned to ODOT at the address listed above in a timely manner, on or before the next 13-month period starting at the time of the signing of this agreement. Also, as a part of this section, the City shall test the conflict monitor for proper operation at 12 month intervals and relamp the LED signal heads within every 7 years. The date of the relamping and conflict monitor testing shall be reported to the District Office in a timely manner. A timely manner is defined as five (5) business days from the date of the required maintenance.

The City shall also be responsible for any traffic studies and for any changes to the existing equipment by additions or alterations necessitated by changing traffic conditions (e.g. changing lane usage, adding lanes, signal heads, or turn phases)

II. ELECTRICAL ENERGY CHARGES

The ODOT shall remain responsible for the cost of all electrical energy charges for the operation of the signal.

III. MAINTENANCE FEE

Upon receipt of a proper invoice from the City, ODOT shall pay an annual maintenance fee of One Thousand Three Hundred Dollars (\$1,300.00) per signal installation for each fiscal year. The City shall issue an invoice on or about July 1st of each year to the State, District 3, whose address is 906 North Clark Avenue, Ashland, OH 44805. All invoices shall be submitted to ODOT within sixty (60) calendar days after July 1st. Said amount shall be in full payment for the maintenance, including an annual electrical energy fee, upon receipt of an invoice which will be issued on or about July 1 of each year by the City, to the above address for District 3. The amount of the fee shall be the actual cost paid by the City for the electrical energy charges used to energize on the subject signal at its respective site pursuant to Part II. The annual fees required of either party by this Agreement may be changed upon the consent of both parties. Invoices for maintenance fees received after September 30th will not be reimbursable for that fiscal year.

In the event that a single unusual occurrence causes the City to expend funds in excess of \$5,000.00, the State agrees to reimburse the City for any expenditure in excess of \$5,000.00, provided, however, that the City's expenditures of any amount in excess of \$5,000.00 shall be subject to prior approval of ODOT.

If this Agreement is terminated prior to the last day of any calendar year, the annual maintenance fee will be prorated to the date of termination.

IV. RIGHT-OF-ENTRY

In consideration of the mutual promises and benefits accruing to the parties hereto, the ODOT grants to the City the Right-Of-Entry upon ODOT's right-of-way for the purpose of maintaining the signal described in this Agreement. Said Right-Of-Entry, is made subject to all other easements, dedications, uses or restrictions affecting said right-of-way whether of record or otherwise, except that the City shall not be subject to unrecorded conditions unless notified in writing by the State of the exact nature of such conditions. ODOT reserves all rights in the property which is the subject of this Right-Of-Entry.

V. LIABILITY/INDEMNIFICATION

Notwithstanding anything contained herein or in any attached terms and conditions to the contrary, the City shall not indemnify or hold harmless any party. However, to the extent permitted by Ohio law, and without waiving any right of sovereign immunity, the City will be responsible for direct damages arising from any proven claim arising solely from the City negligent act or omissions. The City shall not assume, or be deemed to assume, any liability for damages. To the extent any provisions of this contract or related documents are inconsistent with this paragraph, this paragraph shall take precedence

In no event shall the City, its contractors, subcontractors, workers, or agents be considered agents or employees of the State of Ohio or ODOT.

VI. REMOVAL

When it is determined by ODOT that said traffic signal is no longer essential to the safety, convenience and welfare of the traveling public, or that the maintenance of traffic in general would be better served by the discontinuance of the traffic signal, then all such equipment, material and devices installed, maintained and operated by ODOT shall be removed or abandoned by ODOT at no expense to the City. All salvageable materials and equipment shall be returned to ODOT's signal inventory and the parties shall be relieved of all obligations 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.

VII. NOTICES

Notices given under the terms of this Agreement shall be deemed sufficiently received if in the case of notice to either party, such notice is mailed by certified or registered United States Mail or is personally delivered to either party's above referenced address.

VIII. GOVERNING LAW

This Agreement and the performance thereof shall be governed and interpreted, where applicable, solely by the laws of the State of Ohio.

IX. SEVERABILITY

If, and to the extent that any court or competent jurisdiction holds any provisions or part thereof of this Agreement to be invalid or unenforceable as a final non-appealable order, such holding shall in no way affect the validity of the remainder of this Agreement.

X. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the City and ODOT and supersedes all previous written and oral negotiations, commitments and understandings. Its terms, conditions and covenants shall not be altered or otherwise amended except pursuant to an instrument in writing signed by each of the parties hereto and making specific reference to this Agreement.

XI. CONSIDERATION

Each party to this Agreement recognizes that the rights and benefits received by the respective parties to this Agreement are valuable and substantial; enforcement of this Agreement cannot be challenged for lack of consideration.

This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

XII. TERM AND TERMINATION

The effective date of this Agreement shall be July 1, 2019 and this Agreement shall remain in full force and effect until June 30, 2021.

This Agreement is subject to the determination by the State that sufficient funds have been appropriated by the Ohio General Assembly to the State 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 the State 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.

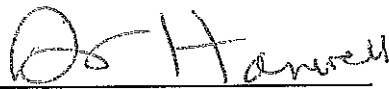
Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

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

All other terms and conditions of the Agreement shall remain in full force and effect for the duration of the Agreement.

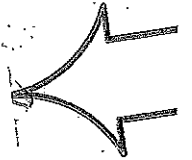
The foregoing is accepted as a basis for proceeding with the improvement herein described.

For the City of Medina, Ohio


Contractual Officer

Print Name and Title Here: Dennis Hanwell, Mayor

Date: May 11, 2021



For the State of Ohio
Ohio Department of Transportation

Jack Marchbanks, Director (DDD Initial)

Date: