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ORDINANCE NO. 108

AN ORDINANCE PROVIDING FOR THE APPROVAL OF THE AGREEMENT DATED Oct 11 1984 BETWEEN THE STATE OF TEXAS AND THE CITY OF MAGNOLIA, FOR THE INSTALLATION, CONSTRUCTION, EXISTENCE, USE, OPERATION, AND MAINTENANCE OF HIGHWAY SIGNAL PROJECT ~~XXX~~ AT THE LOCATION ~~XXX~~ SHOWN ON EXHIBIT 1, ATTACHED HERETO AND MADE A PART HEREOF, IN THE CITY OF MAGNOLIA; PROVIDING FOR THE EXECUTION OF SAID AGREEMENT; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA:

SECTION 1. That the certain agreement dated _____ between the State of Texas and the City of MAGNOLIA, for the installation, construction, existence, use, operation, and maintenance of certain highway traffic signal ~~XXX~~ at the location ~~XXX~~ shown on EXHIBIT 1, attached hereto and made a part hereof, in the City of MAGNOLIA, be and the same is hereby approved, and _____ is hereby authorized to execute said agreement on behalf of the City of MAGNOLIA, and to transmit the same to the State of Texas for appropriate action.

SECTION 2. The fact that the improvements contemplated under the above mentioned agreement are needed, creates an emergency which for the immediate preservation of the public peace, health, safety, and general welfare requires that this Ordinance take effect immediately from and after its passage, and it is accordingly so ordained.

PASSED: Oct 9, 1984

APPROVED: Oct 9, 1984

ATTEST:

Salvador J. Iniguez *Mayor*
Pro Tem

Mary McJenny
Secretary
City Clerk

APPROVED AS TO FORM:

City Attorney

CITY SECRETARY'S CERTIFICATE

STATE OF TEXAS

COUNTY OF MONTGOMERY

I, MARY MCQUERRY, the duly
appointed, qualified and acting city secretary of the City of MAGNOLIA,
Texas, hereby certify that the foregoing pages constitute a true and correct copy of an
ordinance
~~XXXXXX~~ duly passed by the City Council at a meeting held on October 9,
A. D., 19 84, at 7:30 o'clock P. M.

To certify which, witness my hand and seal of the City of MAGNOLIA
Texas, this 9th day of October, 19 84, at
MAGNOLIA, Texas.

Mary McQuerry
City Secretary of the City of
MAGNOLIA, Texas

EXHIBIT 1

LOCATION(S)

FM 1488 at FM 1774

(East and West Intersections
in Magnolia)

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in triplicate on the dates shown hereinbelow.

Executed on behalf of the City, this

9 day of October 19 84.

ATTEST:

Mary McJenny
Secretary for City

By: _____
Mayor

STATE OF TEXAS

Certified as being executed for the purpose and effect of activating and/or carrying out the orders, established policies, or work programs heretofore approved and authorized by the State Highway and Public Transportation Commission:

APPROVED:

_____ day of _____ 19 ____.

By: _____
Chief Engineer of Safety
and Maintenance Operations

Executed and approved for the State Highway and Public Transportation Commission under Authority of Commission Minute 78501 and Administrative Order No. 29-81

RECOMMENDED FOR EXECUTION:

District Engineer

AGREEMENT (TRAFFIC SIGNAL - TYPE 1A)

Nothing herein contained shall be construed to place upon the State any manner of liability for injury to or death of persons or for damage to or loss of property arising out of or in any manner connected with the use of the project, and the City will save the State harmless from any damages arising from said maintenance and/or use of said project.

It is further understood and agreed between the parties hereto that the improvement of the project by the State is for the sole purpose of providing the travelling public a more adequate travel facility and shall never be the basis of any claim for State assumption, or participation in the payment, of any of the obligations of the City incurred in the improvement, past or present, of any street project.

8. The department will not incur any financial obligation to the city as a result of this agreement.

3. The City will exercise no control whatsoever over the operation, maintenance, use, or existence of the highway traffic signal~~(XX)~~ without written authority from the State Department of Highways and Public Transportation.

4. The State shall have the authority to make such changes in the design and operation of the highway traffic signal~~(XX)~~ as it may deem necessary and advisable to promote the safe, convenient, and orderly movement of traffic.

5. The City will be responsible for the police enforcement required for securing obedience to the highway traffic signal~~(XX)~~.

6. In the event the signal~~(XX)~~ installed in accordance with this Agreement become unnecessary or are removed for any reason, this agreement shall terminate.

7. Indemnification

The City agrees to indemnify the State against any and all damages and claims for damages to adjoining, abutting or other property for which the State is or may be liable arising out of, incident to or in any way connected with the installation, the construction, the existence, the use of such project and does hereby agree to indemnify the State against any and all court costs, attorneys' fees and all expenses in connection with suits for such damage and shall, if requested to do so in writing, assist or relieve the State from defending any such suits brought against it.

Nothing in this agreement shall be construed to place any liability on the City for personal injury arising out of the construction of such project. Furthermore, it is not the intent of this agreement to impose upon the City the liability for injury to person or property arising out of the construction of the project by the State's contractor unless the State itself would be liable for such injury or damage.

STATE OF TEXAS

COUNTY OF TRAVIS

This AGREEMENT, dated this 11th day of Oct, 1984, by and between the State of Texas, hereinafter called the "State," Party of the First Part; and the City of MAGNOLIA, MONTGOMERY County, Texas, acting by and through its duly authorized officers under an Ordinance~~XXXXXXX~~^{Resolution}, passed the 9 day of Oct, 1984, hereinafter called the "City," Party of the Second Part, 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 authorized the installation, operation, and maintenance of highway traffic signal~~s~~^{XXX} by Ordinance~~/Resolution~~^{XXXXXXXXXX}, passed on the 9 day of Oct, 1984, at the location~~s~~^{XXX} shown on EXHIBIT 1, attached hereto and made a part hereof;

A G R E E M E N T

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:

1. The State will furnish the necessary funds for the actual construction, prepare plans and specifications, install said highway traffic signal~~s~~^{XXX}, supervise construction, and upon completion of construction, will furnish the power and operate and maintain said highway traffic signal~~s~~^{XXX}.

2. The City hereby consents to the construction of the highway traffic signal~~s~~^{XXX} shown on EXHIBIT 1 by the approval of the location and manner of construction as shown on the plans and described in the specifications.