



State of Ohio
Ohio Department of Transportation
District Six
Traffic Management Center
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FAX TRANSMISSION:

TO: Ms. Kerstin KarrAttn: sameFrom: Farouk AboukarDate: 9/24/07COMMENTS: Requested info.621-2401TOTAL # OF SHEETS (including this
cover sheet):

Too many
7 legal 1 cover
4 letter

AGREEMENT NO. _____

AGREEMENT BETWEEN

**THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF COLUMBUS, OHIO, PUBLIC SERVICE DEPARTMENT**

**FOR THE OPERATION AND MAINTENANCE OF
THE COLUMBUS FREEWAY MANAGEMENT SYSTEM
PHASE 1, PID 9941**

THIS AGREEMENT is made between the State of Ohio, acting by and through the Director of Transportation (hereinafter referred to as the STATE), 1980 West Broad Street, Columbus, Ohio 43223 and the City of Columbus, Ohio, acting by and through the Director of Public Service (hereinafter referred to as the CITY), 90 West Broad Street, Columbus, Ohio, 43215.

WITNESSTHAT:

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

WHEREAS, the STATE has determined that it is in the public interest and for the benefit of public safety to proceed with the design, construction, operation and maintenance of a Freeway Management System (FMS) to be located on Interstate Highways and State and United States Route numbered freeways and expressways in the Columbus metropolitan area; and

WHEREAS, the CITY has previously agreed, through Ordinance 1708-91, to design, operate and perform maintenance of a FMS within the CITY and to operate the System using its own forces, equipment and materials; and

WHEREAS, the CITY has recently endorsed, through Resolution 115X-00, an application for funding for a FMS on Interstate Routes 70, 71, 270, 670, and SR 315 to monitor and improve the flow of traffic throughout the CITY; and

WHEREAS, the CITY has authorized the Public Service Director, through Ordinance 2016-00, to enter into an Agreement with the Ohio Department of Transportation to operate and perform maintenance of the Columbus Freeway Management System; and

WHEREAS, the STATE recognizes the obligation to fund the operation and maintenance of Phase I of this system; and

WHEREAS, the STATE and the CITY contemplate that the construction of Phase I of the FMS will be completed in 2001.

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

SECTION I: RECITALS

The foregoing recitals are hereby incorporated as a material part of this Agreement.

SECTION II: SCOPE OF FMS

The FMS refers to Columbus' regional freeway traffic management system, consisting of traffic sensors, dynamic message signs, closed circuit television cameras, ramp meter signals, a telecommunications system, and the operating hardware and software.

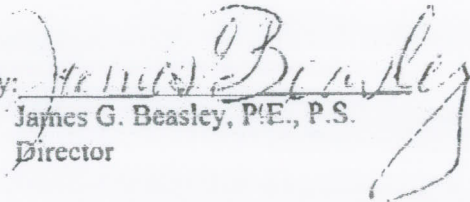
CITY OF COLUMBUS

Date: 07.16.07

By: 
~~David J. Bush~~ Marie Kelsey
~~Interim Public Service Director~~

STATE OF OHIO
Department of Transportation

Date: 6/25/07

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

AGREEMENT NO.10970-C

FOURTH AMENDMENT TO

AGREEMENT BETWEEN
THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF COLUMBUS, OHIO, PUBLIC SERVICE DEPARTMENT
FOR THE OPERATION AND MAINTENANCE OF
THE COLUMBUS FREEWAY MANAGEMENT SYSTEM
PID 9941

THIS FOURTH AMENDMENT to the Agreement is entered into between the State of Ohio, acting by and through the Director of Transportation (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223 and the City of Columbus, Ohio, acting by and through the Director of Public Service (hereinafter referred to the "CITY") 90 West Broad Street, Columbus, Ohio 43215.

The parties agree to amend the terms and conditions of the original Agreement as follows:

A. The parties agree to amend paragraph 3 & 4 of Section IV: OPERATIONS to read as follows:

3. **STAFFING:** The STATE and CITY will staff the FMS with the positions set forth in Attachment A. The STATE will hire or assign individuals to fill the FMS Supervisor and provide additional personnel to serve as primary or secondary FMS Operators; the FMS Supervisor shall be a state employee. The CITY will hire or assign individuals for two (2) FMS Operator positions; such personnel shall be city employees. In the case of a vacancy in the FMS Operator positions, the FMS Supervisor shall be included in the interviews for selection of new CITY personnel for these position(s). FMS Operators will be under the direction of the CITY TMC Supervisor. The CITY TMC Supervisor and the FMS Supervisor will work together, so that either may give assignments to the FMS Operators. The FMS Supervisor may provide input into the employee appraisal for the FMS Operators by the CITY TMC Supervisor. Reimbursements for CITY FMS Operators' salary and benefits will commence on the date this Agreement is executed. During this contract, employee(s) should demonstrate software knowledge of Phase I as well as Phase II including, but not limited to:
 1. Dynac and its sub-systems
 2. Treehaven camera software
 3. Vanguard Dynamic Message Sign software
4. **CONTROL CENTER AT 109 NORTH FRONT STREET:** Without charge to the STATE, the CITY will provide space at 109 North Front Street for the housing of the FMS operational staff, central equipment, and workspace. Maintenance of the

TMC facility shall be the responsibility of the CITY. Maintenance of FMS components in the TMC shall be the responsibility of the STATE. Modification of the TMC to facilitate new FMS equipment in the TMC shall be the responsibility of the STATE. The CITY shall provide 24-hour, seven-day-per-week access to the STATE, which shall include an adequate number of electronic keycards, or access codes, and other considerations necessary to allow the STATE to operate the FMS. Office Space shall be provided to three (3) full-time STATE employees. This space shall be located in or near the Traffic Management Center, so that the STATE may monitor the FMS operation. The CITY shall provide one (1) parking space for a STATE truck, utilized to maintain the FMS field devices, and an additional two (2) parking spaces for vehicles, utilized by the STATE Traffic Management Center employees.

- B. The parties agree to rename Section V: MAINTENANCE to Section V: FIELD MAINTENANCE, in order to clarify that this section refers to components of the FMS outside of the TMC (Traffic Management Center).
- C. The parties agree to amend paragraph 1 of Section VII: REIMBURSEMENTS to read as follows:
 - 1. The STATE is responsible for reimbursement to the CITY for operating and maintenance costs for the term of this Agreement. The STATE shall reimburse the CITY for operations of the FMS in an amount not to exceed \$344,000 for Fiscal Year 2008 - 2009. This amount shall be distributed as to not to exceed \$172,000 for Fiscal Year 2008 and \$172,000 for Fiscal Year 2009. This amount will be paid in consideration for, and will be equivalent to, the following: 4160 hours for two (2) FMS Operator positions, per fiscal year. The STATE shall reimburse the CITY the actual pay rate by employee plus the current ODOT-approved CITY overhead for the actual hours worked on the FMS. The ODOT-approved overhead rate for fiscal year 2008 is 74.72%.
- D. The parties agree to amend paragraph 1 of Section X: TERM to read as follows:
 - 1. This Agreement shall end on June 30, 2009. At that time, the STATE may renew this Agreement on the same terms and conditions for successive terms of two years, coinciding with the STATE's fiscal biennium, by giving written notice to the CITY thirty (30) days prior to the expiration of the biennium, provided that each successive renewal term shall not extend beyond the end of the STATE's biennium.

All other terms and conditions of the original agreement shall remain the same and in full force and effect for the duration of this Fourth Amendment.

ATTACHMENT A**Description of the FMS Operational Staff and Reimbursable rates**

Functional Title	FMS Supervisor / Senior ITS Engineer (hired or assigned by the STATE)
Hours of Work	9:00 a.m. to 6:00 p.m. (hours may vary as dictated by operational needs)
Responsibilities	In conformance with the operations and maintenance manuals, oversee the day-to-day operation of the FMS. Ensure that the FMS is staffed during the usual hours and that the staff is fully trained. Develop and supervise staff to the development of appropriate traffic diversion plans for the FMS, implemented on the VMS and other features of the FMS. Ensure that the FMS budget is secured. Oversee yearly budget and obtain approval. Authorize force accounts for Prime/Subcontractor work. Assist in statewide ITS planning. Authorize payments for contracts, ensuring that the appropriate work has been done to predetermined standards. Attend meetings to keep communication with other agencies involved with the FMS operation (i.e. ITS America, Amber Alert). Obtain purchase orders for products/services regarding the FMS operation.
Functional Title	ITS Engineer (hired or assigned by the STATE)
Hours of Work	6:00 a.m. to 2:30 p.m. / 10:30 a.m. to 7:00 p.m. (hours may vary as dictated by operational needs)
Responsibilities	In conformance with the operations and maintenance manuals, report the system conditions to the Senior ITS Engineer. Analyze system data for troubleshooting purposes. Maintain field/TMC equipment by performing preventative maintenance and problem diagnosis/repair when capable. Obtain price quotes for the Senior ITS Engineer for products needing repair/replacement. Work with FMS Operators, under the Senior ITS Engineer, to ensure FMS is staffed during the usual hours. Monitor the FMS through terminal displays, maps, and cameras. Identify and respond to freeway incidents and implement response plans, already developed by FMS Supervisor when needed.
Functional Title	FMS Operator (hired or assigned by the CITY)
Classification	Traffic Engineering Associate II
Pay Rate	\$ 39.24/hour, including benefits and fringes (effective June 17, 2007) \$ 40.81/hour, including benefits and fringes (effective March 23, 2008) \$ 42.44/hour, including benefits and fringes (effective March 21, 2009)
Responsibilities	In conformance with the operations and maintenance manuals, operate the FMS from the central computer room. Monitor the FMS through terminal displays, maps, and cameras. Identify and respond to freeway incidents and implement response plans, already developed by FMS Supervisor. Notify the STATE of the need for maintenance and system tuning as determined by FMS reports and observation of operational characteristics. Describe system/component status to ITS Engineers troubleshooting in the field. Monitor Cad 911 data for incidents reported to the police department. Notify the appropriate ODOT F.I.R.S.T. member of incidents occurring on the freeway in a timely manner, using the @ROAD G.P.S. website. Coordinate traffic incident response plans with Emergency Response Teams (i.e. Police, EMS, TERT, etc.).

ATTACHMENT A

Description of the FMS Operational Staff and Reimbursable rates

Functional Title	FMS Supervisor (hired or assigned by STATE)
Hours of Work	6:00 a.m. to 3:00 p.m.
Responsibilities	In conformance with the operations and maintenance manuals, oversee the day-to-day operation of the FMS. Ensure that the FMS is staffed during the usual hours and that staff is fully trained. Develop and supervise staff to the develop appropriate traffic diversion plans for the FMS, implemented on the VMS and other features of the FMS.
Functional Title	FMS Operator (hired or assigned by CITY)
Classification	Traffic Engineering Associate II
Pay Rate	\$ 33.37/hour, including benefits and fringes (effective April 1, 2001) \$ 34.70/hour, including benefits and fringes (effective March 31, 2002) \$ 36.09/hour, including benefits and fringes (effective March 30, 2003)
Responsibilities	In conformance with the operations and maintenance manuals, operate the FMS from the central computer room. Monitor the FMS through terminal displays, maps, and cameras. Implement response plans, already developed by FMS Contractor or FMS Supervisor. Notify the STATE of the need for maintenance and system tuning as determined by FMS reports and observation of operational characteristics.

SECTION III: POLICY COMMITTEE

By this Agreement, the STATE and the CITY agree to create a Freeway Management System Policy Committee to provide expertise and guidance for the operation and maintenance of the Freeway Management System. This Policy Committee will be formed after execution of this Agreement. The Policy Committee may include up to two (2) representatives from the STATE, two (2) representatives from the CITY, one (1) representative from the Federal Highway Administration (FHWA), one (1) representative from the Mid Ohio Regional Planning Commission (MORPC), one (1) representative from the Franklin County Sheriff, and one (1) representative from the Franklin County Engineers' Office. Chairmanship of the Policy Committee will rotate between the CITY and the STATE on an annual basis.

The Policy Committee shall evaluate operation response plans, and provide guidance and expertise on technology and procedures associated with the design, installation and maintenance of components of the FMS. It may also provide advice to the operating and maintaining agencies and the system designers. The Policy Committee may make operational and maintenance recommendations, the execution of which may require funding. The STATE may accommodate these recommendations, within the confines of its budget and statewide ITS architecture guidelines. All funding decisions of the STATE shall be final.

The Policy Committee may designate a Technical Advisory Subcommittee to make detailed investigations and evaluations on system components, design, operational strategies, and other technical issues as needed. The Technical Advisory Subcommittee may include up to four (4) representatives from the STATE, four (4) representatives from the CITY, one (1) representative from the FHWA, and one (1) representative from the MORPC; no more than four (4) of these representatives can be involved in the daily operations of the system. The members of the Technical Advisory Subcommittee will serve at the pleasure of the Policy Committee.

The guidelines for the Policy Committee and Technical Advisory Subcommittee will be developed by the STATE and the CITY separately from this Agreement.

SECTION IV: OPERATIONS

1. **DESCRIPTION:** Operations includes all activities performed which use the components of the FMS to facilitate the flow of traffic on the roadway system. Typical activities are the interaction by the system operators with the system through the workstations in the control center, adjustment of field devices through the central system or in the field, studies of system performance and deployment of response plans,
2. **OPERATIONS MANUAL:** Operations of the FMS will be conducted in accordance with the Operations Manual, which shall be developed by the STATE and the CITY no later than September 30, 2001, and shall be approved by the Policy Committee. Once approved, the Operations Manual shall be incorporated into this Agreement by amendment, as an exhibit hereto.
3. **STAFFING:** The STATE and CITY will staff the FMS with the positions set forth in Attachment A. The STATE will hire or assign individuals to fill the FMS Supervisor and provide additional personnel to serve as primary or secondary FMS Operators; the FMS Supervisor shall be a state employee. The CITY will hire or assign individuals for two (2) FMS Operator positions; such personnel shall be city employees. FMS Operators will be under the direction of the FMS Supervisor. Reimbursements for CITY FMS Operators' salary and benefits will commence on the date this Agreement is executed.
4. **CONTROL CENTER AT 109 NORTH FRONT STREET:** Without charge to the STATE, the CITY will provide space at 109 North Front Street for the housing of the FMS operational staff, central equipment and workspace. The CITY will provide for the upkeep of this space. This upkeep shall include, but not limited to, all utilities, janitorial service, office supplies (paper, staples, copiers, etc.), telephone equipment and telephone service. The CITY shall provide 24-hour, seven-day-per-week access to the STATE, which shall include an adequate number of electronic keycards, or access codes, or other considerations necessary to allow the STATE to operate the FMS.

SECTION V: MAINTENANCE

1. **DESCRIPTION:** Maintenance includes all activities, including routine and extraordinary, performed to restore the function of the FMS. Maintenance includes repairs made to any component of the FMS, replacement of equipment, addition of equipment which will restore the function of the FMS to the original level of service, service agreements with vendors and payment to contractors.
2. **MAINTENANCE MANUAL:** Maintenance of the FMS will be conducted in accordance with the Maintenance Manual, which shall be developed by the STATE and the CITY no later than September 30, 2001, and shall be approved by the Policy Committee. Once approved, the Maintenance Manual shall be incorporated into this Agreement by amendment, as an exhibit hereto.
3. Maintenance is the responsibility of the STATE. Ordinary and emergency maintenance will be performed by STATE forces or by contractors hired by the STATE.
4. **Extraordinary Maintenance:** If the STATE and the CITY believe it is necessary and desirable for major maintenance, reconstruction, or improvement of the FMS beyond the scope of the work normally performed by STATE maintenance, the work may be performed by CITY forces using the force account method. A work order system shall be used to accumulate cost incurred by categories. Postings to the work order shall be supported by detailed records, which shall be available for STATE inspection.

SECTION VI: SYSTEM UPGRADES

System upgrades include any component, equipment, or software modification to the FMS, that reduces the cost of providing services, increases the efficiency of the system, improves the level of service to the public and/or adds a new service. The change may take advantage of available Intelligent Transportation System or Advance Traffic Management System technology and result in a change in the physical plant, software, technology, or operation. If the STATE believes it is necessary and desirable for system upgrades the STATE may utilize one of the following methods.

- a) **BY CONTRACT:** In accordance with existing STATE procurement procedures.
- b) **BY FORCE ACCOUNT:** If the STATE requests the work to be performed by CITY forces, the STATE shall set forth the work to be performed, location and estimate of the cost of the work subdivided into labor, material, and equipment. A work order system shall be used to accumulate costs incurred by categories. Postings to the work order shall be supported by detailed records which shall be available for STATE inspection.

SECTION VII: REIMBURSEMENTS

1. The STATE is responsible for reimbursement to the CITY for operating and maintenance costs from the date of this Agreement. The STATE shall reimburse the CITY for operations of the FMS in an amount not to exceed \$330,000. This amount will be paid in consideration for, and will be equivalent to the following: 4160 hours for each of two (2) FMS Operator positions and for such overtime work as may be directed by the FMS Supervisor.
2. Invoices shall include all operating costs as enumerated in this Agreement and all secondary maintenance and minor improvement costs incurred by the CITY on a force account basis. The CITY may invoice the STATE for the costs of meeting a specific request of the STATE for operations data, data analysis, or other activity which would be outside of the normal scope of operations for the CITY staff. This reimbursement shall constitute full compensation to the CITY from the STATE for activities performed under this Agreement.
3. The STATE shall reimburse the CITY as follows:
 - a) By the last day of October, January, April, and July for the preceding quarter, the CITY agrees to submit to the STATE invoices for its operating costs and any maintenance incurred in connection with the services provided by the CITY during such quarter. Such invoices shall be in the form mandated by the STATE, and, upon

request, the CITY shall supply the STATE all information necessary for the STATE to comply with any applicable federal and state laws and regulations. Invoices received more than sixty (60) calendar days after the end of the quarter are not reimbursable. All invoices shall be addressed to:

Ohio Department of Transportation
District Six Finance Office
400 East William Street
Delaware, Ohio 43015

- b) All services included on any invoice shall be in accordance with the Operations Manual and/or the Maintenance Manual, shall be directly related to the work performed, shall be reasonable in amount, and shall be based upon actual labor hours incurred by the CITY.
 - c) Upon receipt of each invoice, the STATE shall promptly review it for completeness and accuracy.
 - d) Defective invoices shall be returned to the CITY noting areas for correction. If such notification of defect is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.
 - e) Invoices not submitted sequentially will be returned to the CITY within 20 business days and no payment processed.
 - f) If there are no deficiencies in the invoices presented to the STATE, the CITY acknowledges that the foregoing payment procedure requires 45 to 60 calendar days to complete.
 - g) No payment hereunder shall constitute acceptance of unsatisfactorily performed or documented work.
 - h) Any reimbursable expenses shall be paid in accordance with the requirements and rates as set forth in Section 126.31 of the Ohio Revised Code and in Rule 126-01-02 of the Ohio Administrative Code, as updated from time to time.
4. **POWER SERVICE AT FIELD DEVICES:** The power service for the operation of field devices of the FMS (e.g., communications node cabinets, detector stations, speed monitoring stations, closed circuit cameras, ramp meters) will be paid by the STATE directly to the entity supplying the power.

SECTION VIII: TERMINATION AND NONPERFORMANCE

If the CITY is unable to perform any of the obligations set forth in this Agreement, the CITY will notify the STATE in writing and will cooperate with the STATE to rectify non-performance. The inability of the CITY or the STATE to perform its obligations will not constitute a breach of contract and the parties will work together to operate and maintain the FMS under such conditions. In the event that the STATE is unable to reimburse the CITY for work and expenses incurred during the course of this Agreement, the CITY is excused from performing its obligations.

This Agreement may be terminated by either party giving ninety (90) days written notice to the other party.

SECTION IX: RECORD KEEPING REQUIREMENTS

1. The CITY shall keep all financial records in a manner consistent with generally accepted accounting procedures. Documentation to support each action shall be filed in a manner allowing it to be readily located.
2. The CITY shall keep a separate account for this project (the "Contract Account"). All disbursements made from the Contract Account shall be only for obligations incurred in the performance of this contract and shall be supported by contracts, invoices, vouchers, and other data, as appropriate to support such disbursements. All disbursements from the Contract Account shall be for obligations incurred only after the effective date of this contract, unless specific authorization for prior disbursements has been given in writing by the STATE.
3. During the period covered by this contract and until the expiration of three years after final payment under this contract, the CITY agrees to provide the STATE, its duly authorized representatives or any person, agency, or instrumentality providing financial support to the

work undertaken hereunder, with access to and the right to examine any books, documents, papers, and records of the CITY involving transactions related to this contract. The CITY shall, for each subcontract in excess of twenty-five hundred dollars (\$2,500.00), require its subcontractors to agree to the same provisions of this Article.

SECTION X: TERM

1. This Agreement shall end on June 30, 2003. At that time, the STATE may renew this Agreement on the same terms and conditions for successive terms of two years, coinciding with the STATE's fiscal biennium, by giving written notice to the CITY thirty (30) days prior to the expiration of the biennium, provided that each successive renewal term shall not extend beyond the end of the STATE's biennium.
2. This Agreement, and any renewal thereof, is subject to the determination by the STATE that sufficient funds have been appropriated by the Ohio General Assembly to the Ohio Department of Transportation for the purposes of this Agreement, and to certification of funds by the Office of Budget and Management, as required by Section 126.07 of the Ohio Revised Code. If the STATE determines that sufficient funds have not been appropriated for the purposes of this Agreement, or if the office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date that the funding expires without any further obligation by either party.
3. All financial obligations of the CITY pursuant to this Agreement and any subsequent renewal by the STATE are also subject to the authorization of the Columbus City Council and appropriation by the Columbus City Auditor certification pursuant to Section 159 of the Columbus City Charter.
4. The reimbursement rates set forth in this Agreement and its attachments may be adjusted as of April 1 of each year, based upon the newly approved budget for the following year. Any adjustments shall be agreed to by all parties to this Agreement and set forth in writing as an amendment to this Agreement.

SECTION XI: NOTICE

Notice under this Agreement shall be directed as follows:

Public Service Director
City of Columbus
90 West Broad Street
Columbus, Ohio 43215

Deputy Director
Ohio Department of Transportation
District 6
400 East William Street
Delaware, Ohio 43015

SECTION XII: GENERAL PROVISIONS

1. This Agreement and its attachments and referenced manuals constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement.
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.
3. Any change to the provisions of this Agreement must be made in a written amendment executed by both parties.
4. This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.
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.

SECTION XIII: SIGNATURES

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 herunto have caused Agreement to be duly executed in duplicate as of the day and year last written below.

**CITY OF COLUMBUS
Public Service Department**

Date: Aug 21, 2001

By: [Signature]
Linda K. Page
Director

**STATE OF OHIO
Department of Transportation**

Date: 8-29-01

By: Gordon Proctor / gpm
Gordon D. Proctor
Director