

**MEMORANDUM OF AGREEMENT BETWEEN
THE TEXAS DEPARTMENT OF TRANSPORTATION AND
THE JEFFERSON COUNTY SHERIFF'S OFFICE**

STATE OF TEXAS §

COUNTY OF JEFFERSON §

THIS AGREEMENT ("Agreement") is entered by and through the **Texas Department of Transportation**, hereinafter referred to as "**TXDOT**", and the **Jefferson County Sheriff's Office**, hereinafter referred to as "**JCSO**," and is to become effective when fully executed by both parties.

WITNESSETH

WHEREAS, JCSO has requested TXDOT to permit the installation maintenance and operation of a license plate reader camera system ("LPR System") on the highway right of way at the locations to be identified by JCSO at a later date, hereinafter referred to as the "Premises". As the LPR System locations are identified, JCSO will submit to TXDOT a conceptual site plan and legal description for each such location, and upon approval of the plans by TXDOT, will be incorporated into this Agreement and attached hereto; and,

WHEREAS, TXDOT has indicated its willingness to approve the establishment of the LPR System as being in the public interest, conditioned on TXDOT's determination from engineering and traffic investigations conducted in accordance with the terms of this Agreement, that such use will not damage the highway facilities, impair safety, impede maintenance or in anyway restrict the operation of the highway; and

WHEREAS, it is recognized by TXDOT that JCSO intends to locate the LPR System on the highway right of way locations designated as "Premises" by his Agreement for the purpose of enforcing laws of the State of Texas concerning public safety and crime prevention and detection; and

WHEREAS, it is acknowledged by TXDOT and JCSO that this Agreement will satisfy the requirements of 43 Texas Administrative Code, Chapter 11, Subchapter B, §11.21 for joint use of highway right of way and will not be construed as a contract under the Interagency Cooperation Act in Government Code, Chapter 771;

AGREEMENT

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. DESIGN AND INSTALLATION

JCSO will prepare or provide plans for installation of the LPR System and will provide for the installation work as required by said plans at no cost to TXDOT. Said plans shall include the design of the access control, necessary horizontal and vertical clearances for highway structures, adequate landscape treatment, and adequate detail to ensure compliance with applicable structural design standards, sufficient traffic control provisions, and general layout. Completed plans will be submitted to TXDOT for prior review and approval. Installation shall not commence until plans have been approved by TXDOT. This review and determination process will apply to each LPR System location and will occur in a timely manner but in no case more than 30 days from the submission of a site- location's conceptual plan and legal description, including metes and bounds if available.

2. HIGHWAY MAINTENANCE AND INSPECTION

Ingress and egress shall be allowed at all times to the Premises for Federal Highway Administration personnel and TXDOT personnel and equipment when highway maintenance operations are necessary as well as for highway safety inspection purposes. Other than regular inspection and maintenance such as mowing and trash removal, TXDOT will coordinate its maintenance activities with JCSO to avoid interference with its operation of the LPR System to the maximum extent feasible.

3. PROHIBITIONS - PARKING, THIRD PARTY USE, SIGNS

Parking on the Premises will be limited to vehicles involved in the installation and maintenance of the LPR System, the inspection and/or searches of vehicles, and other law enforcement purposes related to the LPR System. Peddling of any sort in the area will be prohibited. The erection of signs on TXDOT property or rights of way other than those required for proper use of the area will be prohibited. All signs placed by JCSO on TXDOT property or rights of way shall be approved by TXDOT prior to the actual erection.

4. RESPONSIBILITIES

Maintenance and operation of the LPR System shall be entirely the responsibility of the JCSO and its contractors. JCSO shall maintain and operate the Premises in a clean and safe manner to the extent practicable. The existence or use of the LPR System shall not damage or impede maintenance or operation of the highway facility, impair safety of the traveling public, or constitute a nuisance.

5. TERMINATION UPON NOTICE

This Agreement may be terminated by mutual agreement of the parties, upon abandonment by JCSO, or for material breach of this Agreement. No termination will become effective, other than by mutual agreement of the parties, without written notice of the basis for the termination and affording a reasonable opportunity, through appropriate administrative channels, to resolve any dispute between the parties. No termination may take effect less than 180 days from the date that proper notice is received by the terminated party, unless otherwise agreed to by the parties.

6. MODIFICATION - ASSIGNMENT OF AGREEMENT

This Agreement may only be modified by written mutual agreement, as described herein. Modifications may be requested by either party upon furnishing a written request for modification, along with a draft of the proposed modification, to the other party at least 30 days prior to the desired effective date, unless exigent or emergency circumstances are present. Modifications shall be formalized by an appropriate written amendment signed by authorized representatives of each party. No official, representative, or employee of either party has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the governing body of the party.

This Agreement shall not be transferred, assigned or conveyed to a third party, whether a governmental entity or otherwise, without the prior written approval of the parties.

7. PROHIBITION OF STORAGE OF FLAMMABLE MATERIALS

JCSO will not store flammable, explosive or hazardous materials on the Premises or any other TXDOT property at or near the locations covered by this Agreement. Any structures constructed by JCSO in accordance with this Agreement will meet the appropriate nationally recognized fire code.

8. RESTORATION OF AREA

All improvements made to the Premises by JCSO, whether temporary or permanent, shall remain the property of JCSO. In the event that this Agreement is terminated in accordance with Section 5 herein, JCSO shall submit a plan to TXDOT to restore the area to a condition reasonably satisfactory to TXDOT. The restoration shall be completed within 180 days from the effective date of termination unless the parties agree to a different schedule based upon the restoration plan.

9. ENTIRE AGREEMENT

This is the complete and entire Agreement between the parties with respect to the matters herein and supersedes all prior negotiations, agreements, representations, and understandings, if any. This Agreement shall not affect the provisions of any other agreement between the parties regarding the provision of other services.

10. NO AGENCY/EMPLOYEE RELATIONSHIP

Each party acknowledges that this Agreement does not render it an agent, servant or employee of the other, and that each party is responsible for its own acts and deeds and those of its own agents and employees.

11. NO THIRD PARTY BENEFICIARIES

This document is an inter-governmental agreement among the parties and does not create or confer any rights, privileges, or benefits to any person or entity other than the parties hereto. Nothing in this Agreement shall be construed as creating any liability in favor of any third party against TXDOT or JCSO. Additionally, this Agreement shall not be construed as relieving any third party from any liability to TXDOT or JCSO.

12. INSURANCE

Prior to beginning work on TXDOT's right of way, the JCSO's installation contractor shall submit to TXDOT a completed insurance form (TXDOT Form No. 1560) and shall maintain the required coverage during the installation of the LPR System. Nothing herein shall be construed as a waiver of any applicable federal laws or regulations related to insurance coverage.

13. USE OF RIGHT OF WAY

It is understood that TXDOT by execution of this Agreement does not impair or relinquish TXDOT's right to use the Premises for highway purposes when it is

required for construction, re-construction, or improvement of the traffic facility for which it was acquired, nor shall use of the land under this Agreement ever be construed as abandonment by TXDOT of such land acquired for highway purposes, and TXDOT does not purport to grant any interest in the land described herein but merely consents to such use to the extent its authority and title permits. In the event the Premises are required for construction, re-construction, or improvement of the traffic facility and TXDOT determines that the LPR System needs to be relocated, TXDOT will, to the extent reasonably practicable, provide an alternative site acceptable to JCSO within the same general area as the Premises, and JCSO will diligently work to relocate the LPR System to that location. All plans and construction work for the relocation shall be at no cost to TXDOT.

14. ADDITIONAL CONSENT REQUIRED

TXDOT asserts only that it has sufficient title for highway purposes. JCSO shall be responsible for obtaining such additional consents, permits or agreements as may be necessary in furtherance of its performance under this Agreement. Such additional consents, permits or agreements shall include, but are not limited to, appropriate permits and clearances for environmental, Americans with Disabilities Act and public utilities, if applicable.

15. FHWA ADDITIONAL REQUIREMENTS

If the LPR System is located on the Federal-Aid Highway System, "ATTACHMENT A", which states additional requirements as set forth in the Federal Highway Administration's Title 23, Code of Federal Regulations, §710, shall be attached to and become a part of this agreement.

16. CIVIL RIGHTS ASSURANCES

JCSO, for itself, its personal representatives, successors and interests and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no persons, on the ground of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that JCSO shall use the Premises in compliance with all other requirements imposed by Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended; the Americans with Disabilities Act of 1990 as applied to the federal sector under and sections 501 and 505 of the Rehabilitation Act of 1973, as amended; the Age Discrimination in Employment Act of 1967 (Pub. L. 90-202) (ADEA), as

amended; and applicable implementing regulations of these anti-discrimination laws at Title 29, Code of Federal Regulations (CFR) (Equal Employment Opportunity Commission) and Title 28, CFR (U.S. Department of Justice).

Nothing in this Section shall be construed or interpreted to limit JCSO's ability to steadfastly enforce laws concerning public safety and crime prevention and detection.

17. APPROPRIATED FUNDS

Nothing in this Agreement shall be construed or interpreted to obligate the parties to any current or future expenditure of funds in advance of, or in excess of, the availability of appropriations, nor does this Agreement obligate the parties to spend funds for any particular project or purpose, even if funds are available.

18. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this agreement.

19. NOTICES

All notices required under this Agreement shall be in writing and mailed or hand delivered to the following respective addresses:

TXDOT

(Mailing Address)

Texas Department of Transportation
Maintenance Division
125 East 11th Street
Austin, Texas 78701-2483

JCSO

(Mailing Address)

Jefferson County Sheriff's Office
Patrol
1001 Pearl Street
Beaumont, Texas 77701

Either party may change the address by giving written notification to the other party.

20. RIGHT TO AUDIT

TXDOT and JCSO agree the representatives of the State Auditor's Office, JCSO or TXDOT, or other authorized representatives of the state of Texas, shall have access to, and the right to audit, examine, or reproduce, any and all records of the TXDOT and JCSO related to the performance under this Agreement. TXDOT and JCSO shall retain all such records for a period of two

(2) years or until all audit and litigation matters TXDOT or JCSO has brought to the attention of each other are resolved, whichever is longer.

TXDOT and JCSO shall include the above section in all subcontractor agreements, if any, entered into in connection with this Agreement.

21. WARRANTIES

The signatories to this agreement warrant that each party has the authority to enter into this Agreement on behalf of the party represented. The signatories further warrant that he or she has read and understands all of the terms and conditions of this Agreement, and each party acknowledges receipt of a true copy hereof at the time of execution. All of the terms and conditions hereof are part of this Agreement, and there are no express or implied warranties, modifications, or performance guarantees other than those expressly stated herein.

22. MULTIPLE COUNTERPARTS

This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original and all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have signed this Agreement to be effective as of the last date contained below.

Signature Date

LtGen J.F. Weber, USMC (Ret)
Executive Director
Texas Department of Transportation

 6-6-17
Signature Date

Zena Stephens
Sheriff
Jefferson County Sheriff's Office

ATTACHMENT A

Inasmuch as this project is on the Federal-Aid highway system, the following additional requirements shall be observed as applicable with the Federal Highway Administration's Title 23, Code of Federal Regulations, §710.

1. Any significant revision in the design or construction of the Public Road shall receive prior approval by the Texas Department of Transportation subject to concurrence by the Federal Highway Administration ("FHWA").
2. Any change in the authorized use of airspace shall receive prior approval by the Texas Department of Transportation subject to concurrence by the FHWA.
3. The airspace shall not be transferred, assigned or conveyed to another party without prior Texas Department of Transportation approval subject to concurrence by the FHWA.
4. This Agreement shall be revocable by either party hereto in the event that the airspace Public Road ceases to be used or is abandoned.