

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT FOR CONSTRUCTION, MAINTENANCE
AND OPERATION OF SAFETY HIGHWAY LIGHTING
SYSTEMS WITHIN A MUNICIPALITY
(Specific Limits)**

THIS AGREEMENT, dated this _____ day of _____, 20____, by and between the State of Texas, hereinafter referred to as the "State," party of the first part, acting by and through the Texas Department of Transportation, and the City of Grand Prairie, Dallas County, Texas, acting by and through its duly authorized officers under a resolution passed the _____ day of _____, 20____, (hereinafter called the "City"), party of the second part, (collectively, the "Parties"), is made to become effective when fully executed by both Parties.

W I T N E S S E T H

WHEREAS, the City has requested the State to contribute financial aid in the construction, maintenance, and operation of a safety highway lighting system on the highway designated as IH 20 within the limits from Tarrant County line 1.14 miles west to the Grand Prairie city limit line (as depicted in the map attached hereto and incorporated herein as Exhibit A) and IH 30 within the limits from Tarrant County line .12 miles west to Duncan Perry Road (as depicted in the map attached hereto and incorporated herein as Exhibit A) inside the City which is in accordance with 43 Texas Administrative Code, Section 25.11. (Hereinafter referred to as the "Lighting System"). Within the City, said Lighting System is to consist of safety lighting to be built in sections as financed and designated by the Texas Transportation Commission; and

WHEREAS, the Executive Director, acting for and on behalf of the Texas Transportation Commission, has made it known to the City that the State will construct said Lighting System, conditioned that the City, as provided in 43 Texas Administrative Code, Section 25.11 and Transportation Code, §221.002, will maintain and operate said Lighting System.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed, as hereinafter set forth, it is agreed as follows:

A G R E E M E N T

Article 1. CONSTRUCTION RESPONSIBILITIES

A. The State will prepare or provide for the plans and specifications, advertise for bids, let the construction contract, or otherwise provide for the construction, and will supervise construction, reconstruction or betterment work as required by said plans and specifications for the Lighting System. As this Lighting System project is developed to construction stage, either as a unit or in increments, the State will submit plans and specifications of the proposed work to the City and will secure the City's consent to construct the Lighting System prior to awarding the contract; said City consent being

signified by the signatures of duly authorized City officers in the spaces provided on the title sheet of the plans containing the following notation:.

“Attachment No. _____ to special AGREEMENT FOR CONSTRUCTION, MAINTENANCE, AND OPERATION OF SAFETY HIGHWAY LIGHTING SYSTEMS WITHIN A MUNICIPALITY (Specific Limits) dated _____.

The City-State construction, maintenance, and operation responsibilities shall be heretofore agreed to, accepted, and specified in the Agreement to which these plans are made a part.”

- B. All costs of constructing the Lighting System will be borne by the State, and the Lighting System will remain the property of the State.

Article 2. MAINTENANCE AND OPERATION RESPONSIBILITIES

- A. The City hereby agrees to furnish at its expense the electrical energy required for proper operation of the Lighting System, such electrical energy to be provided at points on the illumination system as designated by the State. The City further agrees to maintain and operate the Lighting System in an efficient and sightly condition, including the furnishing of all equipment and labor and making any replacements which may become necessary, without cost to the State.
- B. The City shall assume maintenance and operation on a date to correspond with the date construction of the Lighting System is completed and accepted by the State. The State will provide written notification to the City of such acceptance. The City hereby agrees to furnish at its expense the electrical energy consumed by the system during the period of trial operation prior to the acceptance by the State. If the Lighting System is constructed by sections, this provision shall apply to each such separately constructed section.
- C. The City will obtain approval of the Executive Director before making any major changes in the design and/or operation of the Lighting System as designed and constructed by the State or before the removal of any part of the installation except for the purpose of replacement where identical or accepted equivalent equipment to that originally installed is used.

Article 3. GENERAL

- A. This Agreement shall remain in force for a period of two years from the date that maintenance and operation responsibilities are first assumed by the City and shall be automatically renewed for two-year periods thereafter, unless terminated or modified by mutual agreement by both Parties as provided for in Article 3(F) herein.
- B. The State will not incur any financial obligation to the City as a result of the Agreement.
- C. This Agreement may be terminated sixty (60) days after the filing of a written notice by either party of a desire for cancellation. The State reserves the right to remove the Lighting System upon cancellation of the Agreement.
- D. If, at any time, the City does not maintain and operate the Lighting System in a satisfactory manner, the State reserves the right to either arrange for maintenance at the expense of the City or to remove the Lighting System. Should the Lighting System be removed due to lack of maintenance, the City hereby agrees to reimburse the State for the cost of removal.
- E. Should disputes arise as to the parties' obligations under this Agreement, the State's decision shall be final and binding.
- F. The City shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any matter affecting the performance of this Agreement.

- G. No waiver of a breach or any provision of the Agreement by either Party shall constitute a waiver of any subsequent breach of such provision. Failure of either Party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof.
- H. Changes in time frame, character, cost, or obligations authorized herein shall be enacted by written amendment. Any amendment to this Agreement must be executed by both parties within the contract period.
- I. This Agreement shall bind, and shall be for the sole and exclusive benefit of the respective parties and their legal successors. The City shall not assign or transfer its interest in this Agreement without written consent of the State.
- J. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- K. This Agreement constitutes the sole and only agreement for lighting at the location described herein of the parties hereto and supersedes any prior understandings or written or oral agreement between the parties respecting within subject matter.
- L. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- M. At the request of the State, the City shall submit any information required by the State in the format directed by the State.

Article 4. INDEMNIFICATION

The City acknowledges that it is not an agent, servant, or employee of the State and, thus, is responsible for its own acts and deeds and for those of its agents or employees during the performance of the work defined in this Agreement. The Parties expressly agree that nothing in this Agreement shall be construed as a waiver by the Parties of any rights, privileges, defenses, remedies, or immunities available to the Parties as government entities.

Each party is signing this agreement on the date stated below that party's signature.

THE CITY OF GRAND PRAIRIE, TEXAS

Executed on behalf of the City by:

By _____ Date _____

Typed or Printed Name and Title Megan Mahan, Deputy City Manager

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
_____ District Engineer

EXHIBIT A



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