

**RIGHT OF WAY MAINTENANCE AGREEMENT (LOCAL GOVERNMENT ONLY)**

**By and Between**

**THE**

**GEORGIA DEPARTMENT OF TRANSPORTATION**

**AND**

**Forest Park Police Department**

**PROJECT ID # N/A**

**PERMIT ID # ALPR-063-00003-7**

**STATE ROUTE: 3,54,160,331, MP Various to MP Various**

**THIS AGREEMENT** made and entered into \_\_\_\_\_ (“Effective Date”) by and between the **DEPARTMENT** of Transportation, an agency of the State of Georgia, hereinafter referred to as “**DEPARTMENT**”, and **Forest Park Police Department** hereinafter referred to as “**LOCAL GOVERNMENT**” (the **DEPARTMENT** and the **LOCAL GOVERNMENT** are sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

**WHEREAS**, the **DEPARTMENT** desires to enter into a partnership to perform certain services relating to maintenance within **DEPARTMENT’S** right of way, hereinafter called the “**PROJECT**”, and

**WHEREAS**, the **PROJECT** is associated with a permit approved and issued by the **DEPARTMENT**, permit identification number (PERMIT ID #), # ALPR-063-00003-7, which is referenced above and in **Exhibit A, MAINTENANCE AGREEMENT (MA) WORK PLAN**, and is hereby incorporated into this Agreement as if fully restated herein; and

**WHEREAS**, the **LOCAL GOVERNMENT** has represented to the **DEPARTMENT** that it shall bear all costs and liability associated with the **PROJECT**; and

**WHEREAS**, the **LOCAL GOVERNMENT** has represented to the **DEPARTMENT** that it is qualified and experienced to provide such services and the **DEPARTMENT** has relied upon such representation.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants as herein contained, it is agreed by and between the Parties hereto that:

**ARTICLE I**  
**SCOPE OF PROJECT**

The **DEPARTMENT** authorizes the **LOCAL GOVERNMENT** to perform or cause to be performed, the **PROJECT** consisting of certain services related to maintaining an identified section(s) of the **DEPARTMENT'S** rights of way. This Agreement does not provide the **LOCAL GOVERNMENT**, by implication or otherwise, any right, title or interest in or to the **DEPARTMENT'S** right-of-way in general nor to the **PROJECT** area specifically, except the right to conduct the **PROJECT** work set forth in the **MAINTENANCE AGREEMENT (MA) WORK PLAN (Exhibit A)** in accordance with the terms and conditions of this Agreement.

The maintenance duties and responsibilities of the **LOCAL GOVERNMENT** are defined set forth in **Exhibit A**, which is attached hereto and incorporated by reference as if fully set out herein. The **DEPARTMENT** grants to the **LOCAL GOVERNMENT** the right to maintain that specific section(s) of **DEPARTMENT** right-of-way located in CLAYTON County, as more particularly described in **Exhibit A**.

The **LOCAL GOVERNMENT** shall abide by the Federal Manual of Uniform Traffic Control Devices (MUTCD) standards, current edition, for temporary traffic control and the standards for all **PROJECT** activities. Equipment or materials utilized for the **PROJECT** must be moved on or across a traveled right of way in a manner as not to unduly interfere with traffic.

Should the **LOCAL GOVERNMENT** desire that these maintenance services be performed by a third party, the **LOCAL GOVERNMENT** and the third party shall enter into an agreement, whereby the **LOCAL GOVERNMENT** shall assume all responsibility for repayment to the third party for those services rendered as set forth in Exhibit A. The Agreement between the **LOCAL GOVERNMENT** and any third parties to this Agreement, shall meet all operational and administrative requirements, including the provisions of liability insurance, as set forth by the **DEPARTMENT**. All liability associated with the **PROJECT** shall be borne by the **LOCAL GOVERNMENT** and any third parties, as set forth in Article VIII, herein.

In the event the **LOCAL GOVERNMENT** desires to perform any major maintenance activities, including significant landscaping, installation or significant repair of fencing/site furnishings/murals/signs/walls/lighting, or any other activities that may interfere with traffic or pedestrian flow within the right of way **PROJECT** limits, the **LOCAL GOVERNMENT** understands and agrees that it shall apply for and obtain a permit in accordance with the current edition of the **DEPARTMENT'S**

Driveway & Encroachment Control Manual prior to performance, and execute a separate agreement with the **DEPARTMENT** associated specifically with such permit.

**ARTICLE II**  
**EXECUTION OF AGREEMENT AND AUTHORIZATION**  
**TIME OF PERFORMANCE**

The **LOCAL GOVERNMENT** shall begin work on the **PROJECT** under this Agreement immediately after receiving a signed and executed copy of the Agreement, unless noted otherwise in **Exhibit A**.

The duration of this Agreement shall be for fifty years from the Effective Date unless terminated sooner by the **DEPARTMENT** or the **LOCAL GOVERNMENT**, subject to the requisite triennial renewal of the Automated License Plate Reader (ALPR) permit, PERMIT ID # **ALPR-063-00003-7.**, pursuant to the rules set forth in the **DEPARTMENT's Regulations for Driveway & Encroachment Manual**. In the event the ALPR permit is not renewed, this Agreement shall immediately terminate (see Article IX).

**In Process**  
**ARTICLE III**

**SUBSTANTIAL CHANGES**

If, prior to the satisfactory completion of the services under this Agreement, any Party materially alters the scope, character or complexity of the services from those required under the Agreement, a Supplemental Agreement shall be executed between the Parties. It is understood, however, that the **LOCAL GOVERNMENT** shall not engage in any activities or conduct any work which would be considered to be outside the **PROJECT** scope of the permission granted to the **LOCAL GOVERNMENT** by the **DEPARTMENT**. Minor changes in the work which do not involve increased compensation, extensions of time, or changes in the goals and objectives of the work may be made by written notification of such change by any Party with written approval by the other Parties.

**ARTICLE IV**  
**ASSIGNMENT**

It is understood by the **LOCAL GOVERNMENT** that the work is considered personal and, except as provided for in Article I, the **LOCAL GOVERNMENT** agrees not to assign, sublet or transfer any or all of their interest in this Agreement without prior written approval of the **DEPARTMENT**.

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**ARTICLE V**  
**CONTRACT DISPUTES**

This Agreement shall be deemed to have been executed in **CLAYTON** County, Georgia, without reference to its choice of law doctrine, and all questions of interpretation and construction shall be governed by the laws of the State of Georgia. Any litigation arising out of this Agreement shall be commenced within the State of Georgia. The foregoing provisions shall not be construed as waiving any immunity to suit or liability, including without limitation, sovereign immunity which may be available to the Department.

**ARTICLE VI**  
**INSURANCE**

1. It is understood that the **LOCAL GOVERNMENT** (indicate by checking which is applicable):

is self-insured.

OR

shall obtain coverage from the **LOCAL GOVERNMENT's** private insurance company or cause its consultant/contractor to obtain coverage. **ACCORD COI**

Prior to beginning the work, the **LOCAL GOVERNMENT** shall furnish to the **DEPARTMENT**, a copy of the certificates and endorsement page(s) for the minimum amounts of insurance indicated below in Section 2 of this Article VI of the Agreement.

2. Minimum Amounts. The following minimum amounts of insurance coverage from insurers rated at least A- by A.M. Best's and registered to do business in the State of Georgia:

- (a) Workmen's Compensation Insurance in accordance with the laws of the State of Georgia.
- (b) Commercial General Liability Insurance of at least \$1,000,000 per occurrence \$3,000,000 aggregate, including Automobile Comprehensive Liability Coverage with bodily injury in the minimum amount of \$1,000,000 combined single limits each occurrence. The **DEPARTMENT** shall be named as an additional insured and a copy of the policy endorsement shall be provided with the insurance certificate.
- (c) The above-listed insurance coverages shall be maintained in full force and effect for the entire term of the Agreement. Failure by the **LOCAL GOVERNMENT** to procure and maintain the insurance as set forth above shall be considered a default and cause for termination of this Agreement and, if applicable, forfeiture of the Performance and Payment Bonds.
- (d) Excess liability coverage. To achieve the appropriate coverage levels set forth in this Article

VII, a combination of a specific policy written with an umbrella policy covering liabilities above stated limits is acceptable.

3. The **LOCAL GOVERNMENT** shall furnish upon request to the **DEPARTMENT**, certificates of insurance evidencing such coverage. The insurance certificate must provide the following:
  - i. Name, address, signature and telephone number of authorized agents.
  - ii. Name and address of insured.
  - iii. Name of Insurance Company.
  - iv. Description of coverage in standard terminology.
  - v. Policy number, policy period and limits of liability.
  - vi. Name and address of **DEPARTMENT** as certificate holder.
  - vii. Thirty (30) day notice of cancellation.
  - viii. Details of any special policy exclusions.
4. The **LOCAL GOVERNMENT** shall, at least fifteen (15) days prior to the expiration date or dates of expiring policies, deposit certified copies of renewal, or new policies, or other acceptable evidence of insurance with the **DEPARTMENT**.
5. Waiver of Subrogation. There is no waiver of subrogation rights by either Party with respect to insurance.

## ARTICLE VII

### COMPENSATION

It is agreed that the **LOCAL GOVERNMENT** shall conduct all work at no cost to the **DEPARTMENT**, and without compensation from the **DEPARTMENT**. It is further agreed that any and all issues relating to compensation and payment shall be resolved by and between the **LOCAL GOVERNMENT** and any successors, subcontractors, or assigns thereto.

The **DEPARTMENT** and the **LOCAL GOVERNMENT** further agree that, should the **DEPARTMENT** be required to conduct any inspections and/or supervision of the **PROJECT** beyond that which would normally occur in the ordinary course of the **DEPARTMENT'S** maintenance activities, the **LOCAL GOVERNMENT** shall reimburse the **DEPARTMENT** for such inspection and supervision. The rate of reimbursement for the **DEPARTMENT'S** inspection and supervision shall in no case exceed a rate determined to be reasonable by the Parties.

Should the **LOCAL GOVERNMENT** and the **DEPARTMENT** desire to change this agreement at a later date to provide for compensation to the **LOCAL GOVERNMENT**, or any successors or assigns thereto, such change shall only be permitted by a supplemental agreement as set forth in Article III herein. Any supplemental agreements involving compensation shall be subject to the **DEPARTMENT** review and approval.

**ARTICLE VIII**  
**RESPONSIBILITY FOR CLAIMS AND LIABILITY**  
**LOCAL GOVERNMENT NOT AGENT OF DEPARTMENT**

To the extent allowed by law, the **LOCAL GOVERNMENT** and all successors and assigns thereto, shall save harmless the **DEPARTMENT**, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the performance of **PROJECT** work under this Agreement, or due to any breach of this Agreement by the **LOCAL GOVERNMENT**, except to the extent of harm caused by the **DEPARTMENT** or its agents. These indemnities shall not be limited by reason of the listing of any insurance coverage.

The **LOCAL GOVERNMENT** further agrees that it shall be fully responsible for injury or damage to landscaping, landscape related items, and any other non-standard and decorative elements previously installed by or for the **LOCAL GOVERNMENT** within the right of way, and for any damage to the **DEPARTMENT'S** signs, structures, or roadway fixtures, if the **LOCAL GOVERNMENT** caused the damage.

It is further understood and agreed that the **LOCAL GOVERNMENT**, or any successor or assigns thereto, in the conduct of any work involved in the **PROJECT**, shall not be considered the agent of the **DEPARTMENT** or of the State of Georgia.

**ARTICLE IX**  
**TERMINATION OF CONTRACT**

The **DEPARTMENT** may terminate this Agreement for just cause or convenience at any time by giving the **LOCAL GOVERNMENT** at least thirty (30) days written notice of such termination, unless there is imminent or serious danger to the public health, safety, or welfare or to property, or the ALPR permit associated with this Agreement (PERMIT ID **ALPR-063-00003-7**) is not renewed, in which case termination shall be immediate. Upon receipt of such notice of termination, the **LOCAL GOVERNMENT** shall discontinue and cause all **PROJECT** work under this Agreement to terminate upon the date specified in the said notice. In the event of such termination, the **DEPARTMENT** shall be paid for any amounts as may be due it as specified in Article VII up to and including the specified date of termination.

The **LOCAL GOVERNMENT** shall have the right to terminate this Agreement at any time by giving the **DEPARTMENT** at least thirty (30) days advance written notice, provided that the **DEPARTMENT** is reimbursed in full for all services rendered pursuant to Article VII. Termination initiated by the **LOCAL GOVERNMENT** shall be contingent upon the following, if applicable:

- (a) The **LOCAL GOVERNMENT**, at the discretion of the **DEPARTMENT**, removing the planted landscaping, landscape related items, and any other non-standard and decorative elements that were installed by or for the **LOCAL GOVERNMENT** at no cost to the **DEPARTMENT**.
- (b) The **LOCAL GOVERNMENT** restoring the removed landscape areas to their original condition or a condition that meets federal standards and is acceptable to the **DEPARTMENT**.
- (c) The **LOCAL GOVERNMENT** restoring the removed non-standard and decorative elements with standard **DEPARTMENT** elements that meet federal and state requirements.
- (d) The **LOCAL GOVERNMENT** reimbursing the **DEPARTMENT** in full any state and/or federal funds used to purchase and install the landscaping, landscape related items, and other non-standard and decorative elements that are no longer to be maintained by the **LOCAL GOVERNMENT**.

The **DEPARTMENT** and the **LOCAL GOVERNMENT** agree that should the **LOCAL GOVERNMENT** fail to perform the maintenance activities as set forth in Exhibit A, the **DEPARTMENT** may require the **LOCAL GOVERNMENT** to remove, restore, and reimburse according to items “A”, “B”, “C”, and “D” above, as applicable, and then terminate the Agreement.

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#### **ARTICLE X**

#### **COMPLIANCE WITH APPLICABLE LAW**

The undersigned certify that:

- 1. This Agreement is subject to applicable state and federal laws, standards, and rules and regulations.
- 2. The provisions of Sections 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State Employees and Officials Trading with the State have been complied with in full.
- 3. The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-Free Workplace Act” have been complied with in full.



**ARTICLE XI**  
**MISCELLANEOUS**

1. **NON-WAIVER.** No failure of either Party to exercise any right or power given to such Party under this Agreement, or to insist upon strict compliance by the other Party with the provisions of this Agreement, and no custom or practice of either Party at variance with the terms and conditions of this Agreement, will constitute a waiver of either Party's right to demand exact and strict compliance by the other Party with the terms and conditions of this Agreement.
2. **NO THIRD-PARTY BENEFICIARIES.** Nothing contained herein shall be construed as conferring upon or giving to any person, other than the Parties hereto, any rights or benefits under or by reason of this Agreement.
3. **SOVEREIGN IMMUNITY.** Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions under the Georgia Constitution.
4. **CONTINUITY.** Each of the provisions of this Agreement will be binding upon and inure to the benefit and detriment of the Parties and the successors and assigns of the Parties.
5. **WHEREAS CLAUSE AND EXHIBITS.** The Whereas Clauses and Exhibits hereto are a part of this Agreement and are incorporated herein by reference.
6. **SEVERABILITY.** If any one or more of the provisions contained herein are for any reason held by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
7. **CAPTIONS.** The brief headings or titles preceding each provision hereof are for purposes of identification and convenience only and should be completely disregarded in construing this Agreement.
8. **INTERPRETATION.** Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agent prepared the same, it being agreed that the agents of all Parties have participated in the preparation hereof.
9. Pursuant to O.C.G.A. Sec. 50-5-85, the **LOCAL GOVERNMENT** hereby certifies that it is not currently engaged in, and agrees that for the duration of this contract, it will not engage in a boycott of Israel.

10. **ENTIRE AGREEMENT.** This Agreement supersedes all prior negotiations, discussion, statements and agreements between the Parties and constitutes the full, complete and entire agreement between the Parties with respect hereto; no member, officer, employee or agent of either Party has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement. No modification of or amendment to this Agreement will be binding on either Party hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both Parties and incorporated in and by reference made a part hereof.

**THE REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURES ON THE FOLLOWING PAGE.**

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The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the Parties hereto.

IN WITNESS WHEREOF, said Parties have hereunto set their hand and affixed their seals the day and year above first written.

**GEORGIA DEPARTMENT OF TRANSPORTATION**

\_\_\_\_\_(Seal)  
Commissioner or designee

ATTEST:

\_\_\_\_\_  
Treasurer

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**LOCAL GOVERNMENT:**

\_\_\_\_\_(Seal)

Name and Title: Ricky Clark

ATTEST:

\_\_\_\_\_

Name and Title: \_\_\_\_\_

**EXHIBIT A**  
**MAINTENANCE WORK PLAN**  
**ALPR PERMIT ID # ALPR-063-00003-7**

Camera adjustments, solar panel cleaning, solar panel replacements, and camera replacements may be performed as needed at each location (listed below). Maintenance, if required, is to be done to Flock Safety specification by a Flock Safety Technician.

[Safety Technician]: [Tyler Webb/ 470-833-8280]

No.	State Route	Mile Marker	Coordinates		Location Description
1	SR 54	10	33.6161078096953	84.3498204349157	Jonesboro Rd SB @ Courtney Dr
2	SR 3	15	33.628910371377	84.3847972880876	Old Dixie @ Southpoint - NB
3	SR 54	12	33.6471138741604	-84.36487011323	Jonesboro @ Ruskin - NB
4	SR 160	54 Connector	33.6409434350626	-84.3540924245352	Thurman @ Conley
5	SR 331	0.5	33.6183571451741	-84.3958627721306	Forest Parkway @ Frontage Rd WB

[ENTER ANY ADDITIONAL SPECIFIC MAINTENANCE ACTIVITES TO BE PERFORMED, P  
 APPLICABLE STANDARDS THE MAINTENANCE ACTIVITIES MUST MEET, MAPS, PLANS, ETC.  
 THE LIMIT IS APPROXIMATELY 4,000 CHARACTERS]