

13-509

CFDA No. 20.205

97065  
PID NUMBER  
26151  
AGREEMENT NUMBER

**COUNTY SIGN UPGRADE AGREEMENT**

**THIS AGREEMENT** is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the Summit County Engineer, 538 East South Street, Akron, Ohio 44311-1843, hereinafter referred to as the COUNTY.

1. PURPOSE

- 1.1 Section 402 of the United States Code provides States with Federal funds to conduct highway safety programs and the funds apportioned to Ohio under Section 402 are administered by ODOT.
- 1.2 Section 5501.03(A)(3) of the Ohio Revised Code provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities as necessary to carry out its duties, powers and functions, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The County's sign upgrade project ("PROJECT") has been selected for funding by the Program Manager.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES

- 2.1 This Agreement is established pursuant to Section 5501.03(A)(3) of the Ohio Revised Code and all applicable federal, state, and local laws and regulations.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$ 20,000. ODOT shall provide to the COUNTY 80% percent of the eligible costs, up to a maximum of \$ 16,000 in Federal funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual purchase price of the project materials.
- 3.2 This Agreement operates on a reimbursement basis only. The costs must first be incurred by the COUNTY. Costs claimed for reimbursement are to be true costs incurred in executing the PROJECT and are to be eligible, allowable allocable, reasonable, necessary, and consistent. Final determination of cost eligibility shall rest with ODOT.
- 3.3 Invoices for reimbursement may be submitted on a quarterly basis, unless other arrangements have been agreed upon by the parties. All invoices must include detailed expenditures and documentation as required by ODOT. For reporting purposes, quarters are defined as ending with the last day of the following months: December, March, June, and September.
- 3.4 All invoices shall be paid within thirty (30) days following receipt. If any invoice is not acceptable, the time for prompt payment is suspended. ODOT will either promptly provide the COUNTY with

a clear statement regarding any specific cost ineligibility, or inform the COUNTY of any invoice deficiencies that must be eliminated prior to acceptance, processing, or payment by ODOT. If such notification is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

- 3.6 Within thirty (30) days after completion of all work under this Agreement, the COUNTY shall submit to ODOT a detailed final bill, based on work order accounting covering the actual costs of work performed, and showing where accounts may be audited.
- 3.7 All billing shall conform to ODOT Specifications for Consultant Services requirements and procedures. Any reimbursable travel-related expenses shall be paid in accordance with the requirements and rates as set forth in Rule 126-1-02 of the Ohio Administrative Code, as updated from time to time.
- 3.8 Request for reimbursement to the COUNTY and copies of all final reports shall be submitted to:

Andrea Stevenson  
Administrator, Office of Local Programs  
Mail Stop #3180  
Ohio Department of Transportation  
1980 West Broad Street  
Columbus, Ohio 43223

- 3.9 Reimbursement to the COUNTY shall be submitted to:

Alan Brubaker, P.E., P.S.  
Summit County Engineer  
538 East South Street  
Akron, Ohio 44311-1843

4. OBLIGATIONS OF THE COUNTY

- 4.1 The COUNTY may engage the services of a vendor to perform the services provided in this Agreement. Consultant selection procedures must comply with sections 153.65 through 153.71 of the Ohio Revised Code, and Federal Regulation 23 CFR 172.
- 4.2 The COUNTY shall submit to ODOT a copy of all contracts and procurements with any one vendor or consultant in excess of a combined total of \$5,000. All such contracts and procurements shall be subject to the same laws, regulations, and policies that govern this agreement.
- 4.3 The COUNTY shall review all consultant invoices for the scoped services to ensure accuracy in both amount and in relation to the progress made. The COUNTY shall submit to ODOT a written request for reimbursement of the Federal share of the expenses involved, according to the cost sharing provisions of this Agreement, attaching copies of all source documentation associated with pending invoices or costs in accordance with the Funding Section noted above.
- 4.4 The COUNTY shall submit a final comprehensive annual activity report to ODOT no later than November 1, 2014. All final reports shall be accompanied by a properly documented final claim for reimbursement. Any final reports received after November 1 will result in a 10% deduction to the final claim for reimbursement. If any final report is received after December 1, the final claim will not be reimbursed.

5. ADVERTISING, SALE AND AWARD

- 5.1 The COUNTY shall not advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 5.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the COUNTY Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 5.3 Once the COUNTY receives Federal authorization to advertise, the COUNTY may begin advertising activities. Advertisements shall be in accordance with local bidding requirements. Whenever local advertisement requirements differ from Federal advertisement and procurement requirements, the Federal requirements shall prevail. The PROJECT shall be advertised for three (3) consecutive weeks. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The COUNTY shall submit to ODOT any addendum to be issued during the advertisement period. ODOT shall approve such addendum for project eligibility. The addendum shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 5.4 The COUNTY shall incorporate the requirements of Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, into all contracts, as well as appropriate subcontracts and purchase orders. The COUNTY shall require the contractor to protect and indemnify the COUNTY and ODOT from all claims and liability resulting from negligence or willful violations of the contractor. The COUNTY shall require that each of its selected contractors and each subcontractor maintain, during the life of its contract and subcontract, Workers' Compensation Insurance, Public Liability Insurance with minimum coverage amounts of \$1,000,000 per occurrence, Property Damage Insurance with minimum coverage amounts of \$1,000,000 per occurrence, and Vehicle Liability Insurance.
- 5.5 *CONTRACTOR DRUG-FREE WORKPLACE:* In accordance with Executive Order 2002-13T, the COUNTY shall require the contractor to be enrolled in, and in good standing with, the Drug-Free Workplace Program (DFWP) or a similar program approved by the Bureau of Workers' Compensation, and require the same of any of its subcontractors.
- 5.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in force **at the time of bidding, at the time of award, and through the life of the construction contract.** For work types that ODOT does not pre-qualify, the COUNTY must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. The "prime" contractor must perform no less than 35 percent of the total original contract price.
- 5.7 Before awarding a contract to the selected contractor, the COUNTY shall verify either that the contractor is not subject to a finding for recovery under R.C. 9.24, or that the contractor has taken the appropriate remedial steps required under R.C. 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at <http://www.auditor.state.oh.us/WhatsNew/FFR/>. If the COUNTY fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 5.8 The COUNTY is prohibited from imposing any geographical hiring preference on any bidder in the COUNTY's bid documents or on any successful contractor in the COUNTY's award or contract for the construction of the PROJECT.

5.9 After analyzing all bids for completeness, accuracy, and responsiveness, the COUNTY shall approve the award of the contract in accordance with laws and policies governing the COUNTY. Within 45 days of that approval, the COUNTY shall submit to ODOT notification of the project award by submitting a bid tabulation, and a copy of the ordinance or resolution.

6. CONSTRUCTION CONTRACT ADMINISTRATION

6.1 The COUNTY shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the COUNTY for the eligible work on the PROJECT, as well as at the completion of construction. The COUNTY shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto. Sign projects shall be in conformance with ODOT Construction and Materials Specifications Section 630 and subsection 730.11.

7. EXPIRATION AND TERMINATION PROVISIONS

7.1 This Agreement commences on the date of the last signature here to and shall expire on June 30, 2014. ODOT shall have the right and obligation to renew the Agreement for an additional six months commencing on July 1, 2014 and terminating on December 31, 2014. Subject to any change in the dates of the State's fiscal year, ODOT shall be deemed to have exercised its right to renew the term of the Agreement for six months, and the Agreement shall be renewed, upon the effectiveness of the appropriation of funds for the new fiscal year.

7.2 This Agreement and obligation of the parties herein may be terminated by either party with thirty days written notice to the other party. In the event of termination, the COUNTY shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

7.3 In the event of termination, the COUNTY shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the COUNTY shall not exceed the total amount of consideration stated in this agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the COUNTY shall be returned to ODOT.

7.4 If in the event that any dispute arises between ODOT and the COUNTY concerning interpretation of, or performance pursuant to this Agreement, such dispute shall be resolved solely and finally by the Director of Transportation.

8. GENERAL PROVISIONS

8.1 In accordance with Executive Order 2007-01S, Vendor or Grantee, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws, and (3) will take no action inconsistent with those laws and this order. The Vendor or Grantee understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this contract or grant and may result in the loss of other contracts or grants with the State of Ohio.

8.2 This Agreement and any attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are suspended by this Agreement. Neither this contract 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. Any change to the provisions of this agreement must be made in a written amendment executed by both parties.

- 8.3 The COUNTY shall be audited in accordance with the Ohio Revised Code and/ or OMB Circular A-133. If the audit is not conducted by ODOT, ODOT shall receive a copy of the Auditor's report within 30 days after receipt by the COUNTY.
- 8.4 This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.
- 8.5 It is expressly understood by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all statutory provisions under the Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available to the State by FHWA.
- 8.6 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 hereto have caused this Agreement to be duly executed as of the day and year last written below.

**SUM-SAFETY STUDY**

**PID NO. 97065**

**AGREEMENT NO. 26151**

**LPA: County of Summit, Engineer**

**STATE OF OHIO  
OHIO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
Alan Brubaker, P.E., P.S.

By: \_\_\_\_\_  
Jerry Wray  
Director

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

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

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

Approved by:

\_\_\_\_\_  
Russell M. Pry  
Summit County Executive

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

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Marvin Evans for  
Prosecuting Attorney  
County of Summit

\_\_\_\_\_  
Deborah S. Matz, Director  
Department of Law  
County of Summit