

**INTERLOCAL AGREEMENT BETWEEN CITY OF AUSTIN AND HAYS COUNTY
RELATED TO INSTALLATION, MAINTENANCE, UPGRADING, AND OPERATION OF
TRAFFIC CONTROL DEVICES**

This Interlocal Agreement made and entered into pursuant to Chapter 791 of the Texas Government Code ("The Texas Interlocal Cooperation Agreement Act"), is between the City of Austin, a municipal corporation of the State of Texas ("City") and the County of Hays, a political subdivision of the State of Texas ("County").

WITNESSETH:

WHEREAS, the County has the authority to regulate traffic on County roadways situated within its boundaries and not within the corporate boundaries of a town or city; and

WHEREAS, the regulation of County roadways necessitates the installation, maintenance and upon occasion, upgrading of traffic control devices; and

WHEREAS, the City has the necessary capabilities to effectuate the planning, designing, installing, maintaining and upgrading of traffic control devices on public roadways; and

WHEREAS, the County has expressed the desire, and the City has expressed its willingness to enter into an Agreement whereby the City would design, install, maintain or upgrade traffic control devices needed by the County in accordance with said Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the Parties agree as follows:

1. The City, at the expense and request of the County, shall provide traffic control installation, maintenance and upgrading services which shall include, but not be limited to the following:
 - A. Conducting traffic signalization warrant studies;
 - B. Planning and drafting system designs;
 - C. Construction of traffic signals and other traffic control devices;
 - D. Upgrading existing signals;
 - E. Performing necessary maintenance;
 - F. Providing necessary equipment, labor and materials; and
 - G. Conducting equipment test and operation.

It is understood and agreed that the County, reserves for itself, the right to perform any of the foregoing activities at the exclusion of the City. It is understood that the City's cost of performing the foregoing activities may include but not be limited to labor, material, equipment acquisition, equipment operation, computer time, bench time, vehicles, repair and maintenance and indirect costs.

2. The County and the City will designate a contact person within their respective transportation divisions to be responsible for overseeing the projects and transmitting, re-

ceiving and coordinating information and service requests on all matters affecting traffic control devices described in this agreement.

3. If deemed necessary by the County, the City, at the written request and expense of the County, will conduct traffic warrant studies for new installations and upgrades. The written request from the County will sufficiently define the scope of the work requested.

4. Upon completion of the study, the City will bill the County for the work performed and will submit the results of the study to the County for review, recommendation and/or approval. The County will, within thirty (30) days of receipt of the bill, pay the City for the City's costs associated with the traffic warrant studies. The parties will make reasonable efforts to resolve any disputes regarding the results of the study; however, the County will make the final decision regarding said results and their application toward the system design.

5. When the approval or final decision is reached, the County will notify the City in writing and may then authorize the City to proceed with the installation or upgrade of traffic control devices.

6. Upon receipt of written authorization to proceed, the City will timely prepare and submit for review, a preliminary system design with a corresponding cost estimate (including the cost of preparing the preliminary system design) and construction schedule.

7. The parties agree to work cooperatively to resolve disputes or differences regarding the system design; however, the County will have the authority to make the final decision regarding said design requirements.

8. The County Engineer shall have authority to sign the final set of plans evidencing the County's acceptance and approval of the system design and estimated cost of construction. After the County accepts or declines the preliminary system design, or decides not to proceed with construction, the County shall reimburse the City for the City's cost of preparing the preliminary system design within thirty (30) days of receipt of the City's bill for said design work.

9. No construction will be commenced until the City has received signed plans for the Project. The project will then be placed on the City's regular construction schedule; however, when appropriate justification is provided to the City's reasonable satisfaction, County projects may be given preferential scheduling. It will be the responsibility of the County to provide the City with the documents or other evidence sufficient to justify preferential scheduling.

10. The City shall furnish, deliver, install or upgrade the system using materials and component parts from the City's stock pile. City crews or City contract labor will perform all required labor.

11. The City shall perform the necessary and proper tests to place the system in full and completely functional operation.

12. At reasonable intervals after receipt of the request, the City shall submit to the County written documentation on the work performed, the manner of performance and rate of progress. The documentation may also include, but not be limited to, information regarding personnel classification and number assigned to the project, type and amount of material being used, type of equipment and time intervals of equipment use, itemization of salvaged materials and daily project reports. Salvaged material belonging to the County

may be returned to the County or recycled to other County projects at the City's option.

13. When construction is completed, the City will notify the County and submit for review and reimbursement the City's bill itemizing the cost of labor, parts, vehicles, bench time and any other reasonable and necessary expenses as described in the estimate, including amendments thereto.

14. The County will timely review or audit the City's bill and pay the City within thirty (30) days for all cost incurred by the City less any item excepted to. The County will submit a written explanation and grounds for its exception to any invoiced items within ten (10) days. The parties will promptly enter negotiations to resolve any and all disputes.

15. In the event that the City incurs cost, due to unforeseen circumstances, requiring additional work or materials, then, prior to proceeding therewith, the City shall set forth a written, detailed justification to and request the County to approve such extra work for payment.

16. The City, at the expense and request of County, will maintain and repair the County's system; however, the County will be responsible for notifying the City of system malfunction. The City will maintain a log of all "trouble calls" received from the County and will bill the County for all the maintenance and repairs performed by the City, which bills the County will pay within thirty (30) days of receipt. The County will not make any adjustments to the traffic signal operation or the installation design without prior written notice to the City. In the event of system malfunction, the City is authorized to make timing adjustments as needed without necessity of prior approval from the County. The City will notify and receive approval from the County prior to making any phasing changes.

17. All notices and requests required herein shall be in writing except that in emergency situations where delay incurred by waiting for written approval or notification would be detrimental to the parties' interests, then, verbal communication will be sufficient with written communication to follow.

18. The County, by execution of this Agreement, assumes responsibility for system design, installations, location, and upgrades of all traffic control devices installed or maintained by the City, pursuant to this Agreement. The County shall and hereby does, to the extent permitted by law, release, defend, indemnify and hold harmless the City against all claims, suits, demands or damages of any character whatsoever, resulting from injuries or damages (including attorney fees and costs of judgment), sustained by any person or property (including the property and employees of the parties hereto) which arises from or as a result of the system design, installation, location or upgrade of the traffic control devices and including any adjustments to the signal operation if the same is made by the County without prior notice to the City. Provided, that to the extent that such loss, damage, injury or death is proximately caused by the negligence of the City, the County shall only be responsible for that percentage of liability equal to the County's percent of fault. The County's obligation pursuant to the above-going indemnity provision shall be payable solely from gross revenues of the County paid pursuant to this Agreement during the term hereof and any other lawfully available current funds in the year in which such obligation or any part thereof is required to be paid.

19. This Agreement shall become effective when duly executed by all parties. This Agreement shall continue in full force and effect and may not be terminated any earlier than _____. 20____, at which time it shall be automatically renewed and continue in full force and effect each year thereafter until either party sends notice of termination as herein

set forth. Either party may terminate this Agreement by giving sixty (60) days' written notice; provided, however, that any pending construction projects shall proceed to completion in a reasonable time; and outstanding projects and bills shall be completed or paid on or before the expiration of the sixty (60) days.

20. Miscellaneous.

A. Assignability

Neither party may assign any of the rights or duties created by this Agreement without the prior written approval of the other Party. It is acknowledged by City that no officer, agency, employee or representative of County has any authority to grant such assignment unless expressly granted that authority by the Travis County Commissioners Court. It is acknowledged by County that no officer, agency, employee or representative of City has any authority to grant such assignment unless expressly granted that authority by the City Council of the City of Austin.

B. Entire Agreement

All oral and written Agreements between the parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

C. Law and Venue

This Agreement is governed by laws of the State of Texas. As obligations under this Agreement shall be performable in Travis County, Texas, venue shall lie in Travis County.

D. Severability

If any portion of this Agreement is ruled invalid by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

E. Notices

Any notice required or permitted to be given under this Agreement by one party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth for the party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address specified below.

The address of County for all purposes under this contract shall be:

Hays County
c/o Hays County Judge
111 E. San Antonio Street, Suite 300
San Marcos, TX 78666

With Copy To:
Office of General Counsel

111 E. San Antonio Street, Suite 202
San Marcos, TX 78666

The address of the City for all purposes under this contract shall be:

With Copy To:

F. Computation of Time

When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that either County or City has declared a holiday for its employees, these days shall be omitted from the computation.

G. Headings

The headings at the beginning of the various provisions of this Agreement have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Agreement.

H. Legal Authority

City states by its approval of this Agreement that it possesses the legal authority to enter into this Agreement, receive funds authorized by this Agreement, and to perform the services City has obligated itself to perform under this Agreement.

The person or persons signing this Agreement on behalf of City, or representing themselves as signing this Agreement on behalf of City, do hereby warrant and guarantee that he, she or they have been duly authorized by City to sign this Agreement on behalf of City and to bind City to sign this Agreement on behalf of City and to bind City validly and legally to all terms, performances, and provisions in this Agreement.

County states by its approval of this Agreement that County possesses the legal authority to enter into this Agreement, expend funds authorized by this Agreement, and to perform the services County has obligated itself to perform under this Agreement.

The person or persons signing this Agreement on behalf of County, or representing themselves as signing this Agreement on behalf of County, do hereby warrant and guarantee that he, she or they have been duly authorized by County to sign this Agreement on behalf of County and to bind County validly and legally to all terms, performances, and provisions in this Agreement.

THE PARTIES TO THIS INTERLOCAL AGREEMENT BETWEEN CITY OF AUSTIN AND HAYS COUNTY RELATED TO INSTALLATION, MAINTENANCE, UPGRADING, AND OPERATION OF TRAFFIC CONTROL DEVICES HEREBY AGREE TO THE TERMS DESCRIBED HEREIN, AS IS EVIDENCED BY THEIR DULY AUTHORIZED SIGNATURES, BELOW.

City of Austin

Hays County, Texas

By:
City Manager

By: Judge Bert Cobb, M.D.
Hays County Judge

Date

Date

Attest:

Attest:

By:
City Clerk

By: Liz Q. Gonzalez
Hays County Clerk