

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: October 8, 2013		DATE SUBMITTED: September 23, 2013	
DEPARTMENT OF ORIGIN: PW – Traffic Ops.		SUBMITTED BY: Dale Picha	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input checked="" type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<p>AGENDA ITEM DESCRIPTION: Consider executing an Interlocal Agreement (ILA) with the City of College Station to share in the constructions costs for a new traffic signal at the intersections of Wellborn Road and Old College Road, and at Wellborn Road and F&B Road. As part of this same City Council meeting, a similar ILA with Texas A&M University will also be considered for execution, as well as an agreement with Union Pacific Railroad to upgrade railroad signal equipment as part of this project. Construction costs for the traffic signal and the railroad signal equipment would be equally shared between City of Bryan, City of College Station, and Texas A&M University. This ILA specifies that the City of College Station will reimburse the City of Bryan up to \$210,000, or one-third of the total costs to construct the new traffic signals and upgrade the railroad signal equipment.</p>			
<p>SUMMARY STATEMENT: The Cities of Bryan and College Station previously executed an interlocal agreement in 2011 to equally share in the design costs. The traffic signal design costs were \$42,000, and UPRR’s design costs were \$30,000 (for a total of a \$72,000). On July 9, 2013, the City opened bids on RFB #13-051, “Wellborn Road at Old College Road and F&B Road Traffic Signals.” Only two (2) competitive bids were received – the low bid was \$259,007.95, and the second bid was \$347,191.04.</p> <p>Since the bid opening, the low bidder (Analytical Technology Consultants, Inc., or ATCI) has been slow to respond to several requests to clarify some apparent problems with their bid, including providing references. Because these requests were never adequately addressed by the low bidder, staff consulted with the City of College Station and Texas A&M University to consider awarding the contract to the second bidder. Despite the difference in bid prices (over \$88,000), all agencies concurred that it would be more advantageous to proceed with awarding the contract to the second bidder rather than rejecting both bids and re-advertising the project.</p> <p>Based on the design costs mentioned above and the bids received on July 9, the table below summarizes all project costs, with the not-to-exceed amount for each agency of \$210,000 (as listed in this ILA).</p> <p>If the City Council decides to execute the ILAs with the City of College Station and Texas A&M University, and the agreement with Union Pacific Railroad, the next step will be to consider awarding the construction contract to the second bidder (Bayer Electric), which is also on this same agenda.</p>			

Total Project Costs (Design and Construction) – Based on Bids Received

Cost Item	Totals Per Agency			Total
	COB	CoCS	TAMU	
Design				
Traffic Signals (Kimley-Horn)	\$ 21,000.00	\$ 21,000.00	-	\$ 42,000.00
Railroad Equipment (UPRR)	\$ 15,000.00	\$ 15,000.00	-	\$ 30,000.00
Sub-Total Design	\$ 36,000.00	\$ 36,000.00	-	\$ 72,000.00
Construction				
Traffic Signals (Bayer Electric)	\$115,730.35	\$ 115,730.35	\$ 115,730.35	\$ 347,191.04
Railroad Equipment (UPRR)	\$ 74,852.33	\$ 74,852.33	\$ 74,852.33	\$ 224,557.00
Sub-Total Construction	\$ 190,582.68	\$ 190,582.68	\$ 190,582.68	\$ 571,748.04
10% for Change Orders	\$ 19,058.26	\$ 19,058.27	\$ 19,058.27	\$ 57,174.80
Total Construction (Not to Exceed)	\$ 210,000.00	\$ 210,000.00	\$ 210,000.00	\$ 628,922.84
Design and Construction				
TOTAL	\$ 246,000.00	\$ 246,000.00	\$ 210,000.00	\$ 702,000.00

STAFF ANALYSIS AND RECOMMENDATION: Staff recommends executing this Interlocal Agreement with the City of College Station to equally share in the construction costs for this project. This ILA ensures reimbursement from the City of College Station for an amount not-to-exceed \$210,000 (one-third the construction costs). This is an important safety project that benefits the citizens of Bryan and College Station and the staff/students at Texas A&M University. All three agencies can take advantage of an opportunity to partner together to deliver this project.

OPTIONS (In Suggested Order of Staff Preference):

1. Execute the Interlocal Agreement with the City of College Station.
2. Do not execute the Interlocal Agreement with the City of College Station and provide direction to staff.

ATTACHMENTS:

1. Interlocal Agreement with the City of College Station

FUNDING SOURCE: City of Bryan's portion to be funded from the Transportation Fee (Fund 240)

APPROVALS: Jayson E. Barfknecht 09/26/13; Hugh R. Walker, 09/26/2013

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 09/30/2013

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09/30/2013

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF COLLEGE STATION
AND THE CITY OF BRYAN
PUBLIC IMPROVEMENTS FOR TRAFFIC SIGNALS AND INTERSECTION
IMPROVEMENTS FOR WELLBORN AT F&B AND OLD COLLEGE ROADS**

This **Interlocal Cooperation Agreement** (“Agreement”) is by and between the City of College Station, a Texas home-rule municipal corporation (hereinafter referred to as “**COLLEGE STATION**”) and the City of Bryan, a Texas home-rule municipal corporation (hereinafter referred to as “**BRYAN**”) each acting herein by and through its governing body.

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to perform functions or services that each party to the contract is authorized to perform individually; and

WHEREAS, the parties are seeking to enhance safety and improve the traffic flow through the Wellborn Road corridor at the intersections of F&B Road and Old College Road along the city limits of the Cities of **COLLEGE STATION** and **BRYAN**; and

WHEREAS, **BRYAN** plans to improve the intersection and signalization at the two intersections: Wellborn Road at F&B Road and Wellborn Road at Old College Road, including adding a new signal at both intersections to improve safety and operations, including communication, vehicle detection, and required traffic signal preemption for the railroad (hereinafter referred to as “the Project”); and

WHEREAS, **COLLEGE STATION** and Texas A&M University intend to enter into separate agreements with **BRYAN** to share in the cost of the construction of the intersection and signalization improvements; and

WHEREAS, **BRYAN** will maintain the constructed signals and all improvements once construction is complete; and

WHEREAS, **BRYAN**’s bid price for construction of the Project is \$347,191.04, plus \$224,557.00 for railroad signal modifications, for a total of \$571,748.04. A 10 percent contingency for Change Orders is added to this amount, for a total of \$628,922.84, which comes to a three-way split of \$210,000.00; and

NOW, THEREFORE, the parties herein enter into this Agreement between **BRYAN** and **COLLEGE STATION** regarding the Project:

1. BRYAN AND COLLEGE STATION agree to:

- (a) **BRYAN** will bid and manage the construction of the Project at Wellborn / F&B and Wellborn / Old College Road intersections.

- (b) **COLLEGE STATION** will reimburse **BRYAN** for one-third (1/3) of the actual construction costs of the Project, in an amount not to exceed \$210,000.00, within forty-five (45) days of receipt of a correct invoice. **BRYAN** will send **COLLEGE STATION** a copy of the construction contractor's monthly invoice.
- (c) **BRYAN** will send a draft copy of all change orders to **COLLEGE STATION** for review. **COLLEGE STATION** will review the draft change order within five (5) working days and provide comments. **COLLEGE STATION** and **BRYAN** Project Managers shall agree in writing (electronic mail will be sufficient) to any changes to the project scope, schedule or contract amount prior to the execution and approval of change orders by **BRYAN**.
- (d) Based upon **COLLEGE STATION'S** proportionate share of the change order amount, **COLLEGE STATION** shall follow its policies for approval of change order amounts before payment is submitted by **COLLEGE STATION**.

2. Invalidity

If any portion of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

3. Written Notice

Any notice required or permitted under this Agreement must be in writing and shall be deemed delivered (whether actually received or not) when deposited with the United State Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email, or other commercially reasonable means and will be effective when actually received. **BRYAN** and **COLLEGE STATION** can change their respective notice address by sending to the other party notice. Notices should be addressed as follows:

BRYAN
Attn: City Engineer
P.O. Box 1000
Bryan, Texas 77805

COLLEGE STATION
Attn: Public Works Director
P.O. Box 9960
College Station, Texas 77842

4. Entire Agreement

It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the parties, either before or after the execution of this Agreement, shall affect or modify any terms or obligations hereunder.

5. Consent to Suit.

Nothing in this Agreement will be construed as a waiver or relinquishment by any party of its right to claim such exemptions, privileges, and immunities as may be provided by law, nor as an ascent to assume additional liabilities to third parties.

6. Amendment

The terms and conditions of the Agreement may be modified at any time by the mutual consent of both parties, but only in writing, signed by the authorized signatory of both entities.

7. Texas Law

This Agreement has been made under and shall be governed by the laws of the State of Texas.

8. Place of Performance

Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

9. Authority to Enter Contract

Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.

10. Waiver

Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of the party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

11. Agreement Read

The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

12. Multiple Originals

It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

[Signatures to follow]

EXECUTED and EFFECTIVE on this the ____ day of _____, 2013.

CITY OF BRYAN

CITY OF COLLEGE STATION

Jason P. Bienski, Mayor
Date: _____

Nancy Berry, Mayor
Date: _____

ATTEST:

ATTEST:

Mary Lynne Stratta, City Secretary
Date: _____

Sherry Mashburn, City Secretary
Date: _____

APPROVED:

APPROVED:

Janis K. Hampton, City Attorney
Date: _____

City Manager
Date: _____

City Attorney
Date: _____

Executive Director Business Services
Date: _____