

ORDINANCE NO. 202

Form 1037  
Ordinance  
September 1996

AN ORDINANCE APPROVING THE AGREEMENT DATED FEBRUARY 19, 2014  
BETWEEN THE STATE OF TEXAS AND THE CITY OF WALLIS FOR THE  
MAINTENANCE, CONTROL, SUPERVISION AND REGULATION OF CERTAIN STATE HIGHWAYS AND/OR  
PORTIONS OF STATE HIGHWAYS IN THE CITY OF WALLIS AND  
PROVIDING FOR THE EXECUTION OF SAID AGREEMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1.

That the certain agreement dated February 19, 2014, between the State of Texas and the City  
of Wallis for the maintenance, control, supervision and regulation  
of certain State Highways and/or portions of State Highways in the City of Wallis  
and the same is, hereby approved; and that Mayor Jerry Delso is hereby  
authorized to execute said agreement on behalf of the City of Wallis  
and to transmit the same to the State of Texas for appropriate action.

SECTION 2.

The fact that the work contemplated under the above mentioned agreement is 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: February 19, 2014

APPROVED: February 19, 2014

Jerry Delso  
Mayor

ATTEST:

K. G. Sommer  
Secretary

City of Wallis  
Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City Attorney

# MUNICIPAL MAINTENANCE ORDINANCE

Form 1037-1

AN ORDINANCE PROVIDING FOR THE MAINTENANCE OF CERTAIN STATE HIGHWAYS AND/OR PORTIONS OF STATE HIGHWAYS IN THE CITY OF WALLIS, COUNTY OF Austin, TEXAS, HEREBY REFERRED TO AS MUNICIPAL MAINTENANCE PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OR OTHER AUTHORIZED CITY OFFICIAL, TO EXECUTE AND AFFIX THE CORPORATE SEAL AND ATTEST SAME. A CERTAIN AGREEMENT BETWEEN THE CITY AND THE STATE OF TEXAS, PROVIDING FOR THE MAINTENANCE AND USE OF THE SAID MAINTENANCE PROJECT; AND DECLARING AN EMERGENCY AND PROVIDING THAT THIS ORDINANCE SHOULD BE EFFECTIVE FROM AND AFTER ITS PASSAGE.

WHEREAS, the Public convenience, safety and necessity of the City and the people of the City require that State Highway routes within the City be adequately maintained; and

WHEREAS, the City has requested that the State of Texas enter upon and contribute financially to the maintenance of said project; and

WHEREAS, the State of Texas has made it known to the City that it will, with its own forces and equipment and at its sole cost and expense enter upon and maintain said project, conditioned upon the provisions concerning liabilities and responsibilities for maintenance, control, supervision and regulation which are set out in the form attached hereto, made a part thereof and marked MUNICIPAL MAINTENANCE AGREEMENT; and

WHEREAS, said project consists of those State Highways and/or portions thereof which are described and included in the form attached hereto and marked MUNICIPAL MAINTENANCE AGREEMENT.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wallis

SECTION 1. That the public convenience, safety and necessity of the City and the people of the City require said project be adequately maintained.

SECTION 2. That the State of Texas be and is hereby authorized to enter upon and maintain said maintenance projects.

SECTION 3. That the Mayor, or proper City official, of the City, be and is hereby authorized to execute for and on behalf of the City an Agreement with the State of Texas, in accordance with and for the purpose of carrying out the terms and provisions of this order, in the form attached hereto, made a part hereto, and marked MUNICIPAL MAINTENANCE AGREEMENT. The City Secretary is hereby directed to attest the agreement and to affix the proper seal of the City thereto.

SECTION 4. The Mayor of the City, having requested in writing that this ordinance take effect forthwith and there being in fact an emergency and imperative necessity that the work herein provided for be begun and carried out promptly and with expedition and that the agreement aforesaid shall be immediately made, executed and delivered to the end that such work herein provided for may be begun and carried out promptly and with expedition. The reading of the ordinance on three several days is hereby dispensed with and the same shall be in full force and effect from and after its passage.

STATE OF TEXAS §

COUNTY OF TRAVIS §

I, DJ Sommers, the duly appointed, qualified and acting city secretary of the City of Wallis, Texas, hereby certify that the foregoing pages constitute a true and correct copy of an ordinance duly passed by the City Council at a meeting held on February 19, A.D., 2014, at 7:00 o'clock  a.m.  p.m. .

To certify which, witness my hand and seal of the City of Wallis, Texas, this due 19th day of February, 2014, at Wallis, Texas.

D.J. Sommers  
City Secretary of the City of

Wallis, Texas

THE STATE OF TEXAS        §  
THE COUNTY OF TRAVIS     §

**AMENDMENT TO  
MUNICIPAL MAINTENANCE AGREEMENT  
FOR THE FURNISHING, INSTALLING,  
OPERATION AND MAINTENANCE OF CAMERAS ON STATE HIGHWAY  
RIGHTS-OF-WAY TO MONITOR COMPLIANCE WITH TRAFFIC-CONTROL SIGNALS**

**THIS AMENDMENT** is made by and between the State of Texas, acting through the Texas Department of Transportation, hereinafter called the "State" and the City of \_\_\_\_\_ Wallis \_\_\_\_\_ hereinafter called the "City", acting by and through its duly authorized officers.

**W I T N E S S E T H**

**WHEREAS**, the State owns and maintains a system of highways and roadways in the City of \_\_\_\_\_ Wallis \_\_\_\_\_ pursuant to Transportation Code, Section 201.103; and

**WHEREAS**, the State and the City executed a Municipal Maintenance Agreement on \_\_\_\_\_ February 19, 2014 \_\_\_\_\_ ; and

**WHEREAS**, the City has requested permission to install cameras on state highway rights-of-way to monitor compliance with traffic-control signals, hereinafter referred to as "camera monitoring equipment", at the locations listed on Exhibit A attached hereto and made a part of hereof; and

**WHEREAS**, the State has determined that when the City's installation of camera monitoring equipment will not damage the highway facility, impair safety, impede maintenance or in any way restrict the operation of the highway, the proposed camera monitoring equipment may be installed by the City or its contractor;

**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:

**A M E N D M E N T**

**ARTICLE 1. CONTRACT PERIOD**

This amendment becomes effective on final execution by the State and shall remain in effect as long as said camera monitoring equipment is in operation at the described locations.

**ARTICLE 2. TERMINATION**

This amendment may be terminated by one of the following conditions:

- 1) By mutual agreement of both parties;
- 2) By the State giving written notice to the City as consequence of failure by the City or its contractor to satisfactorily perform the services and obligations set forth in this amendment, with proper allowances being made for circumstances beyond the control of the City or its contractor. The State's written notice to the City shall describe the default and the proposed termination date. If the City cures the default before the proposed termination date, the proposed termination is ineffective; or
- 3) By either party upon thirty (30) days written notice to the other.

Termination of this amendment shall not serve to terminate the underlying Municipal Maintenance Agreement between the State and the City.

### ARTICLE 3. COMPENSATION

No compensation shall be paid for this amendment.

### ARTICLE 4. PERSONNEL, EQUIPMENT, AND MATERIAL

- A. The City will use labor and supervisory personnel employed directly by the City or its contractor and use City owned or contractor owned machinery, equipment, and vehicles necessary for the work. In the event that the City or its contractor does not have the machinery, equipment and vehicles necessary to perform the work, the machinery, equipment, and vehicles may be rented or leased as necessary.
- B. No reimbursement shall be paid for any materials supplied by the City or its contractor.
- C. Any adjustment, replacement or reinstallation of the camera monitoring equipment due to reconstruction or alteration of the intersection shall be performed by the City at the City's expense. The State will work with the City to provide adequate notice of any planned work to allow for the necessary modification or removal.
- D. All installation or maintenance work performed by the City or its contractor requiring traffic control shall be performed in accordance with the *Texas Manual on Uniform Traffic Control Devices*.

### ARTICLE 5. INSPECTION OF WORK

- A. The City or its contractor will furnish the State a complete set of design drawings and installation plans for review. The installation plans shall include all electrical, electronics, signing, civil and mechanical work pertaining to the camera monitoring equipment.
- B. The State reserves the right to inspect and request modification of any camera monitoring equipment under this agreement both prior to and after installation. No installation may occur until the State has approved the proposed installation.
- C. The State reserves the right to inspect and approve the completed installation.
- D. The State will promptly notify the City or its contractor of any failure of materials, equipment or installation methods and the City or its contractor will take such measures necessary to obtain acceptable systems components and installation procedures without delay.

### ARTICLE 6. RESPONSIBILITIES OF THE PARTIES

The parties 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. The State shall not be held responsible for the operation (or non-operation) of the camera monitoring equipment or for any effect it may have.

The City is responsible for any damage that may occur to state equipment during the installation, maintenance or operation of the camera monitoring equipment. The City is responsible for maintaining the camera monitoring equipment and related signing in good working order and keeping such equipment free from graffiti.

### ARTICLE 7. DE-ACTIVATION OF CAMERA MONITORING EQUIPMENT

The State reserves the right to disconnect and remove camera monitoring equipment from the traffic signals should any problem arise affecting the State. The State will notify the appropriate City office of the de-activation of the camera monitoring equipment. Upon correction of the problem, the City may reconnect the camera monitoring equipment.

**ARTICLE 8. INSTALLATION REQUIREMENTS**

The City or its contractor shall furnish and install all equipment related to the camera monitoring equipment installation. This includes, but is not limited to, camera equipment, camera housing and supporting structure, intersection lighting, vehicle detection system, communications equipment, electrical service and connections, roadway signing and any interconnection with the signal. The City or its contractor will be responsible for all power costs associated with the operation of the camera monitoring equipment.

Electrical connections made to the State's signal equipment shall be optically or otherwise isolated as approved by the State and shall not affect the operation of any component of the traffic signal system including both the signal controller and the conflict monitor/malfunction management unit.

**ARTICLE 9. REPORTS**

Upon written request, the City will be required to supply the State with data related to the operation of the camera monitoring equipment.

**ARTICLE 10. REMEDIES**

Violation or breach of contract terms by the City shall be grounds for termination of the amendment, and any increased cost arising from the City default, breach of contract or violation of terms shall be paid for by the City. This amendment shall not be considered as specifying the exclusive remedy for default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

**ARTICLE 11. INSURANCE**

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 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.

**ARTICLE 12. SUCCESSORS AND ASSIGNS**

The City shall not assign or otherwise transfer its rights or obligations under this amendment except with the prior written consent of the State.

**ARTICLE 13. LEGAL CONSTRUCTION**

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

**ARTICLE 14. NOTICES**

All notices to either party by the other required under this amendment shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

City: <u>Wallis</u>	State: <u>Texas</u>
City: _____	State: _____
City: _____	State: _____
City: _____	State: _____
City: _____	State: _____

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

**ARTICLE 15. GOVERNING LAWS AND VENUE**

This amendment shall be construed under and in accordance with the laws of the State of Texas. Any legal actions regarding the parties' obligations under this agreement must be filed in Travis County, Texas.

**ARTICLE 16. PRIOR AGREEMENTS SUPERSEDED**

This amendment constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting within the subject matter.

**ARTICLE 17. REVISIONS TO EXHIBIT A**

Revision to the locations listed in Exhibit A may be made if submitted in writing by the City and initialed by both parties.

**IN WITNESS WHEREOF**, the State and the City have signed duplicate counterparts of this agreement.

The CITY OF Wallis

Executed on behalf of the City by:

By  Date 02/19/14

Typed or Printed Name and Title Jerry Deslo - Mayor

**THE STATE OF TEXAS**

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By \_\_\_\_\_ Date \_\_\_\_\_  
District Engineer