

August 13, 2020

Item No. 3.9.

Advance Funding Agreement for Signal Improvements (FM 2154 & Holleman Drive Intersection Improvements)

Sponsor: Emily Fisher, Assistant Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution approving an advance funding agreement (AFA) in the amount of \$34,727 between the City of College Station and the State of Texas, acting through the Texas Department of Transportation (TXDOT) for the city's contribution for certain signal improvements for the FM 2154 and Holleman Drive Intersection Improvements project.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Improving Mobility

Recommendation(s): Staff recommends approval of this resolution.

Summary: The City of College Station in conjunction with TXDOT is designing and constructing intersection improvements at FM 2154 (Wellborn Rd) and Holleman Drive. This project includes raising the elevation of FM 2154 to flatten the intersection at the railroad crossing. Other improvements include an addition of a right turn lane, sidewalks, and a new traffic signal. The City will be responsible for pole finishings and equipment that are not normally part of the state requirements for signal pole in order to assure compliance with City requirements of signal poles on the City's system.

Budget & Financial Summary: Budget in the amount of \$640,889 is included in the Streets Capital Improvement Projects Fund. A total of \$520,131 has been expended or committed to date, leaving a balance of \$120,758 for this AFA and future project expenses.

Reviewed & Approved by Legal: No

Attachments:

1. 20300644 Resolution FM 2154 Holleman Signal Improvements
2. 20300644 FM 2154 at Holleman AFA VoITIP

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AN ADVANCE FUNDING AGREEMENT WITH THE STATE OF TEXAS ACTING THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (“TXDOT”) AUTHORIZING THE PARTIPATION IN THE COST OF CERTAIN ROADWAY IMPROVEMENTS INCLUDING AESTETIC AND OPERATIONAL ENHANCEMENTS TO CONSTRUCTION OF TRAFFIC SIGNAL IMPROVEMENTS INCLUDED IN THE FM2154 AND HOLLEMAN DRIVE INTERSECTION IMPROVEMENTS PROJECT

WHEREAS, FM 2347 is owned and maintained by the Texas Department of Transportation; and

WHEREAS, TXDOT has deemed it necessary to make certain highway improvements at the intersection of FM 2154 and Holleman Drive (the “Project”); and

WHEREAS, any construction or improvements on Texas Department of Transportation right of way must be approved through the Texas Department of Transportation permitting process; and

WHEREAS, the City of College Station desires to participate in the Project by funding portions of the Project including traffic signals with aesthetic and operational enhancements; and which include installation of traffic signals as part of the project; and by entering into this Advance Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Projects with No Required Match On-System.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

- PART 1: That the City Council hereby approves the agreement with TXDOT to contribute an amount not to exceed \$34,727 for the costs associated with aesthetic and operational enhancements to construction of traffic signal improvements.
- PART 2: That the City Council herby authorizes the City Manager to execute the agreement.
- PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this ____ day of _____, A.D. 2020.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:

City Attorney

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY
LOCAL GOVERNMENT CONTRIBUTIONS
TO TRANSPORTATION IMPROVEMENT PROJECTS
WITH NO REQUIRED MATCH
ON-SYSTEM**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the “State”, and the **City of College Station**, acting by and through its duly authorized officials, called the “Local Government”. The State and Local Government shall be collectively referred to as “the parties” hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, Transportation Code, Chapters 201 and 221, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and

WHEREAS, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115291** authorizing the State to undertake and complete a highway improvement generally described as Intersection Improvements at FM 2154 and Holleman Drive; and

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as **aesthetic and operational enhancements included in the intersection improvements at FM 2154 and Holleman Drive** (Project); and

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the state;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

AGREEMENT

1. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in full force and effect until the Project has been completed and accepted by all parties or unless terminated as provided below.

2. Project Funding and Work Responsibilities

- A. The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities (Attachment A) which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.
- B. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its financial share for the State’s estimated construction oversight and construction costs.
- C. In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State’s written notification.
- D. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the “Texas Department of Transportation” or may use the State’s Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT’s Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.

3. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

4. Adjustments Outside the Project Site

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

5. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

6. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

7. Interest

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

9. Increased Costs

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased cost to the department for a highway improvement project, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

10. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

11. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in Attachment A or existing maintenance agreements with the Local Government.

12. Termination

- A. This agreement may be terminated in the following manner:
 - 1. By mutual written agreement and consent of both parties;
 - 2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
 - 3. By the State if it determines that the performance of the Project is not in the best interest of the State.
- B. If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.
- C. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

13. Notices

All 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 or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

Local Government:	State:
City of College Station ATTN: Public Works Director P.O. Box 9960 College Station, TX 77842	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

14. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

15. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

16. Amendments

By mutual written consent of the parties, this agreement may be amended in writing prior to its expiration.

17. State Auditor

Pursuant to Texas Government Code § 2262.154, 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.

18. Signatory Warranty

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

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

THIS AGREEMENT IS EXECUTED by the State and the Local Government.

THE STATE OF TEXAS

THE LOCAL GOVERNMENT

Signature

Signature

Lance Simmons

Typed or Printed Name

Typed or Printed Name

Bryan District Engineer

Typed or Printed Title

Typed or Printed Title

Date

Date

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

**ATTACHMENT A
PAYMENT PROVISION AND WORK RESPONSIBILITIES**

At the request of the Local Government the State will provide additional powder coating to signal poles/mast arms, luminaires, and pedestrian poles as well as install priority control systems and LED internally lighted street name (ILSN) signs. The Project aesthetic and operational enhancements are beyond the standard finish provided by the State for these elements. The Local Government is responsible for 100% of all costs and overruns for the Project.

Item Number	Description	Quantity	Unit Price	Local Participation	
				%	Cost
1	Additional Cost for Powder Coating (Signal Poles/ Mast Arms)	4	\$1,500	100%	\$6,000
2	Additional Cost for Powder Coating (Luminaires/Pedestrian Poles)	8	\$75	100%	\$600
3	Additional Cost for Priority Control System (Preemption)	1	\$9,020	100%	\$9,020
4	LED Internally Lighted Street Name (ILSN) Sign	4	\$3,600	100%	\$14,400
	Direct State Construction Costs - (Items 1 - 4)				\$30,020
	Direct State Costs - Construction Engineering and Contingencies (15%)	N/A	N/A	100%	\$4,503
	Indirect State Costs (4.52%)	N/A	N/A	100%	\$204
	TOTAL				\$34,727

Initial payment by the Local Government to the State: \$0
Payment by the Local Government to the State before construction: \$34,727
Total payment by the Local Government to the State: \$34,727

MAINTENANCE

CSJ #	0540-04-005
District #	17 – BRY
Code Chart 64 #	09050 – City of College Station
Project Name	Aesthetic and Operational Enhancements included in the Intersection Improvements at FM 2154 and Holleman Drive

The State and the Local Government shall be responsible for the maintenance of the State Highway System after completion of the Project in accordance with the Municipal Maintenance Agreement in effect at the time the maintenance is required.

August 13, 2020

Item No. 3.10.

Advance Funding Agreement for Utility Relocations (FM 2154 & Holleman Drive Intersection Improvements)

Sponsor: Emily Fisher, Assistant Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution approving an advance funding agreement (AFA) in the amount of \$246,681 between the City of College Station and the State of Texas, acting through the Texas Department of Transportation (TXDOT) for the city's contribution for utility relocations for the FM 2154 and Holleman Drive Intersection Improvements project.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Improving Mobility

Recommendation(s): Staff recommends approval of this resolution.

Summary: The City of College Station in conjunction with TXDOT is designing and constructing intersection improvements at FM 2154 (Wellborn Rd) and Holleman Drive. This project includes raising the elevation of FM 2154 to flatten the intersection at the railroad crossing. Other improvements include an addition of a right turn lane, sidewalks, and a new traffic signal. As part of this project, portions of the city's water and wastewater infrastructure will need to be moved because of conflicts with the road reconstruction and other infrastructure needed for the project. TXDOT usually requires the owner of the utility in conflict to clear the utility separately; however, in this case TXDOT agreed that it is more economical and efficient for such relocations be included in the State's highway construction contract.

Budget & Financial Summary: A combined total budget in the amount of \$255,000 is included in the Water and Wastewater Capital Improvement Projects Funds. Nothing has been expended or committed to date, leaving a combined balance of \$255,000 for this AFA and future project expenses.

Reviewed & Approved by Legal: No

Attachments:

1. 20300645 Resolution FM 2154 Utility Relocations
2. 20300645 Ready for Partial Execution AFA Utility - FM 2154 at Holleman

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AN ADVANCE FUNDING AGREEMENT WITH THE STATE OF TEXAS ACTING THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (“TXDOT”) AUTHORIZING THE PARTIPATION IN THE COST OF CERTAIN ROADWAY IMPROVEMENTS INCLUDING UTILITY RELOCATIONS FOR THE FM 2154 AND HOLLEMAN DRIVE INTERSECTION IMPROVEMENTS PROJECT

WHEREAS, FM 2154 is owned and maintained by the Texas Department of Transportation; and

WHEREAS, TXDOT has deemed it necessary to make certain highway improvements at the intersection of FM 2154 and Holleman Drive (the “Project”); and

WHEREAS, any construction or improvements on Texas Department of Transportation right of way must be approved through the Texas Department of Transportation permitting process; and

WHEREAS, the City of College Station possesses facilities that are affected by the Project; and the State agrees that it is more economical or efficient for such relocation to be effected by including in the State’s highway construction contract; and

WHEREAS, the City of College Station desires to participate in the Project by funding portions of the Project including utility relocations by entering into this Advance Funding Agreement for Voluntary Utility Relocation Contributions on State Highway Improvement Projects.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby approves the agreement with TXDOT to contribute an amount not to exceed \$246,681 for the costs associated with utility relocations.

PART 2: That the City Council herby authorizes the City Manager to execute the agreement.

PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this ____ day of _____, A.D. 2020.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:

City Attorney

CSJ # 0540-04-005
ROW CSJ # 0540-04-087
U # U00002763
District # 17-Bryan
Code Chart 64 # 09050
Project: Intersection Improvements
at FM 2154 and Holleman
Drive

STATE OF TEXAS §
COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY UTILITY RELOCATION
CONTRIBUTIONS ON STATE HIGHWAY IMPROVEMENT PROJECTS**

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation (“State”) and The City of College Station (“Utility”),

WITNESSETH

WHEREAS, Transportation Code, Chapters 201, 221, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads and highways that comprise the State Highway System; and,

WHEREAS, Transportation Code, Chapter 203, Subchapter E, Transportation Code §203.092 authorizes the State to regulate the placement of public utility facilities along a state highway; and,

WHEREAS, Texas Transportation Commission Minute Order Number 115291 authorizes the State to undertake and complete a highway improvement generally described as: Intersection Improvements at FM 2154 and Holleman Drive (“Project”); and,

WHEREAS, Utility possesses facilities that are affected by the above mentioned highway improvement and Utility, and the State agrees that it is more economical or efficient for such relocation to be effected by including said contract in the State’s highway construction contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them kept and performed as hereafter set forth, the State and Utility do agree as follows:

AGREEMENT

1. Time Period Covered

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and Utility will consider it to be in full force and effect until the Project described in this agreement has been completed and accepted by all parties or unless terminated, as provided.

2. Project Funding and Work Responsibilities

A. The State will authorize the performance of only those Project items of work which are eligible for relocation reimbursements or for which Utility has requested and has agreed

to pay for as described in Attachment A - Payment Provision and Work Responsibilities, which is attached to and made a part of this contract. In addition to identifying those items of work to be paid for by payments to the State, Attachment A - Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of Utility and will be carried out and completed by Utility, at no cost to the State. The Utility shall be responsible for costs that are shown on Attachment B, Estimated Utility Costs, which is attached to and made a part of this agreement.

- B.** If the Utility will perform any work under this contract for which reimbursement will be provided by or through the State, the Utility must complete training before a letter of authority is issued. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures and Qualification for the Texas Department of Transportation*. The Utility shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Utility or an employee of a firm that has been contracted by the Utility to perform oversight of the Project. The State in its discretion may deny reimbursement if the Utility has not designated a qualified individual to oversee the Project.
- C.** Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.

3. Termination

- A.** This agreement may be terminated in the following manner:
 - 1. By mutual written agreement and consent of both parties;
 - 2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
 - 3. By the State if it determines that the performance of the Project or utility work is not in the best interest of the State.
- B.** If the agreement is terminated in accordance with the above provisions, Utility will be responsible for the payment of Project costs incurred by the State on behalf of Utility up to the time of termination.

4. Right of Access

If Utility is the owner of any part of the Project site, Utility shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

5. Adjustments Outside the Project Site

Utility will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

CSJ # 0540-04-005
ROW CSJ # 0540-04-087
U # U00002763
District # 17-Bryan
Code Chart 64 # 09050
Project: Intersection Improvements
at FM 2154 and Holleman
Drive

6. Responsibilities of the Parties and Indemnity

Utility acknowledges that it is not an agent, servant, employee of the State, nor is it engaged in a joint enterprise, and it is responsible for its own acts and deeds and for those of its agents or employees during the performance of the work on the Project. To the extent permitted by law, Utility agrees to indemnify and hold harmless the State, its agents and employees, from all suits, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person or property in consequence with the performance of design, construction, maintenance, or operation of the Utility facility. Such indemnity includes but is not limited to any claims or amounts arising or recovered under the "Worker's Compensation Law", the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as time to time may be amended.

7. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between Utility and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

8. Successors and Assigns

The State and Utility each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

9. Amendments

By mutual written consent of the parties, the scope of work and payment provisions of this agreement may be amended prior to its expiration.

10. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A - Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Utility Accommodation Rules as set forth in 43 Texas Administrative Code §21.31 et. seq. adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

CSJ # 0540-04-005
 ROW CSJ # 0540-04-087
 U # U00002763
 District # 17-Bryan
 Code Chart 64 # 09050
 Project: Intersection Improvements
at FM 2154 and Holleman
Drive

11. Maintenance

Upon completion of the Project, Utility will assume responsibility for the maintenance of the completed Utility facility unless otherwise specified in Attachment A to this agreement.

12. Notices

All 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 addresses:

Utility:	State:
City of College Station Director of Public Works PO Box 9960 College Station, Texas 77842	Texas Department of Transportation Director of Contract Services 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

13. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the State 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.

14. Signatory Warranty

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

15. Access to Information

The Utility is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public

CSJ # 0540-04-005
ROW CSJ # 0540-04-087
U # U00002763
District # 17-Bryan
Code Chart 64 # 09050
Project: Intersection Improvements
at FM 2154 and Holleman
Drive

Information Act, available in a format that is accessible by the public at no additional charge to the state.

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

THE UTILITY

Signature

Typed or Printed Name

Title

Date

THE STATE OF TEXAS

District Engineer

Date

CSJ # 0540-04-005
ROW CSJ # 0540-04-087
U # U00002763
District # 17-Bryan
Code Chart 64 # 09050
Project: Intersection Improvements
at FM 2154 and Holleman
Drive

ATTACHMENT A

PAYMENT PROVISION AND WORK RESPONSIBILITIES

1. Description of the Work Items

The parties agree that the existing water and wastewater facilities shall be relocated and adjustments shall be made along FM 2154 and Holleman Drive. The water and wastewater facilities shall be owned, operated, and maintained by Utility from and after completion and final acceptance by the State and Utility. The estimated total construction cost for the relocated and adjusted facilities is \$246,681. The parties agree that it is their intent to complete the relocation improvements within this estimate of cost.

2. Actual Cost Agreement

Utility will be responsible for paying all costs associated with the planning, specification, and estimate (PS&E) development, and construction of the proposed utility work to the extent such is not reimbursed pursuant to state law. All the costs associated with construction of the water and wastewater items for the Project shall be provided as defined under the Standard Utility Agreement, Utility Joint Use Agreement, and/or the Agreement to Contribute Funds executed between the State and Utility.

3. Schedule of Payments

- A.** At least forty-five (45) days prior to the date set for receipt of the construction bids, the Utility shall remit its remaining financial share for the State's estimated construction oversight and construction costs. Utility must advance to the State one hundred percent (100%) of its share of the estimated Project utility construction costs. The amount to be advanced for the utility improvements is estimated to be \$246,681. (See Attachment B – Estimated Utility Costs)
- B.** In the event the State determines that additional funding is required by the Utility at any time during the Project, the State will notify the Utility in writing. The Utility is responsible for one hundred percent (100%) of the authorized project cost and any overruns. The Utility will make payment to the State within thirty (30) days from receipt of the State's written notification.
- C.** Whenever funds are paid by the Utility to the State under this agreement, the Utility will remit a warrant made payable to the "Texas Department of Transportation." The warrant will be deposited by the State and managed by the State. Until the final Project accounting, funds may only be applied by the State to the Project.
- D.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Utility, the State, or the Federal Government will be promptly paid by the owing party.

4. Work Responsibilities

- A.** The **Utility** shall provide the following services under this contract:
 - i.** Responsible for engaging the services of a Texas Registered Professional Engineer to prepare drawings and technical specifications for waterline relocations and adjustments along FM 2154 at the intersection of Holleman Drive.

CSJ # 0540-04-005
ROW CSJ # 0540-04-087
U # U00002763
District # 17-Bryan
Code Chart 64 # 09050
Project: Intersection Improvements
at FM 2154 and Holleman
Drive

- ii. Provide the plans and specifications to the State to include in the current planning specifications and estimate package being prepared by representatives of the Texas Department of Transportation's Bryan District Office.
- iii. Secure all necessary permitting as may be required for the installation of the water and wastewater line.
- iv. Arrange and coordinate with the contractor, through the State, materials and equipment testing, rejection of all work not conforming to minimum requirements of the construction contract documents, maintenance of the proposed water and wastewater facilities during construction, and the relocation of water and wastewater facilities and connection of services to customers.
- v. Advise the State of work that Utility determines should be corrected or rejected.
- vi. Arrange, observe, and inspect all acceptance testing and notify the State of the results of these activities.
- vii. Provide inspection services for the construction, notify the State of defects and deficiencies in the work, and observe actions of the contractor to correct such defects and deficiencies.
- viii. Assume all responsibility for the maintenance of the existing water and wastewater facilities during and upon completion of the construction contract.
- ix. Ensure all Texas Commission on Environmental Quality and all other regulatory rules, regulations and laws are strictly adhered to.
- x. Prepare and submit both a certificate of substantial completion and a list of observed items requiring completion or correction for the relocations and adjustments to the Project Engineer for concurrence.
- xi. Coordinate all construction activities performed by Utility's staff for the relocations and adjustments through the Project Engineer.

B. The State shall provide the following services under this contract:

- i. Combine the water and wastewater facilities relocation and adjustment plans with the plans being prepared for the Project.
- ii. Review and approve the final construction plans prior to any construction-related activities. In order to ensure federal and/or state funding eligibility, projects must be authorized by the State prior to advertising for construction.
- iii. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project.
- iv. Negotiate and administer all field changes and change orders required for the Project. All change orders increasing construction costs for Utility's Project shall be submitted to Utility for review and approval together with an evaluation. Utility agrees to review and either approve or disapprove all change orders within five (5) business days after receipt of such order unless Utility Board's approval is necessary in which case Utility shall bring the item to Utility Board as soon as reasonably possible.
- v. Provide overall project management to supervise the day-to-day activities of the construction and monitor the activities of the contractor to promote the timely and

CSJ # 0540-04-005
ROW CSJ # 0540-04-087
U # U00002763
District # 17-Bryan
Code Chart 64 # 09050
Project: Intersection Improvements
at FM 2154 and Holleman
Drive

- efficient completion of the Project in accordance with the approved Plans and Specifications and construction schedule.
- vi. Conduct field observations and coordinate with Utility's inspectors and the contractor to cure defects and deficiencies in the construction prior to final acceptance.
 - vii. Make timely payment to the contractor for work performed in connection with the Project.
 - viii. Ensure access and permit Utility's inspectors and other authorized representatives to inspect the waterline construction at all times.
 - ix. Conduct and coordinate final inspection of the Project in the presence of Utility's Engineer and Inspector, transmit final list of items to be completed or repaired and observe contractor correction of same.
 - x. Maintain job file.

CSJ # 0540-04-005
 ROW CSJ # 0540-04-087
 U # U00002763
 District # 17-Bryan
 Code Chart 64 # 09050
 Project: Intersection Improvements
at FM 2154 and Holleman
Drive

**ATTACHMENT B
 ESTIMATED UTILITY COSTS**

Based on various calculations, following are those amounts due and payable for Utility's costs associated with this project.

Description	Amount
Total Bid Costs	\$ 220,250
Less Betterment Amount Due from Utility (0%)	\$ -
Amount of Total Utility Relocation Costs	\$ 220,250
Estimated Amount Eligible for Reimbursement (calculated eligibility ratio = 0%)	\$ -
Amount of Utility Adjustment Due from Utility	\$ 220,250
Estimated Amount to be included in Construction Agreement:	
A. Betterment	\$ -
B. Utility Adjustment	\$ 220,250
C. Barricades - 2%	\$ 4,405
D. Mobilization - 5%	\$ 11,013
E. Engineering/Contingency - 5%	\$ 11,013
Total Due to State from Utility	\$ 246,681