



STAFF REPORT ACTION REQUIRED

City of Toronto/MTO Agreement for the Maintenance and Operation of Ministry Owned Traffic Control Devices

Date:	May 27, 2014
To:	Public Works and Infrastructure Committee
From:	General Manager, Transportation Services
Wards:	Ward 2 (Etobicoke North) Ward 3 (Etobicoke Centre) Ward 4 (Etobicoke Centre) Ward 5 (Etobicoke-Lakeshore) Ward 6 (Etobicoke-Lakeshore) Ward 7 (York West) Ward 10 (York Centre) Ward 11 (York South-Weston) Ward 12 (York South-Weston) Ward 15 (Eglinton-Lawrence) Ward 16 (Eglinton-Lawrence) Ward 23 (Willowdale) Ward 24 (Willowdale) Ward 25 (Don Valley West) Ward 33 (Don Valley East) Ward 34 (Don Valley East) Ward 38 (Scarborough Centre) Ward 40 (Scarborough-Agincourt) Ward 42 (Scarborough-Rouge River) Ward 43 (Scarborough East) Ward 44 (Scarborough East)
Reference Number	P:\2014\Cluster B\TRA\TIM\pw14010tim.docx

SUMMARY

This report seeks City Council approval on a revised agreement between the City of Toronto and the Ontario Ministry of Transportation (MTO) for the City to carry out the ongoing operation and maintenance of traffic controls devices (e.g. signage, traffic signals, and zone-painting) on MTO expressway ramps intersecting with City of Toronto arterial roads. The specific locations are identified in Schedule 'A' of the draft agreement appended to this report.

The MTO and the City have been operating under an existing agreement which came into effect on April 1, 1997. This existing agreement requires necessary revisions to recognize changing technology, conditions and constraints. New terms and conditions have been negotiated between staff of both respective jurisdictions and are reflected in the draft agreement appended to this report.

RECOMMENDATION

The General Manager, Transportation Services recommends that:

1. City Council grant approval to negotiate, enter into and execute a new agreement with the Ontario Ministry of Transportation for operation and maintenance activities associated with signs, signals and zone painting on MTO expressway ramps intersecting with City of Toronto arterial roads, generally as set out in this report and on such other terms and conditions satisfactory to the General Manager of Transportation Services and in a form satisfactory to the City Solicitor.

Financial Impact

There are no funding implications resulting from the adoption of this report. All costs and expenses will be fully recoverable from the Ministry of Transportation.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

ISSUE BACKGROUND

The City of Toronto and the Ministry of Transportation of Ontario executed a legal agreement which gave authority for the City, on behalf of the MTO, to operate and maintain the traffic control signals at various on- and off-ramp locations where King's Highways (i.e., 400-series highways) intersect with City arterial roads. This agreement had been in effect since April 1, 1997 with no specified expiry date. Any amendments or modifications to the agreement would have to be requested by either party in writing. The MTO formally notified the City in 2011 of its interest to revisit certain terms and conditions in the existing agreement.

COMMENTS

MTO expressway on- and off-ramps interface with many of the City's arterial roads. It is critical that the various traffic devices at these locations are maintained and operated properly to ensure the safe and efficient movement of vehicles, pedestrians and cyclists.

The City and MTO staff have been negotiating mutually agreeable terms and conditions for a new agreement governing these locations. The existing agreement is limited to the operation and maintenance of traffic control signals; however, the new agreement will include aspects related to traffic signage and zone painting.

Some of the key elements of the agreement are highlighted below, with the full draft agreement appended to this report.

Included in the Agreement:

- The City of Toronto will carry out all maintenance and operational activities associated with signage, traffic signals and pavement markings (i.e. zone painting) at on-off expressway ramp locations approaching City arterial roads, with all costs fully recoverable from the MTO;
- The MTO will continue to be responsible for the design and construction of the traffic signals at all expressway ramp locations. In addition, the MTO will be responsible for producing as-built drawings and providing copies to the City upon completion;
- The City of Toronto will ensure that it discusses any changes to traffic control devices with appropriate Ministry staff to find mutually acceptable solutions;
- The City of Toronto will maintain detailed expense information on all works done on behalf of the MTO and bill the MTO for all its incurred costs every 180 days, and the City reimbursed by the MTO within 90 days of the MTO receiving the invoice(s);
- The City of Toronto shall indemnify and save harmless the MTO from and against any claim, action, cause of action or liability for loss, damage, accident or injury in any manner arising in connection with the work undertaken, performed or failed to be performed by the City or its agents under this Agreement except to the extent that such loss, damages, accident or injury is a direct result of a negligent act or omission attributable to the MTO;
- The draft agreement provides a dispute resolution mechanism whereby the parties can attempt to resolve and settle any issues through a graduated resolution process;
- Pending approval, the term of this agreement will commence on July 1, 2014, and expire on June 30, 2024; and
- Either party can terminate the agreement with proper notice. Termination shall occur within 120 days of receipt of notice of intent to terminate.

It is recommended that the longstanding agreement respecting the maintenance and operation of traffic control devices be updated and that authority be granted to negotiate, enter into and execute a new agreement with the Ministry of Transportation on terms and conditions generally as set out in this report and on such other terms and conditions satisfactory to the General Manager of Transportation Services and in a form satisfactory to the City Solicitor.

CONTACT

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SIGNATURE

Stephen M. Buckley
General Manager
Transportation Services Division

ATTACHMENT

Draft Agreement between City of Toronto and the Ontario Ministry of Transportation for the Maintenance and Operation of Ministry Owned Traffic Control Devices

THIS AGREEMENT made in quadruplicate this _____ day of June 2014

BETWEEN:

**HER MAJESTY THE QUEEN IN THE RIGHT OF
THE PROVINCE OF ONTARIO, REPRESENTED
BY
THE MINISTER OF TRANSPORTATION FOR
THE PROVINCE OF ONTARIO**

(hereinafter referred to as the "**Ministry**")
OF THE FIRST PART,

- and -

CITY OF TORONTO

(hereinafter referred to as the "**City**")
OF THE SECOND PART,

WHEREAS there are Traffic Control Signals on various King's Highways including at ramp terminals within the City, that are under the jurisdiction of the Ministry, and which locations are listed in Schedule "A", which is attached to, forms part of, and is subject to the terms of this Agreement;

AND WHEREAS for the purpose of regulating traffic, it has been agreed between the Parties hereto that the City shall, on behalf of the Ministry and at the full cost and expense of the Ministry, operate and maintain the Traffic Control Signals, Zone Painting, and Traffic Signs, unless otherwise expressly indicated in this Agreement, at the locations listed in Schedule "A";

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the promises and covenants herein contained the Parties hereto for themselves and their respective successors and assigns agree each with the other as follows:

PART 1 DEFINITIONS

1. Definitions

"**Agreement**" means this Agreement.

"**Communication Systems**" means any system, which communicates through various media including but not limited to fibre optics, wire or wireless systems, that transfers data from one location to another or to a centralized location, unless otherwise indicated in this Agreement;

"**Day**" unless otherwise specified, means calendar day.

"**Engineer**" means a professional engineer licensed by the Professional Engineers of Ontario to practice in the Province of Ontario.

"**General Manager**" means the General Manager, Transportation Services of the City of Toronto and his/her designate.

"**May**" and "**should**" used in this Agreement denote permissive (not mandatory).

"**Must**", "**shall**" and "**will**" used in this Agreement denote imperative (mandatory),

"**Parties**" means the Ministry of Transportation and the City of Toronto, and "Party" means either of them;

"**Traffic Control Signals**" means all the above ground and below ground traffic signal plant including Communication Systems required for the operation of the said Traffic Control Signals located at intersections at the locations listed in Schedule "A" unless otherwise indicated in this Agreement;

"**Traffic Signs**" means control devices placed upon or adjacent to a roadway, signal pole, mast arm or span wire by the Ministry or City at signalized intersections at the locations listed in Schedule "A". These devices are installed to regulate, warn, guide and inform the road users;

"**Turning Movement Count**" means carrying out a count of vehicles by their classification at each approach to the intersection. The count includes the number of vehicles that are turning right, proceeding through or turning left. It also includes pedestrian crossing from each approach through the intersection. The count is recorded and summarized for every fifteen minutes and it is conducted manually for eight (8) peak hours of the day, unless otherwise indicated in the this Agreement; and

"**Zone Painting**" means existing pavement markings on the road surface for the purpose of vehicle guidance and pedestrian crossing at intersections at the locations listed in Schedule "A" unless otherwise indicated in this Agreement. It includes lane markings, directional arrows, stop bars and pedestrian crosswalks as shown on the approved legal drawing(s) (PHM-125), as may be amended from time to time.

PART 2 MAINTENANCE AND OPERATION OBLIGATIONS

2. Existing Traffic Control Signals

- (a) The City, on behalf of the Ministry, shall carry out the maintenance and operation of the Traffic Control Signals, Zone Painting and Traffic Signs at the locations listed in Schedule "A", including providing all necessary repairs, replacement,

modification, inspection, cleaning, re-lamping and re-application of paint for Zone Painting. Subject to section 2(b), the above-noted maintenance and operation shall be conducted in accordance with the City's routine maintenance and/or operation schedule, which may be amended from time to time by the City in its sole and exclusive discretion, which discretion shall not be unreasonably exercised.

- (b) In the event that the Ministry requests the City to carry out a maintenance and/or operation outside of the City's routine schedule referred to in (a), above, the Ministry shall provide reasonable and proper notice thereof. In accordance with the terms of this Agreement, and in particular section 15, the costs and/or expenses of any such requested and authorized activities shall be recoverable and reimbursed to the City.

3. Unauthorized Costs

Notwithstanding Section 2 of this Agreement, the Ministry shall not pay for the installation, maintenance, operations or any other costs or expenses associated with the Traffic Control Signals, Zone Painting, Traffic Signs, Turning Movement Counts, central computerized traffic control systems, interconnect cables or other Communication Systems that are not authorized by clause 14(c) or section 15 of this Agreement.

4. Zone Painting

Zone Painting responsibilities shall be carried out at locations listed in Schedule "A" in the following manner:

- a) the Ministry shall be responsible for the re-application of Zone Painting on ramp terminals up to stop bars;
- b) the City shall be responsible for the re-application of Zone Painting of stop bars, pedestrian crosswalks and any other lane markings inside the stop bars at all locations listed in Schedule "A".

5. Traffic Signing

Traffic Signing responsibilities shall be carried out in the following manner:

- a) the Ministry shall maintain and replace all missing Traffic Signs up to the stop bars at ramp terminals at the locations listed in Schedule "A";
- b) the City shall maintain and replace existing Traffic Signs inside the stop bars at the locations listed in Schedule "A", including those mounted on signal poles, mast arms or span wires and the regulatory sign Rb-78.

6. Modifications

The Ministry shall consult with the City:

- (a) before directing the City to carry out any modifications to the Traffic Control Signals at locations listed in Schedule “A”, which would have the result of affecting the flow of traffic;
- (b) before the Ministry makes any decisions affecting the operation or maintenance of Traffic Control Signals at locations listed in Schedule “A” in order to ensure that all changes are compatible with the City’s central computerized traffic control systems.

7. Maintain to OPS or Alternative Standard

- (a) The City shall maintain the Traffic Control Signals at locations listed in Schedule “A”, the connection of the Traffic Control Signals to central computerized traffic control systems, the interconnect cables and Traffic Control Signals linked to any Communication Systems in accordance with the Ontario Provincial Standards, including Electrical Engineering Manual- Volume 2 Electrical Maintenance unless an alternative standard to be applied is set out in Appendix “A” which is attached hereto and forms part of this Agreement.
- (b) In the event the City wishes to use an alternative standard, it shall meet the requirements set out in Appendix “A” next to the applicable alternative standard as a condition for use of that alternative standard and where specified, confirm those requirements with the Ministry prior to using the alternative standard.

**PART 3
CONNECTIONS/CHANGES TO CITY’S COMPUTER SYSTEMS**

8. Improvements to Systems

The City shall obtain written approval from the Ministry prior to carrying out any improvements or changes to either of its Communications Systems or its central computerized traffic control system to which the Traffic Control Signals are connected with respect to locations listed in Schedule “A”. In the event of any proposed improvements or changes in respect of the above-noted matters in this section 8, the Ministry shall respond in writing and provide the City with its approval, rejection, or some variation thereof, within 14 days.

9. Connection Design

Upon receipt of the Ministry’s approval in accordance with section 8 herein, the City may design the connection of Traffic Control Signals at locations listed in Schedule “A” to central computerized traffic control systems according to the electrical specifications required by the City. The City, in consultation with the Ministry, when and as appropriate, shall be responsible for making all necessary arrangements for the establishment of the connection between the Traffic Control Signals at locations listed in Schedule “A” and the central computerized traffic control systems or wireless Communication System.

10. Notify other Users of Computer Systems

- (a) In the event the City enters into an agreement with other municipalities for the use of its central computerized traffic control systems, or terminates or amends any such agreement, the effect of which may impact on the flow of traffic or operation of Traffic Control Signals at locations listed in Schedule “A”, the City shall immediately notify the Ministry in writing of any such agreement, termination or amendment, but in any event, no later than five (5) business days prior to any such agreement, termination or amendment.
- (b) Upon receipt of such notification, the Ministry, in consultation with the City, shall make a determination as to the agreement, termination, or amendment's effect or impact on the flow of traffic or operation of Traffic Control Signals at locations listed in Schedule “A”. In any event, and within fourteen (14) days of receipt of the above notification, the Ministry shall provide the City with written confirmation of its approval, rejection, or some variation thereof, of the City's proposed action pursuant to this section 10.

**PART 4
LEGAL DRAWINGS**

11. Provincial Highway Millard (PHM-125)

- (a) Within a reasonable time after this Agreement comes into effect, the City shall provide the Ministry with the most up to date copy of the legal drawings (PHM – 125) for all locations of Traffic Control Signals listed in Schedule “A” within the control or possession of the City at that time. In the event that the City does not have approved drawings, or the current drawings do not conform to the existing operations in the field, the Ministry will arrange for new legal drawings (PHM-125) to be designed at its own expense. The Ministry shall provide the City with an approved legal drawing (PHM-125) each time the Ministry approves a permanent legal drawing (PHM-125) at any of the locations listed in Schedule “A”. Unless and until the Ministry provides the necessary and appropriate legal drawings, the Ministry agrees to assume any and all risk and liability directly or indirectly arising from, or related to, equipment and/or network damage from maintenance activities.
- (b) The City shall not carry out modifications to the Traffic Control Signals, Zone Painting, add or replace any Traffic Signs that entail changing approved legal drawings (PHM-125) by the Ministry unless prior written instruction has been issued from the Regional Director, Central Region, of the Ministry or their designated nominee.

**PART 5
TIMING PLANS AND INSPECTION OF CONTROLLER CABINETS**

12. Base Timing Plans

- (a) Within a reasonable time after this Agreement comes into effect, the City shall

provide the Ministry with the all base timing plans and timing plans in the central computer system for Traffic Control Signals listed in Schedule “A”. In the event that the City amends the base timing plan or the timing plans in the central computer system at any of the signalized intersections listed in Schedule “A”, the City must notify the Ministry in writing within ten (10) business days and provide a copy of the amended timing plan to the Ministry. The Ministry reserves the right to request a copy of all the base timing plans and timing plans for the intersections listed in Schedule “A” of this Agreement at the beginning of every calendar year (January).

- (b) The City shall ensure that it maintains and keeps all maintenance and timing records created as a result of the operation and maintenance of the Traffic Control Signals for a period of fifteen (15) years from when the maintenance and timing records are created, and these records shall be provided to the Regional Director, Central Region, of the Ministry or designated nominee upon request. This provision shall survive termination of this Agreement. This provision is subject to, and shall be interpreted in accordance with, the City's records retention obligations under the City of Toronto Municipal Code Chapter 217, Records, Corporate (City), as may be amended from time to time. For ease of reference and for information purposes only, the current retention period as of May 2014 for Traffic Control Signals matters is fifteen (15) years.

13. Inspection

- (a) The Ministry reserves the right to inspect the Traffic Control Signals, Traffic Signs and Zone Painting at locations listed in Schedule “A”, the central computerized traffic control systems and Communications Systems and interconnect cables, at its discretion, and may require the City to make necessary modifications as the Ministry acting reasonably sees fit.
- (b) In the event that a designated person of the Ministry opens the controller cabinet, an entry shall be logged inside the control cabinet logbook and City Dispatch will be notified.

14. Turning Movement Counts

- (a) Every time the City completes a Turning Movement Count of traffic and pedestrian crossing at an intersection at a location listed in Schedule “A”, it shall send a copy to the Ministry within ten (10) business days.
- (b) The Ministry may request in writing the City to conduct a new specific Turning Movement Count of traffic and pedestrian crossing at any of the signalized intersections in the locations listed in Schedule “A”.
- (c) In the event that the Ministry requests in writing that the City conduct a specific Turning Movement Count of traffic and pedestrian crossing at any of the signalized intersections in the locations listed in Schedule “A”, in accordance with section 14(b) of this Agreement, the Ministry shall pay the full costs and

expenses of carrying out this particular Turning Movement Count, in accordance with the provisions prescribed herein. Additionally, the Ministry shall pay an administrative and overhead surcharge of 5% of the full costs and expenses of the specific authorized Turning Movement Count as set out in section 15(e). The format in which invoicing information is to be collected and processed shall be subject to Ministry approval.

PART 6 COSTS

15. Authorized Expenses

Subject to clause 14(c), the Ministry shall be responsible for the payment of only those costs and expenses incurred by the City and authorized under this Agreement, which are set out as follows:

- (a) all maintenance, modification, repair and operations costs and expenses that are associated with the Traffic Control Signals, re-application of Zone Painting and Traffic Signs at the locations listed in Schedule “A”;
- (b) all electrical power and communications costs and expenses associated with the maintenance and operation of the Traffic Control Signals listed in Schedule “A”, including, without limitation, the central computerized traffic control systems, interconnect cables or other Communication Systems;
- (c) all construction costs associated with the connection of the Traffic Control Signals to the central computerized traffic control system at locations listed in Schedule “A” where the Ministry has approved the connection, as referenced in section 3 herein;
- (d) the prorated amount of the costs and expenses associated with the maintenance and operation of the central computerized traffic control systems if approval to connect the Traffic Control Signals is conferred in accordance with section 3 herein. The prorated amount is to be determined by assessing the number of Traffic Control Signals in Schedule “A” as a percentage of the total number of Traffic Control Signals in the City that are connected to central computerized traffic control system at the beginning of every calendar year (January 1);
- (e) all costs and expenses incurred to conduct Turning Movement Count of traffic and pedestrian crossing at signalized intersections at locations listed in Schedule “A” where the Ministry has requested such a count as set out in clause 14(b);
- (f) a 5% surcharge for administration and overhead applied to all maintenance, construction and operations costs and expenses referred to in clauses (a) through (e); and
- (g) any additional costs or expenses agreed to by the Ministry’s Regional Director, Central Region, of the Ministry or his nominee.

16. Invoices

The City shall invoice the Ministry every 180 days or otherwise as agreed to for any costs and expenses incurred by the City which are authorized by section 15 or clause 14(c), and:

- (a) the invoices shall be subject to Ministry approval and be in the form and detail as the Ministry may require. The City shall provide additional information, including a break down of expenses, of amounts invoiced upon the request of the Ministry;
- (b) the Ministry shall pay such invoices within ninety (90) days or as agreed upon by the parties of the receipt thereof, subject to its approval of the invoices; and
- (c) it is agreed that the costs and expenses payable by the Ministry under this Agreement shall be comparable to the costs and expenses attributable to the operation and maintenance of similar Turning Movement Counts, Traffic Control Signals, Zone Painting, and Traffic Signs located in the City.

**PART 7
INDEMNITY**

17. Indemnity

The City shall indemnify and save harmless the Ministry, its directors, officers, employees, contractors, agents and assigns from and against any claim, action, cause of action or liability for loss, damage, accident or injury in any manner arising due to, out of, from, or in connection with the work undertaken, performed or failed to be performed by the City or its agents under this Agreement except to the extent that such loss, damages, accident or injury is a direct result of a negligent act or omission attributable to the Ministry. This provision shall survive termination of this Agreement.

**PART 8
TERMINATION**

18. Termination as to Transferred Signals

In the event that a portion of the King's Highway on which Traffic Control Signals, Traffic Signs and intersection Zone Painting at locations listed in Schedule "A" are situated is transferred to the City, or to any other municipality, agency or authority, this Agreement shall be considered as terminated with respect to those Traffic Control Signals, Traffic Signs and intersection Zone Painting situated on that part of the King's Highway so transferred and Schedule "A" shall be accordingly amended to reflect any changes resulting from the transfer. Despite the requirements of subsection 25(a), this amendment can be effected administratively and without the necessity of an amending agreement.

19. Termination of Agreement

- (a) The term of this Agreement shall commence on July 1, 2014, and shall expire on June 30, 2024.
- (b) Notwithstanding 19(a), above, either Party may terminate this Agreement at any time by serving written notice on the other Party. However, termination shall not become effective until such time as the Ministry has made alternative arrangements for the operation and maintenance of the Traffic Control Signals, Zone Painting and Traffic Signs at locations listed in Schedule “A”, and notified the City to this effect. Notwithstanding the foregoing, the period of time between the date of receipt of the termination notice and the effective date of termination shall not exceed one hundred and twenty (120) calendar days, regardless of whether the Ministry has made the above-noted alternative arrangements .

**PART 9
NOTICE**

20. Written Notice

- (a) Any notices required or permitted to be given under any provision of this Agreement shall be in writing and shall be given by personal delivery, sent by electronic facsimile, email or other electronic means, or mailed by pre-paid registered mail, or delivered by courier service.
- (b) Subject to change by either Party with written notice given in accordance with this section, notices shall be addressed as follows:

In the case of the Ministry, to:

Ministry of Transportation
1201 Wilson Avenue, 2nd Floor, Building “D”
Downsview, ON, M3M 1J8

Attention: Regional Director, Central Region

and in the case of the City, to:

City of Toronto
24th Floor, E. Tower, City Hall
100 Queen Street W.,
Toronto, ON, M5H 2N2

Attention: General Manager, Transportation Services

- (c) Notices shall be deemed to have been effectively given on the date of personal delivery, transmission by electronic facsimile, delivery by courier service, or in the case of service by registered mail, three (3) days after the date of mailing.

21. Notice to other Municipalities

The Ministry shall not be responsible for contacting or providing notice to any other municipalities using the City's central computerized traffic control systems for any purpose associated with this Agreement.

**PART 10
GENERAL**

22. No Waiver

- (a) Wherever in this Agreement reference is made to the Ministry providing reviews, approvals or consents, or to the Ministry inspecting the operations of the Traffic Control Signals, central computer systems operations, Traffic Signs, Zone Painting, interconnect cables and any Communications System, such undertaking by the Ministry shall not relieve, insulate or exempt the City from or represent a waiver of any requirement, liability, covenant, agreement or obligation under this Agreement or at law or in equity and shall not create or impose any requirement, liability, covenant, agreement or obligation on the Ministry not otherwise created or imposed pursuant to the express provisions of this Agreement. In no event shall such undertaking by the Ministry be a representation that there has been or will be compliance with this Agreement.

- (b) Notwithstanding section 22(a), the Parties agree that the City shall not be subject to any liability, penalty, or sanction under this Agreement or at law or in equity as a result of any delays arising from, or related to, the Ministry's performance or undertaking of its obligations pursuant to this Agreement and more particularly described in section 22(a).

23. Entire Agreement

This Agreement, Schedule "A", and Appendix "A" attached hereto comprise the entire agreement between the Parties. No prior document, negotiation, provision, undertaking or agreement in relation to the subject of this Agreement shall have legal effect. No representation or warranty expressed, implied or otherwise, is made by the Ministry to the City, or vice versa, except as expressly set out in this Agreement.

24. Precedence over Agreements with other Municipalities

This Agreement shall take precedence over the terms of any agreement the City has entered into with other municipalities for the operation and maintenance of the Traffic Control Signals, Traffic Signs, Communication Systems and Zone Painting with regard to locations listed in Schedule "A" or for the use of the City central computerized traffic control systems.

25. Amendments

- (a) This Agreement may be amended or modified only by a mutual agreement executed in writing by each of the Parties.

- (b) Despite clause (a), the Ministry may amend Schedule “A” to reflect transferred Traffic Control Signals, as set out in section 18 above, without an amending agreement. The Ministry shall update Schedule “A” to reflect the transfers and shall send the updated Schedule “A” to the City.

26. Assignment

This Agreement is not assignable.

27. Headings

The use of headings in this Agreement are for convenience of reference only and in no manner modify, interpret or construe the Agreement.

28. No Agency

It is understood and agreed that no provision of this Agreement and no action by the Ministry or the City shall establish or be deemed to establish a partnership, joint venture, principal-agent relationship, or employer-employee relationship in any way or for any purpose whatsoever between the Ministry and the City.

29. Severability

If any term or condition of this Agreement, or its application to the parties or to any circumstances, is to any extent invalid or unenforceable, the remainder of the Agreement, and the application of such term or condition to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

30. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. In particular, and without limiting the foregoing, this Agreement is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 and the regulations there under, as amended from time to time, or any successor legislation, and shall survive the termination or expiry of this Agreement

31. Time of Essence

Time shall be of the essence.

**PART 11
DISPUTE RESOLUTION**

32. Dispute

Notwithstanding any other provision of this Agreement, any controversy, claim, dispute, or conflict (a “Dispute”) arising out of or relating to this Agreement between the Parties concerning any matter pertaining to it is to be resolved in accordance with the following terms and conditions:

- (a) It is the intention of the Parties that all Disputes be resolved in a fair, efficient, and timely manner without incurring undue expense.

- (b) The Parties shall attempt to resolve all Disputes through good faith negotiation using reasonable commercial efforts (without the requirement to expend material amounts of money or to incur additional material obligations or liabilities in so doing).
- (c) In the event of a Dispute, the Party alleging the Dispute shall submit a written notice ("Dispute Notice") to the other Party. Such Dispute Notice shall be in sufficient detail for the Party receiving the Dispute Notice to identify the specific issue(s) in dispute together with a concise statement of the Party's position and the reasons in support of it.
- (d) The dispute resolution process shall, at all times, be limited to negotiations and discussions among staff of the respective Parties. Without the prior consent of both Parties, it is inappropriate and inconsistent with the terms of this Agreement to allow independent and external third parties to assist in the negotiation of the Dispute, or attempt to initiate a mediation or arbitration of the Dispute.
- (e) The dispute resolution process shall, in the first instance, be negotiated by the appropriate and authorized operational staff responsible for the handling and implementation of the Agreement.
 - (i) If there is no satisfactory resolution of the Dispute at the first level of negotiations, following a reasonable period of time after the commencement of the said negotiations, the Parties agree that responsibility for the dispute resolution process may proceed to negotiations between staff at the supervisory or managerial level, as appropriate. The decision by one Party to transfer responsibility for the negotiations to staff at the superior level does not require mutual consent of both Parties. Each Party shall be responsible for determining the appropriate staff to handle negotiations.
 - (ii) If there is no satisfactory resolution of the Dispute at the second level of negotiations, following a reasonable period of time after the commencement of the said negotiations, the Parties agree that responsibility for the dispute resolution process may proceed to negotiations between staff at the next executive level, as appropriate. The decision by one Party to transfer responsibility for the negotiations to staff at the superior level does not require mutual consent of both Parties. Each Party shall be responsible for determining the appropriate staff to handle negotiations.
 - (iii) In the case of the City, unless otherwise indicated and subject to obtaining the necessary approvals and authorizations, negotiations under this Part shall not proceed beyond the level of the General Manager, Transportation Services.

- (f) Any agreements or resolutions of disputes pursuant to this Part shall not have effect unless in writing.
- (g) In particular, and without limiting the generality of the foregoing, in the event of a dispute as to billing and/or invoicing, the Parties agree that any agreed upon payment amounts shall be paid in accordance with this Agreement. Any disputed payment amounts shall be separated out and resolved in accordance with this Part.

33. Remedy

No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights which may be necessary and which is not otherwise available under this Agreement, including temporary and preliminary injunctive relief and restraining orders.

34. Proceeding with Authorized Activities

Each Party shall in every case, after serving or receiving a Dispute Notice, continue to perform its obligation under this Agreement, pending resolution of the Dispute, with all due diligence and expedition, unless the nature of the Dispute is such as to render continuation practically impossible.

35. Time Limits

Any time limits or procedures outlined in this Agreement may be shortened, extended, or altered as the Parties to the Dispute may mutually agree, provided however that all efforts shall be made to meet the time limits within this Agreement.

IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the date first above written and the party of the Second Part has affixed its corporate seal attested by the hands of its proper officers duly authorized in that behalf.

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF ONTARIO, REPRESENTED BY
THE MINISTER OF TRANSPORTATION FOR THE
PROVINCE OF ONTARIO**

Minister of Transportation

CITY OF TORONTO

**Stephen Buckley
General Manager, Transportation Services**

SCHEDULE “A”
MINISTRY OWNED TRAFFIC CONTROL SIGNALS
OPERATED AND MAINTAINED BY THE CITY OF TORONTO

- 1 Hwy 400 /Black Creek N/B off ramp @ Jane St. - N.Int.
- 2 Hwy 400 /Black Creek S/B off /on ramp @ Jane St. - S.Int
- 3 Hwy 400 N/B off ramp @ Finch Ave. W. – E.Int.
- 4 Hwy 400 S/B off ramp @ Finch Ave. W. – W.Int.
- 5 Hwy 400 N/B off ramp /Norfinch Ave. @ Steeles Ave. W. – E.Int.
- 6 Hwy 400 S/B on ramp @ Steeles Ave. W. – W.Int.
- 7 Hwy 401 E/B off ramp /Hwy 2A W/B on ramp @ Hwy 2 /Kingston Rd.
- 8 Hwy 401 E/B off ramp @ Meadowvale Rd. - S.Int.
- 9 Hwy 401 W/B off ramp /Cinemart Dr. @ Morningside Ave. - N.Int.
- 10 Hwy 401 E/B off ramp @ Morningside Ave. - S.Int.
- 11 Hwy 401 W/B off ramp @ Neilson Ave. - N.Int.
- 12 Hwy 401 E/B off/on ramp @ Neilson Ave. - S.Int.
- 13 Hwy 401 W/B off ramp @ Markham Rd. - N.Int.
- 14 Hwy 401 E/B off ramp @ Markham Rd. - S.Int.
- 15 Hwy 401 W/B off ramp @ McCowan Rd. - N.Int.
- 16 Hwy 401 E/B off ramp @ McCowan Rd. - S.Int.
- 17 Hwy 401 W/B off ramp @ Kennedy Rd. - N.Int.
- 18 Hwy 401 E/B off ramp /William Kitchen Rd. @ Kennedy Rd. - S.Int.
- 19 Hwy 401 E/B off ramp @ Warden Ave. - N.Int.
- 20 Hwy 401 E/B off ramp @ Warden Ave. – S.Int.
- 21 Hwy 401 W/B off ramp @ Victoria Park Ave. - N.Int.
- 22 Hwy 401 E/B off ramp @ Victoria Park Ave. - S.Int.
- 23 Hwy 401 W/B off ramp /Go Lot access @ Leslie St. – N.Int.
- 24 Hwy 401 E/B off ramp /Lesmill Rd. @ Leslie St. – S.Int.
- 25 Hwy 401 W/B off ramp @ Bayview Ave. – N.Int.
- 26 Hwy 401 E/B off ramp @ Bayview Ave. – S.Int.
- 27 Hwy 401 W/B off ramp @ Yonge St. - N.Int.
- 28 Hwy 401 E/B on ramp /Lord Seaton Rd. @ Yonge St. – S.Int.
- 29 Hwy 401 W/B off ramp /Bombay Ave. @ Avenue Rd. – N.Int.
- 30 Hwy 401 E/B off ramp @ Avenue Rd. – S.Int.
- 31 Hwy 401 W/B off /Allen Rd. S/B off ramps /Mall Access @ Yorkdale Rd.
- 32 Hwy 401 E/B off ramp /Yorkdale Rd. /Bridgeland Ave. @ Dufferin St.
- 33 Hwy 401 W/B off ramp /Downsview Ave. @ Keele St. – N.Int.
- 34 Hwy 401 E/B off ramp @ Keele St. – S.Int.
- 35 Hwy 401 W/B off ramp @ Weston Rd. – N.Int.
- 36 Hwy 401 E/B off ramp /Crossroads Centre Access @ Weston Rd. – S.Int.
- 37 Hwy 401 W/B off ramp /Allenby Rd. @ Islington Ave. – N.Int.
- 38 Hwy 401 E/B off/ on ramps /Resources Rd. @ Islington Ave. – S.Int.
- 39 Hwy 401 E/B off ramp @ Dixon Rd.

- 40 Hwy 401 W/B on ramp /Martin Grove Rd. @ Dixon
- 41 Hwy 401 W/B off ramp @ Martin Grove Rd.
- 42 Hwy 401 E/B off ramp /427 on ramp @ Renforth Dr. – S.Int.
- 43 Hwy 404 N/B off/on ramps /Yorkland Blvd. @ Sheppard Ave. E. – E.Int.
- 44 Hwy 404 S/B off /on ramps /Fairview Mall Dr.@ Sheppard Ave. E. – W.Int.
- 45 Hwy 404 S/B off/on ramps /Fairview Mall Access @ Fairview Mall Dr.
- 46 Hwy 404 N/B off ramp @ Finch Ave. E. – E.Int.
- 47 Hwy 404 S/B off ramp @ Finch Ave. E. – W.Int.
- 48 Hwy 404 N/B off/ S/B on ramps /Woodbine Ave. @ Steeles Ave. E. – E.Int.
- 49 Hwy 404 S/B off ramp @ Steeles Ave. E. – W.Int.
- 50 Hwy 409 W/B off ramp /Belfield Rd. @ Kipling Ave.
- 51 Hwy 409 E/B on ramp /Greensborough Dr./Ronson Dr. @ Kipling Ave.
- 52 Hwy 409 W/B off ramp @ Martin Grove Rd. - N.Int.
- 53 Hwy 409 E/B off ramp @ Martin Grove Rd. - S.Int.
- 54 Hwy 427 N/B off/on ramps @ Evans Ave. – E.Int.
- 55 Hwy 427 S/B off ramp @ Evans Ave. - W.Int.
- 56 Hwy 427 S/B off/on ramps @ The Queensway – W.Int.
- 57 Hwy 427 N/B off ramp /Cloverdale Mall access @ Dundas St. W. – E.Int.
- 58 Hwy 427 S/B off ramp @ Dundas St. W. – W.Int.
- 59 Hwy 427 N/B off ramp @ The East Mall (formerly Broadleigh Ave.)
- 60 Hwy 427 N/B off ramp @ Burnhamthorpe Rd. – E.Int.
- 61 Hwy 427 S/B off ramp @ Burnhamthorpe Rd. – W.Int.
- 62 Hwy 427 N/B off ramp /The East Mall @ Eglinton Ave. W.
- 63 Hwy 427 N/B off ramp /Hotel Access @ Dixon Rd.

APPENDIX “A”

Ministry Owned Traffic Control Signals Operated and Maintained by the City of Toronto

Application of Standards and Practices for Traffic Control Signals Listed in Schedule “A”

General: The City is always permitted to use an OPS/Ministry standard.

1. Material

Material	Standards that the City is Permitted to Use
Above Ground Plant	<p>The material used for the traffic signal above ground plant, including poles and pole footings, may be according to the City’s standards subject to the following:</p> <p>Each material drawing (e.g., Traffic Control Signal pole and mast arm details) shall bear the seal and signature of an Engineer.</p> <p>The City shall confirm in writing that the material standards used for the Ministry Traffic Control Signals are the same as those used for the City’s own signals, and that those standards have been used successfully by the City for at least 2 years. Municipal standards less than 2 years old may be used with the prior approval of the Ministry.</p>
Lamps	<p>All Traffic Control Signals shall use LED units unless otherwise agreed upon by both Parties. LED units shall be according to ITE specifications and the power consumption of the LED units shall not exceed MTO standards.</p>
Traffic Control Signal Cable	<p>Traffic Control Signal cables shall comply with the Ontario Electrical Safety Code and the latest version of the Electrical Safety Authority Bulletin for Traffic Control Signal Systems (2-12- *).</p> <p>Examples of acceptable cables: Traffic Control Signal cables that are according to OPSS 2409 or IMSA 19-1C.</p> <p>Number of conductors for runner and riser cables shall be as agreed upon with the Ministry.</p>
Service entrance/supply control cabinet assembly	<p>The supply control cabinet may be according to the City’s standards subject to the following:</p> <p>The service entrance/supply control cabinet shall be separate from the Traffic Control Signal controller cabinet.</p>

	<p>The complete cabinet assembly shall be “Service Entrance Ready”. The construction and/or supply contract shall require ESA inspection/approval of the complete cabinet assembly prior to shipment.</p> <p>The City may use a dedicated service entrance/supply control cabinet for the Traffic Control Signal system that is separate from other electrical systems.</p>
Underground Plant	The material for the underground plant for Traffic Control Signals, including the wiring system, shall be according to Ministry standards, with the exception that the City may use electrical handholes in place of electrical maintenance holes.

2. Maintenance Activities

Item	Standards that the City is Permitted to Use
Group Re-lamping	The City and the Ministry shall agree upon a group re-lamping interval for LED signals.
Intersection inspections	<ol style="list-style-type: none"> 1. Signalized intersections linked to a central Traffic Control Signal control and monitoring system: 2 times a year 2. Standalone Traffic Control Signals: 4 times a year
Conflict monitor checks/testing	2 times a year
Non-routine Maintenance Standards (e.g., Response/Repair times)	Ministry Standard based on the latest Maintenance Special Provisions (MSP’s) and the Electrical Engineering Manual Volume 2 (Electrical Maintenance)
Routine Maintenance Standards	Ministry Standard based on the latest Maintenance Special Provisions (MSP’s) and the Electrical Engineering Manual Volume 2 (Electrical Maintenance)
Pre-emption Systems	Testing once a year
Staff Qualifications	Within 6 years of signing the agreement, all staff working on Ministry traffic signals shall obtain International Municipal Signals Association (IMSA) Level 2 Field certification.

3. Other Items

Item	Standards that the City is Permitted to Use
Record retention	15 years
Legal approvals	<p>The Ministry will approve the Traffic Control Signal.</p> <p>The layout drawing may be a municipal drawing but shall have a title block with the provincial logo, clearly identifying that the drawing represents a Ministry Traffic Control Signal. There shall be locations in the title block for 3 Ministry signatures.</p>
Field cabinet entry practice	Complete log book
Hydro service	Hydro service shall be metered. The local Hydro shall submit its invoices directly to the Ministry.
Central system operation	Municipal system
Timing approvals and practices	The City and the Ministry shall agree upon a process for notification and approval of signal timing changes.
Signs and Pavement Markings	Municipal standard approved by the Ministry or OPS/MTO standard, and shall be according to the HTA and OTM Books
Temporary Traffic Control Signals (fixed or portable)	Municipal standard approved by the Ministry or OPS/MTO standard
Traffic Counts	The City and the Ministry shall agree upon the frequency and methodology for conducting traffic counts.
Red Light Cameras	<p>At the request of the City, the ministry may allow the municipality to install and operate red light cameras at Ministry owned traffic control signals.</p> <p>If approval has been obtained to install a red light camera at a ministry owned traffic control signal location, any and all costs associated with the red light camera system shall be considered to be unauthorized costs for the purposes of this agreement</p> <p>The City shall coordinate the installation of the red light cameras with the MTO regional traffic office and shall provide sufficient information about the red light camera system to the ministry so that the ministry</p>

	<p>continues to be a knowledgeable owner.</p> <p>If MTO approves the installation of a red light camera at any of its traffic control signal locations, it retains the right to request the City to remove the camera system from that location and the City shall deactivate the red light camera equipment within 24 hours and shall remove it from that location within 5 days.</p>
<p>Special Systems and New Technologies</p>	<p>Examples: Accessible pedestrian signals, Traffic adaptive controls, Transit signal priority.</p> <p>The City and the Ministry shall agree upon the standards to be applied to these systems.</p>