

**AGREEMENT FOR CONSTRUCTION, MAINTENANCE
AND OPERATION OF CONTINUOUS HIGHWAY LIGHTING
SYSTEMS WITHIN A MUNICIPALITY
(Blanket Agreement)**

STATE OF TEXAS §

COUNTY OF TRAVIS §

THIS AGREEMENT, 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 San Marcos, Hays County, Texas, acting by and through its duly authorized officers under an ordinance or resolution passed the ___ day of _____, 20___, hereinafter called the "City," party of the second part, is made to become effective when fully executed by both parties.

WITNESSETH

WHEREAS, the City has requested the State to contribute financial aid in the construction, maintenance and operation of a continuous highway lighting system on the highway designated as IH 35; SL 82; SH 21; SH 80; SH 123; FM 621; FM 2439; RM 12; and FM 110 as shown in EXHIBIT 1- LOCATIONS and MAP. in accordance with 43 Texas Administrative Code, § 25.11. Within the City, said continuous lighting system hereinafter referred to as the "lighting system" is to consist of continuous lighting to be built in sections as financed and designated by the Texas Transportation Commission; and

WHEREAS, the Executive Director, acting for and in behalf of the Texas Transportation Commission, has made it known to the City that the State will construct said highway lighting system, conditioned that the City, as provided in Texas Administrative Code § 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:

AGREEMENT

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

"Attachment No. _____ to special AGREEMENT FOR CONSTRUCTION, MAINTENANCE, AND OPERATION OF CONTINUOUS HIGHWAY LIGHTING SYSTEMS WITHIN A MUNICIPALITY, (BLANKET), dated _____. The City-State construction, maintenance and operation responsibilities shall be as 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 lighting system as designated by the State and reviewed and approved by the City. 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, after the City has had the opportunity to inspect the lighting system and address any issues that may arise during the inspection. 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 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 shall 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 unless modified by mutual agreement of both parties.

- B. The State will not incur any financial obligation to the City as a result of this 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 at its own cost upon cancellation of the Agreement. The State shall provide an initial stock of spare parts equal to 20% of all parts involved in the construction project and the City shall have the first right of refusal for all parts in the event of a removal phase. Upon removal of the lighting system by the State, the State shall return any road or right of way surface from which the State has removed the lighting system to a state which is at or better than its pre-installation condition.
- 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. Prior to undertaking either of these options the State shall provide the City with sixty (60) days written notice and provide an opportunity for the City to cure the lack of maintenance issue. 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 parties agree to submit to informal mediation to resolve the dispute.
- F. The City and the State 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. 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.
- H. This Agreement shall bind, and shall be for the sole and exclusive benefit of the respective parties and their legal successors. Neither party to this Agreement shall assign or transfer its interest in this Agreement without written consent of the other party.
- I. 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.
- J. 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 the within subject matter.
- K. At the request of the State, the City shall submit any information in its possession, custody, or control, required by the State, related to the City's obligations and performance under this Agreement in the format directed by the State.

Article 4. INDEMNIFICATION

Each party to this Agreement acknowledges that it is not an agent, servant, or employee of the other party, 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.

Article 5. AUDIT

The State Auditor may conduct an audit or investigation of any entity receiving funds directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract 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.

Article 6. CONTACTS FOR NOTICE

Any notice required under this Agreement shall be provided in writing, and delivered by U.S. Mail to the following persons at the following address, unless such notice contact or address is changed by written notice to the other party:

For the City:

To: _____

Address: _____

San Marcos, Texas 78666

For the State:

To: _____

Address: _____

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

ATTEST:

CITY OF: _____

By: _____

(Title of Signing Official)

(Date)

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.

APPROVED:

By: _____
District Engineer

District

Date: _____

EXHIBIT 1 - LOCATIONS

Lighting on State Highway located in the City of San Marcos
Dated _____

Date # Issued	Attachment #	LOCATIONS	Begin LAT	Begin LONG	End LAT	End LONG	Control Section
		IH 35	29.892976	-97.912466	29.946946	-97.880374	0016-02
		IH 35	29.805937	-98.009778	29.892976	-97.912466	0016-03
		SL 82	29.892978	-97.914531	29.886386	-97.936527	0016-09
		SL 82	29.885435	-97.940543	29.883111	-97.94083	0016-09
		SH 80	29.883071	-97.941017	29.882855	-97.922222	0286-01
		SH 21	29.882608	-97.921917	29.882384	-97.921597	0286-01
		SL 82	29.883096	-97.940828	29.870067	-97.939273	0366-01
		SH 123	29.870056	-97.939271	29.865882	-97.938688	0366-01
		SH 123	29.855169	-97.93973	29.816653	-97.94351	0366-01
		FM 621	29.865342	-97.938723	29.860019	-97.935372	0987-03
		FM 2439	29.865175	-97.963456	29.849344	-97.976909	2293-01
		RM 12	29.874205	-97.96681	29.862717	-97.95983	3379-01
		RM 12	29.853925	-97.949567	29.848287	-97.942981	3379-01
		FM 110	29.829475	-97.960518	29.839266	-97.971702	3545-02

EXHIBIT 1 - MAP

CONTINUOUS ILLUMINATION LOCATIONS
WITHIN CITY OF SAN MARCOS
- Control Sections

