

**INTERSTATE HIGHWAY 10 (IH 10) EASTBOUND FRONTAGE ROAD (ON SYSTEM)
AT CANE ISLAND PARKWAY
TRAFFIC SIGNAL IMPROVEMENTS, OPERATION AND MAINTENANCE
AGREEMENT**

STATE OF TEXAS §

COUNTY OF TRAVIS §

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State", and Fort Bend County, Texas, acting by and through its duly authorized officers hereinafter called the "County" (each a "Party" and collectively the "Parties"), is made to become effective when fully executed by all Parties.

WITNESSETH

WHEREAS, IH 10 is a state highway, and Texas Transportation Code, §544.002 authorizes the State to place and maintain traffic control devices on a state highway, and also allows the State to permit the County to place and maintain traffic control devices on a state highway; and

WHEREAS, under the provisions of Texas Transportation Code Section 221.003 the commissioners court of a county may not directly control the making of an improvement of the state highway system unless the plan and specifications for the improvement have been approved by the director; and

WHEREAS, Section 224.033 allows for the State and the County to enter into an agreement for the improvement by the County of the state highway system; and

WHEREAS, the County operates and maintains traffic signals throughout the County, and the County requests that the State allow the County to install, operate, and maintain a new temporary traffic signal at the IH 10 eastbound frontage road, as generally illustrated on Exhibit A, attached hereto to improve traffic safety, mobility, and operation; and

WHEREAS, the State wishes to cooperate with the County to accomplish these improvements, hereinafter called the "Project", and will review plans and specifications as necessary, and allow the construction of the Project in accordance with such approved plans and specifications.

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. The County will furnish, or cause to be furnished, the necessary funds for the Project, subject to certification of any County funds by the Fort Bend County Auditor.

Article 2. The County will prepare, or cause to be prepared, any required plans and specifications (the "PS&E"), and will submit such PS&E to the State for review and approval. Such approval will not be unreasonably withheld.

Article 3. Upon approval of the PS&E by the State, the County will construct or cause to be constructed, the Project, and upon completion of construction, will operate and maintain said highway traffic signals in accordance with Exhibit A.

Article 4. The County will coordinate with the State on maintenance items in accordance with Exhibit A.

Article 5. In the event the signals installed in accordance with this Agreement become unnecessary as agreed to by both parties or are removed for any reason, this Agreement shall terminate.

Article 6. The State will not incur any financial obligation to the County, nor shall the County incur any financial obligation to the State, as a result of this Agreement.

Article 7. The State will retain ownership of all materials and equipment furnished and installed under this Agreement, which are located on State right of way, and will continue to pay power costs for the traffic signals.

Article 8. The County 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.

Article 9. This Agreement may be terminated by any of the following conditions:

- (a) By mutual consent and agreement of the Parties hereto.
- (b) By the State, if the State finds termination to be in the public interest.
Termination of this Agreement shall extinguish all rights, obligations, and liabilities of the Parties hereto.

Article 10. Any changes in the provisions of this Agreement or obligations of the Parties hereto shall be enacted by a written amendment executed by all Parties.

Article 11. In case 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 provisions hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Article 12. 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 the 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 13. Notices to either Party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such Party at the following respective addresses:

Local Government:	State:
Fort Bend County County Judge 401 Jackson Street Richmond, Texas 77469 With copy to: Fort Bend County County Engineer 301 Jackson Street Richmond, Texas 77469	Director of Contract Services Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

Article 14. This agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings or written or oral agreements respecting the agreement's subject matter.

Article 15. Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the County in duplicate.

THE LOCAL GOVERNMENT

APPROVED AS TO FORM:

County Attorney

By Marcus Spencer
First Assistant County Attorney

Marcus Spencer
Type or Printed Name

Date

FORT BEND COUNTY

By KP George
County Judge

KP George
Type or Printed Name

4-23-2019
Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date

EXHIBIT A

TRAFFIC SIGNAL MAINTENANCE AND OPERATION PROVISIONS

Unless specifically noted elsewhere in this agreement, the signal timing and operational phasing shall be the responsibility of the county.

The maintaining and operating county, Fort Bend, agrees to:

1. Inspect the highway traffic signal system a minimum of once every 12 months and replace burned out lamps or damaged sockets as may be required. Police, citizen, or other reports of burned out lamps or other damage, which could jeopardize safety, shall be repaired or replaced as soon as possible after the report, depending on the nature of the report. Otherwise, appropriate steps shall be taken to protect the public. The reflector and lens should be cleaned each time a lamp is replaced. All replacement lamps shall equal the wattage and type of the existing lamp.
2. Keep signal poles, controller pedestals, and foundations in alignment.
3. Keep signal poles and controller cabinets tight on their foundation(s) or pedestal(s).
4. Keep traffic and pedestrian signal heads aligned and properly adjusted. Repair back plates where needed.
5. Check the controllers, conflict monitors, detector units, relays, pedestrian push buttons, and detectors a minimum of once every 12 months to ascertain that they are functioning properly and make all necessary repairs and replacements.
6. Keep interior of controller cabinets in a neat and clean condition at all times.
7. Clean reflectors, lenses, and lamps a minimum of once every twelve months.
8. Repaint all corrosive susceptible highway traffic signal components exposed to weather with a non-lead based paint as needed in order to maintain a well-kept appearance in the opinion of the Texas Department of Transportation's representative. Plastic signal heads and galvanized and aluminum components are excluded.
9. Group relamp and incandescent lamps of all highway traffic signal heads at the expiration of the average rated lamp life or replace the lamps on a burn out basis.
10. Repair or replace any and all equipment that malfunctions or is damaged.
11. Provide alternate traffic control during a period of failure or when the controller must be repaired. This may be accomplished through installation of a spare controller, placing the intersection on flash, manually operating the controller, or manually directing traffic through the use of proper authorities. In addition, barricades and warning signs shall be provided in accordance with the requirements of the latest edition of the *Texas Manual on Uniform Traffic Control Devices*.
12. Provide maintenance personnel trained in the maintenance of traffic signal equipment

who will be available to respond to emergency calls from authorized parties 24 hours a day, including Saturdays, Sundays, and holidays.

13. Provide the State and local law enforcement agencies the location and respective names and telephone numbers of individuals responsible for emergency maintenance.
14. Document routine observations during the year by trained County personnel of the traffic signal operation at each traffic signal during various times of the day to assure fair distribution of time and for all traffic movements (phases) during varying traffic conditions.
15. Check cabinet filter a minimum of once every six months and clean if necessary. Cabinet filter shall be replaced every two years.
16. Document all checks and corrective actions in a separate log book for each intersection.
17. Signal timing in cooperation with the Texas Department of Transportation in metropolitan cities where Intelligent Transportation Systems and/or incident management systems are being implemented,. Traffic accidents, inclement weather, special events, maintenance, and construction activities are a few of the causes of nonrecurrent congestion. Nonrecurrent congestion often changes the normal traffic demand patterns. Effective and efficient movement of traffic through the transportation network during periods on nonrecurrent congestion must be considered in the design and operation of all traffic management systems, including traffic signal systems. Priority should be given to freeway or expressway frontage roads when nonrecurrent congestion occurs on freeway or expressway mainlanes.

Power costs shall be billed directly to the State.

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Fort Bend County, Texas, convened in regular session at a regular term of said Court, open to the public, at the Fort Bend County Courthouse in the City of Richmond, Texas, on 4-23-2019, with a quorum of said Court present:

Whereupon, among other business, the County considered the following:

AN ORDER AUTHORIZING EXECUTION OF A TRAFFIC SIGNAL IMPROVEMENTS, OPERATION AND MAINTENANCE AGREEMENT BETWEEN FORT BEND COUNTY AND THE STATE OF TEXAS ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENT, OPERATION, AND MAINTENANCE OF A NEW TEMPORARY TRAFFIC SIGNAL AT IH 10 EASTBOUND FRONTAGE ROAD LOCATED IN FORT BEND COUNTY, PRECINCT 3.

Commissioner Meyers introduced an order and moved that Commissioners Court adopt the order. Commissioner DeMerchant seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge KP George	<u>✓</u>	-	-
Commissioner Vincent Morales	<u>✓</u>	-	-
Commissioner Grady Prestage	<u>✓</u>	-	-
Commissioner Andy Meyers	<u>✓</u>	-	-
Commissioner Ken DeMerchant	<u>✓</u>	-	-

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED THAT:

1. The Fort Bend County Judge is authorized to execute on behalf of Fort Bend County the attached Traffic Signal Improvements, Operation and Maintenance Agreement between Fort Bend County and the State of Texas acting by and through the Texas Department of Transportation for the improvement, operation, and maintenance of a new temporary traffic signal at IH 10 eastbound frontage road located in Fort Bend County, Precinct 3.
2. All Fort Bend County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.