



Privacy Advisory Commission

July 7, 2022 5:00 PM

Teleconference

Meeting Agenda

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt*

Pursuant to California Government Code section 54953(e), Oakland Privacy Advisory Commission Board Members/Commissioners, as well as City staff, will participate via phone/video conference, and no physical teleconference locations are required.

TO OBSERVE:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85817209915>

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TO COMMENT:

1) To comment by Zoom video conference, you will be prompted to use the “Raise Your Hand” button to request to speak when Public Comment is being taken on the eligible Agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted.

2) To comment by phone, you will be prompted to “Raise Your Hand” by pressing “* 9” to request to speak when Public Comment is being taken on the eligible Agenda Item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted.

ADDITIONAL INSTRUCTIONS:

1) Instructions on how to join a meeting by video conference is available at: <https://support.zoom.us/hc/en-us/articles/201362193%20-%20Joining-a-Meeting#>

2) Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663%20Joining-a-meeting-by-phone>

3) Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-In-a-webinar>

1. Call to Order, determination of quorum

2. Adopt a Renewal Resolution regarding AB 361 establishing certain findings justifying the ongoing need for virtual meetings
3. Review and approval of the draft May special meeting and June meeting minutes
4. Open Forum/Public Comment
5. Surveillance Equipment Ordinance – OPD – Annual Report (Automated License Plate Readers)
 - a. Review and take possible action on the annual report
6. Document Submission Proposal – Vice Chair Katz – Proposed policy regarding submission of documents to PAC by staff
 - a. Review and take possible action on proposed policy
7. Surveillance Equipment Ordinance – OPD – Crime Lab DNA Instrumentation Policy
 - a. Review and take possible action on the proposed use policy
8. Surveillance Equipment Ordinance – DVP – Apricot 360 database
 - a. Review and take possible action on Impact Report and proposed Use Policy
9. Surveillance Equipment Ordinance – DOT – Mobile Parking Payment System
 - a. Review and take possible action on Impact Report and proposed Use Policy

OAKLAND PRIVACY ADVISORY COMMISSION

RESOLUTION NO. 2

ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE PRIVACY ADVISORY COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

WHEREAS, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

WHEREAS, City Council Resolution No. 88075 remains in full force and effect to date; and

WHEREAS, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. See <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

WHEREAS, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

WHEREAS, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19

symptoms stay home. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

WHEREAS, persons without symptoms may be able to spread the COVID-19 virus. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

WHEREAS, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

WHEREAS, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

WHEREAS, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

WHEREAS, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

WHEREAS, on October 7, 2021, the Privacy Advisory Commission adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

RESOLVED: that the Privacy Advisory Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

FURTHER RESOLVED: that, based on these determinations and consistent with federal, state and local health guidance, the Privacy Advisory Commission renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

FURTHER RESOLVED: that the Privacy Advisory Commission firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

FURTHER RESOLVED: that the Privacy Advisory Commission will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Privacy Advisory Commission finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.



Privacy Advisory Commission

May 18, 2022 5:00 PM

Teleconference

Special Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt*

1. Call to Order, determination of quorum

Members Present: Hofer, Katz, Sulieman, Oliver, De La Cruz

2. Adopt a Renewal Resolution regarding AB 361 establishing certain findings justifying the ongoing need for virtual meetings

The Resolution was adopted unanimously.

3. Open Forum/Public Comment

There were no public speakers.

4. Surveillance Equipment Ordinance – DVP – Apricot 360 database
 - a. Review and take possible action on Impact Report and proposed Use Policy

Vice Chair Katz made a motion to adjourn the meeting due to a document that was submitted that was not in the packet. He was referring to a letter from a member of the public that included responses from staff that some members of the PAC had seen but was not published. Member Oliver seconded the motion.

Chair Hofer noted that he would have liked to include the info in the packet but the agenda went out prior to his review but also that he would like to use the opportunity of the meeting to still meet and discuss concerns with the proposed use. Member Sulieman shared concern that the public should be able to provide public comment.

Joe DeVries noted that the material in question (a letter from a member of the public) is not typically included in published agenda packets and therefore not a Brown Act violation. Chair Hofer agreed but also added he wanted to see the letter's responses as well as a City Council Staff Report included in the packet.

The vote to adjourn was 3 ayes, 1 no, and 1 abstention. After the vote there was still a question as to whether the public could comment. The City Attorney confirmed that if a vote to end is successful, the meeting ends. Joe DeVries pointed out that the winners of the motion could move for a vote to reconsider and the meeting could instead continue and the City Attorney confirmed that such a vote could reconvene the meeting. He also noted that he sees no public meeting law violations.

Member Suleiman made a motion to reconsider the motion to terminate the meeting, with the understanding that the PAC would not take action today but would take public comment on the item. Chair Hofer seconded the motion and it passed with one abstention (Katz).

There were two public speaker on the item:

Assata Olugbala raised alarm that the PAC discussed an item not on the agenda and possibly was violating the Brown Act. She asked that only the Parliamentarian determine any Brown Act violations.

Dr. Paula Hawthorn spoke about her concerns, in particular the historic practices where CBO's who receive funding are independent and maintain their own data. This proposal shifts that to require all of their data to be uploaded to a central database owned by the City. Some of that data is highly sensitive and she believes should not be owned by the City. She sees easy technological solutions that would only allow aggregated data to be uploaded to the system.

Vice Chair Katz raised concerns about the company having principle offices in Texas and that means any data they have on Oakland clients could be subpoenaed by the Governor of Texas. He also is concerned that the database has two separate functions: one is to collect data on services to individual clients, second is to manage contracts. He doesn't see why they need to be in the same database. Last, he is concerned about who owns the key to the encrypted data.

Jenny Linchey with DVP provided answers, in particular, access to data is made to staff from Social Solutions only when they are asked to provide tech support. Nick Mussilami with Social Solutions confirmed that access limitation and disagreed with the statement that a Texas official could subpoena this data.

Member Reem asked why 150 user licenses are needed. Jenny Linchey explained those are for the funded CBOs for their direct service staff who need to enter data as well as internal fiscal and management staff who need to upload and review contract documents.

Vice Chair Katz asked about whether people receive services if they all refuse to allow their personal data to be gathered. Jenny Linchey explained that clients agree to provide data when they are enrolled and has not been a problem in the past. Vice Chair Katz and Chair Hofer both see that this may change with the new program. Chair Hofer asked Jenny to elaborate on how the proposal to gather this data came about. He cited the principle of collecting the minimum amount of data needed to achieve the goal.

Jenny explained that program monitoring, coordination of services between providers for the benefit of the client, and evaluation of service delivery are the three main purposes of this expanded data collection. She also clarified that the same level of data is collected currently in the current Cityspan system but that the ability to cross reference it across providers is not possible. She also noted that there is no intent to collect medical records, nor data about sexual assaults from victims. It is already policy, where clients of gender-based violence services are entered, their names are NOT entered into the system.

Chair Hofer noted the PAC goal of weighing the benefit versus (civil liberty) cost of authorizing this use of technology. He asked about the recent past evaluations of the DVP programs and didn't see any conclusions that the DVP data management was a problem. Therefore, the DVP request to use technology that raises more concerns needs to be supported with data showing the benefit. Jenny Linchey clarified that no new sensitive information is being gathered, but rather the system has more functionality, and that functionality was requested by many of the DVPs contracted providers.

Chair Hofer and Jenny Linchey discussed the need for this data for the DVP Evaluators. He noted that the new evaluator may want data that is not being collected (or authorized in the current proposed Use Policy). Jenny pointed out that the evaluator will build their proposed evaluation on the data that is available to them. They also discussed the tracking of provider outreach efforts and the need to do so. Jenny explained they have a way to track the outreach activity while using only a code for the individuals they are working with. "Outreach" is for clients that have not yet been enrolled and therefore no PII is collected. There were other topics, including determining helpful public safety metrics and some inconsistencies in the Use Policy and Impact Reports that were clarified.

Chair Hofer raised questions about the proposed contract with Social Solutions as well and had some suggested edits to tighten up the language around the ownership of the data. He noted that defining raw data versus altered data is important in the contract as third parties have been known to repurpose and slightly modify data and then resell it. Chair Hofer noted that delineating the authorized uses in the Use Policy is important so that a new document can be considered at the next meeting.

The item was continued to June.



Privacy Advisory Commission

June 2, 2022 5:00 PM

Videoconference

Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt*

1. Call to Order, determination of quorum

Members Present: Hofer, Katz, Oliver, Sulieman, Brown, Tomlinson, Leavitt, De La Cruz.

2. Adopt a Renewal Resolution regarding AB 361 establishing certain findings justifying the ongoing need for virtual meetings

The resolution was adopted unanimously.

3. Review and approval of the draft May meeting and special meeting minutes

The May 5th Meeting Minutes were adopted Unanimously. The May Special Meeting Minutes were tabled to June as they were not in the packet.

4. Open Forum/Public Comment

There were X Speakers:

Assata Olugbala expressed concerns about the special meeting and the confusion around whether the meeting was to be adjourned or not. She also asked if the proposed ballot measure regarding school board elections was vetted for privacy concerns and raised concern about Lake Merritt.

Macheo Payne spoke about the DVP Item, noting he has been a grantee of Measure Z funds and supports the new system to allow for better outcomes.

5. Surveillance Equipment Ordinance – DVP – Apricot 360 database

Chair Hofer noted that there were contract revisions as well as revisions to the Use Policy and Impact Statement. Chief Cespedes introduced his team from DVP and made some general comments about the department's mandate to improve the effectiveness of services and the efficiencies of programs that the move to the Apricot Database represents and makes achievable.

The Chair called for Public Comment:

Erin Scott, the Executive Director of the Family Justice Center spoke about providers for gender-based violence and their need for confidentiality and the many standards and statutes that need to be maintained and abided by regarding PII and the need for consent prior to using any of that information.

Assata Olugbala spoke about the crucial nature of the work of the DVP. She feels this debate is hindering their ability to do the work. And wants to see the item move forward.

Anne Marks with Youth Alive spoke about her concern that the database does not allow providers to shield data from participants who do not want their data shared. She notes that there is data about juveniles that they have and cannot legally share, and the grant agreement and new system jeopardize that protection.

Michael Muskadene with COURYJ, a DVP provider uses the current database and has had challenges with things like entering addresses for unhoused persons. He sees the importance of using databases but notes that it is time consuming to use the existing database and can take staff away from the work with clients.

John Jones III spoke about his work in violence prevention with BOSS. He supports the new system and notes that the workers do the work in the very community they are born and raised in and its important to have a system that makes that work successful.

Ronnie Rose is with Youth Employment Partnership, a DVP funded organization. He shares concerns about the sharing of PII about their clients, especially minors who are very vulnerable. They often refer between agencies without sharing PII but with the new system is concerned they would have to reveal that info to other providers.

Chair Hofer brought the item back to the PAC and stated he has been sent several state statutes that appear to prohibit the disclosure of PII and he has not yet gotten an analysis from the City Attorney about them. He noted that the concern is not the system but the sharing of PII. He pointed out that the staff have provided a thorough table showing when PII is being shared/collected. He also noted that the City staff have modified the contract well to protect the data and require the vendor to do so. His remaining concern is the possible conflict with state or federal law. He also does not fully understand the need for PII to

evaluate the performance of the providers. He suggested an ad hoc meeting with some of the community providers to better understand why there is such opposition and to find middle ground.

Commissioner Leavitt agreed with the idea to pull together an ad hoc with providers. She asked about the client level data needs and who can have access to it beyond direct service staff. Cat Grey with the DVP spoke about different areas where PII is gathered, noting that it doesn't change with the new system. Commissioner Leavitt asked if for evaluation purposes, wouldn't it be reasonable to only use a unique identifier instead of the actual PII.

Commissioner Katz asked about the keys to encryption, restating his concern about subpoenas causing the vendor to provide the data. The vendor elaborated on their encryption process and other security measures. He also noted that his company has never had to turn over data through a subpoena process. Commissioner Oliver raised similar concerns about the security of the data and there was additional discussion about the security of the data, the companies track record, and past audits.

Chair Hofer asked the PAC if there was any serious opposition to the use of the database (if there was no PII being gathered or shared) and generally there was no strong opposition. He wants to hold an ad hoc with providers and review the statutes that had been shared and then move the item forward with recommendations. He then continued the item.

6. Surveillance Equipment Ordinance – OPD – Annual Reports (Automated License Plate Readers, Cell-Site Simulator, Biometric Crime Lab, Forensic Logic/Coplink, GPS Tag Tracker, ShotSpotter, Live Stream Camera, Mobile Fingerprint ID, Unmanned Aerial Vehicles/Drones)

Captain Holmgren opened the conversation from OPD and made himself available for questions. Chair Hofer called for public comment (there was none) and then took each report in order and asked for questions/comments.

A motion was made to approve the Cell Site Simulator and was unanimously adopted.

Chair Hofer had a question on a minor amendment to the Biometric Crime Lab Report and Dr. Sachs with the Crime Lab shared language (from the report) that explicitly prohibits profiles of victims to be used in a criminal matter. Commissioner Suleiman supported that amendment and Dr. Sachs's noted they will bring back a modified Use Policy next month. A motion was made to approve the report and passed unanimously.

Chair Hofer had questions about the Forensic Logic report, in particular identifying third party access not listing any data sharing. Bruce Stoffmacher responded that the way the system works, it is not possible to know when another agency accesses data that is in the system. Commissioner Leavitt asked about the ability to track users, Bruce Stoffmacher explained that the company can show OPD any time on of their members used the system. Chair Hofer also was concerned that there is not strong data in the report

showing how this technology is helping the department. Lt. Elzey noted that the department could enter more information about how the system has helped (ie: this data led to a conviction..) Chair Hofer said a sample like that would be helpful and that the department needs a better track system to link causation. After some discussion about the need to upgrade the tracking, a motion was made to approve the item and it passed unanimously.

The GPS Tag Tracker report conversation revolved around efficacy as the tool was only attempted to be used once (unsuccessfully). OPD agreed that it would be good to have more data next year and with that, a motion was made to approve the item and it passed unanimously.

The Mobile Fingerprint ID system was not used since it was sent back to Alameda County for upgrades. Chair Hofer asked if it is connected to a larger suite of technology that the Sherriff is pursuing. OPD confirmed that it is and this raises concerns for the PAC because of the facial recognition technology and biometric technology expansion the Sherriff intends to acquire. A motion was made to approve the item and it passed unanimously.

The Unmanned Aerial Vehicles/Drones report was considered next, a question came up about deployment at sideshows. A motion was made to approve the item and it passed unanimously.

The Live Stream Camera Transmitter item was considered next. One issue that was raised by Commissioner Brown is the cost of some technologies being high while the number of times they are used is very low. A motion was made to approve the item and it passed unanimously.

Chair Hofer recused himself for the last two reports.

Vice Chair Katz next considered ShotSpotter and asked about the expense in relation to the efficacy. He also noted third party access to the ATF and wanted clarification about whether that was authorized. Captain Jones responded that ATF does have authorized access and has for many years but he did note that express written request could be documented in the annual report. There was conversation, again, about the department doing more to demonstrate efficacy. Commissioner De La Cruz highlighted the importance of tracking third party access to the data and wants to see that more explicitly covered in future reports. Commissioner Brown noted this year's report has a lot more good information about recovering shooting victims but noted other areas where more data could be useful. A motion was made to approve the item and it passed unanimously.

The ALPR Annual Report was tabled due to the time and a loss of quorum.

7. Surveillance Equipment Ordinance – DOT – Mobile Parking Payment System

This item was continued to the July Meeting.



MEMORANDUM

TO: LeRonne L. Armstrong
Chief of Police

FROM: Drennon Lindsey, Deputy Chief
OPD, Bureau of Investigations

SUBJECT: Automated License Plate Reader –
2021 Annual Report

DATE: March 22, 2022

Background

Oakland Police Department (OPD) ALPR Policy 430 (430.8 Agency Monitoring and Controls) states that the “ALPR Coordinator shall provide the Chief of Police and Public Safety Committee with an annual report for the previous 12-month period.” Policy 430 precedes City Council adoption of the Surveillance Technology Ordinance, enshrined in Oakland Municipal Code (OMC) 9.64; OMC 9.64 separately also requires annual reports as well as review and recommendation of a Surveillance Use Policy (SUP) and Surveillance Impact Report (SIR) – referred to collectively as “Privacy Policy.”

The following bullet points outline the history of OPD’s presentation of ALPR Privacy Policy documents to the City’s Privacy Advisory Commission (PAC):

- January 2019 - Presentation of draft ALPR Privacy Policy.
- February 2019 - Presentation of draft ALPR Privacy Policy.
- April 2019 - Presentation of draft ALPR Privacy Policy.
- January 2021 - Presentation of revised ALPR Privacy Policy and 2019 / 2020 Annual Reports.
- February 2021 - Presentation of revised ALPR Privacy Policy; PAC vote to recommend to the City Council that OPD be prohibited from using ALPR technology for two years.
- OPD then presented the ALPR Privacy Policy and 2019 / 2020 Annual Reports to the Public Safety Committee on May 11, and City Council on May 18. The City Council was presented with two options – OPD’s recommendation to approve the privacy policy as well as the PAC recommendation. The full City Council voted to send the Policy back to the PAC for further review and that OPD provide all missing information.
- August 2021 - Presentation of revised ALPR Privacy Policy and 2019 / 2020 Annual Reports.
- October 2021- Presentation of revised ALPR Privacy Policy and 2019 / 2020 Annual Reports; PAC commissioners suggest having an ad-hoc meeting but then confirm that there are not enough commissioners who are prepared to hold an ad-hoc meeting.
- November 2021- Presentation of revised ALPR Privacy Policy and 2019 / 2020 Annual Reports – at this meeting the PAC again votes to recommend a two-year moratorium OPD use of ALPR technology.

OPD is preparing to again present its Privacy Policy to the City’s Public Safety Committee along with the PAC November 2021 motion for a two-year moratorium at the time of the production of this report.

2021 Annual Report Details

- A. A description of how the surveillance technology was used, including the type and quantity of data gathered or analyzed by the technology:

Table 1 below shows the total scans and hits by month – the total license plate photographs made and stored each month (1,980,132 scans total for the year). Table 1 also shows the number of times the vehicle-based systems had a match (“hit”) with a California Department of Justice (CA DOJ) database (2,503 total for 2021). OPD’s very outdated ALPR system can only quantify these two figures; the system can no longer quantify individual queries or perform any audit functions, as the software is no longer supported from the original vendor. Prior, the system could run reports that detailed the reasons for queries (e.g. a type of criminal investigation). OPD can only provide more comprehensive use data if and when a newer ALPR system is acquired.

Table 1: 2021 OPD ALPR Scans and Hits

Month	Year	Scans	Hits
Jan	2021	198,027	235
Feb	2021	145,547	229
Mar	2021	212,367	238
Apr	2021	166,993	146
May	2021	184,147	235
Jun	2021	155,502	135
Jul	2021	98,814	110
Aug	2021	190,136	249
Sep	2021	221,509	375
Oct	2021	161,789	242
Nov	2021	121,565	143
Dec	2021	123,736	166
2021 Totals		1,980,132	2503

- B. Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s):

The Federal Bureau of Investigation (FBI) had access to OPD ALPR data without following the standard data access request protocols outlined in Policy 430.9 “Releasing or Sharing ALPR Data;” OPD has provided this level of access because there is a Council-approved Safe Streets Task Force Memorandum of Understanding (MOU)¹. OPD believes that the Task Force MOU allowed for ALPR data-sharing with specific FBI agents who have been co-located with OPD in the Police Administration Building and worked on homicide cases. However, OPD personnel ran an audit of ALPR data queries and discovered that there were

¹ The mission of the FBI San Francisco Violent Crimes Safe Streets Task Force MOU is to identify and target for prosecution criminal enterprise groups and individual responsible for crimes of violence such as murder and aggravated assault, as well as other serious crimes. The MOU does not specifically address the sharing of ALPR data; however, the MOU does specifically articulate protocols for data sharing.

no queries from these FBI personnel. OPD has decided to revoke access to FBI these agents as of 9/28/2021 to alleviate concerns over data privacy.

OPD has not received requests for ALPR data in 2021 from outside police agencies.

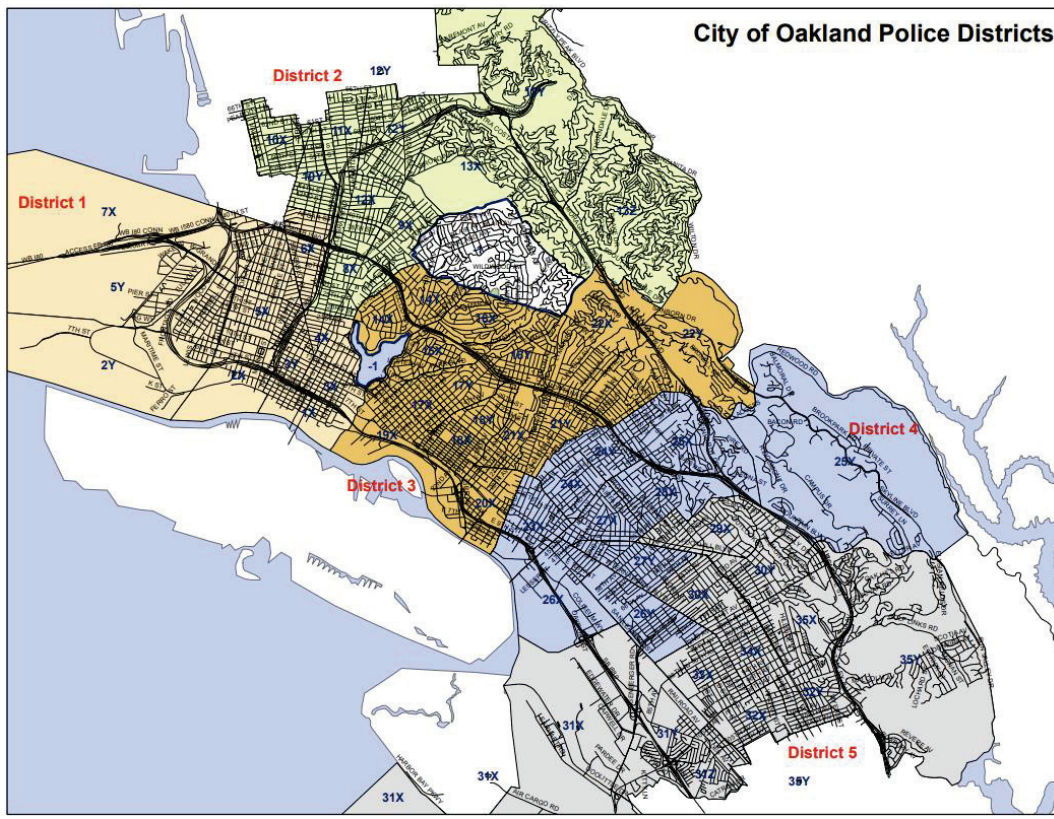
- C. Where applicable, a breakdown of what physical objects the surveillance technology hardware was installed upon; using general descriptive terms so as not to reveal the specific location of such hardware; for surveillance technology software, a breakdown of what data sources the surveillance technology was applied to:

The ALPR cameras are installed upon fully marked OPD patrol vehicles (24 operational; 8 inoperable).

- D. Where applicable, a breakdown of where the surveillance technology was deployed geographically, by each police area in the relevant year:

These vehicles are assigned to the Bureau of Field Operations I (administered out of the Police Administration Building in downtown Oakland) as well as Bureau of Field Operations II (administered from the Eastmont Substation). The vehicles are deployed throughout the City in a patrol function to allow for large areas of the City to have ALPR coverage as the patrol vehicles are used to respond to calls for police service; Figure 1 below is a map showing where patrol vehicles equipped with ALPR are generally deployed throughout the City.

Figure 1: ALPR-Equipped Patrol Vehicle Deployment Distribution



E. A summary of community complaints or concerns about the surveillance technology, and an analysis of the technology's adopted use policy and whether it is adequate in protecting civil rights and civil liberties. The analysis shall also identify the race of each person that was subject to the technology's use. The Privacy Advisory Commission may waive this requirement upon making a determination that the probative value in gathering this information to evaluate the technology's impact on privacy interests is outweighed by the City's administrative burden in collecting or verifying this information and the potential greater invasiveness in capturing such data. If the Privacy Advisory Commission makes such a determination, written findings in support of the determination shall be included in the annual report submitted for City Council review.

Members of the public have spoken at PAC meetings regarding concerns of negative impacts to privacy protections (e.g., that OPD could use ALPR server data to establish travel patterns of particular vehicles associated with particular license plates, and/or that ALPR data can be inadvertently released through inadequate privacy protocols). OPD has also heard comments that more advanced ALPR systems may be used to track other vehicle attributes (e.g., bumper stickers). More recently, OPD staff have also heard from members of the public in support of ALPR systems and wanting to be sure that OPD utilizes technology appropriately to support OPD investigations. Furthermore, OPD personnel are of media reports of ALPR systems where a lack of updates between local systems and State CA DOJ databases lead to inaccurate stolen vehicle notifications, which have led law enforcement to stopping motorists because of stolen vehicle notifications.

OPD is not able to provide the race of each person connected to each ALPR scan. Race data is not captured in the scan itself as explained in the ALPR Draft Surveillance Impact Report. Race data would only be captured if there is a related criminal investigation for a particular ALPR scan capture. Staff could attempt to connect each scan to the associated vehicle registration of each scanned license plate. However, staff would not know if the vehicle driver, at the time of the ALPR scan, is the same person as the registered owner of the vehicle. Furthermore, staff believes that the potential for greater invasiveness in capturing this data outweighs the public benefit of capturing the data. Staff therefore recommend that the PAC makes the determination, that the administrative burden in collecting or verifying this information as well as the associated potential for greater invasiveness in capturing such data outweighs the public benefit.

- F. The results of any internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response unless the release of such information is prohibited by law, including but not limited to confidential personnel file information:

The current system is outdated, and the software is not supported from the original vendor. Prior to this loss in function, the system could be used to run reports for sample audits that detailed the reasons for queries (e.g., type of criminal investigation). The ALPR system can currently quantify only hit and scan data as noted in Part A above. OPD currently faces a “Catch-22” situation: OPD cannot produce audits and annual reports that meet the expectations of the Surveillance Technology Ordinance because its current ALPR database and software are outdated and only partially functional. OPD can update the system for approximately \$16,000 – but pursuant to the surveillance ordinance, OPD cannot update the system unless the City Council first approves OPD’s ALPR Use Policy. The PAC has cited OPD’s failure to produce audits and annual reports as a significant reason for the PAC’s refusal to support OPD’s Use Policy and its continued use of ALPR. Staff wants to comply with all facets of the City’s Surveillance Ordinance (OMC 9.64) and continue to bring annual reports to the PAC for ongoing independent oversight of this useful technology, but it cannot do so unless it upgrades its ALPR technology.

OPD created a new ALPR Training document in 2020; OPD staff audited the OPD online training and document review system to ensure that staff completed the ALPR Training module. Approximately 75% of staff have completed the training thus far and OPD is implementing directives to ensure 100% compliance.

- G. Information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response:

The City’s Information Technology Department (ITD) confirmed to OPD that they have not detected any ALPR information breaches at the time of OPD’s inquiry for the production of this annual report.

- H. Information, including crime statistics, that helps the community assess whether the surveillance technology has been effective at achieving its identified purposes.

Table 2 below provides 2021 Part 1 Crime Data. This data illustrates the high levels of both violent crime and property crimes that occur in Oakland including for the 2021 year

Table 2: 2021 OPD Type 1 Crime Data

Part 1 Crimes <i>All totals include attempts except homicides</i>	01-01-2020 through 12-31-2020	01-01-2021 through 12-31-2021	Year-to-Date % Change 2020 vs. 2021	3-Year Year-to-Date Average	YTD 2021 vs. 3-Year YTD Average
Homicide - 187(a)	102	124	22%	100	24%
• Homicide - all other *	7	10	43%	7	50%
Aggravated Assault	3,315	3,559	7%	3,206	11%
• With Firearm	499	599	20%	462	30%
Rape	217	158	-27%	193	-18%
Robbery	2,417	2,693	11%	2,641	2%
Burglary Total	8,689	10,197	17%	11,291	-10%
• Auto	6,221	8,179	31%	8,921	-8%
• Residential	1,247	1,055	-15%	1,370	-23%
• Commercial	958	670	-30%	750	-11%
• Other/Unknown	263	293	11%	249	18%
Motor Vehicle Theft	8,722	9,010	3%	8,071	12%
Larceny	5,974	6,186	4%	6,643	-7%
Arson	193	170	-12%	172	-1%
Total Part 1 Crimes	29,636	32,107	8%	32,324	-1%

Additionally, ALPR was used to recover 39 stolen vehicles recovered with a value an estimated value of \$227,337. **Appendix A** to this report provides additional information about stolen vehicles and/or vehicles involved in carjackings where ALPR played a notification and/or investigatory role.

- I. Statistics and information about public records act requests regarding the relevant subject surveillance technology, including response rates:

OPD has received two new PRRs in 2021 related to ALPR; there were five total open ALPR-related PRRs as of December 31, 2021.

These requests related to the number of ALPR camera systems (see Section C above), ALPR data (the license plate number, date, time, and location information for each license plate recorded for related to either specific license plates or all captured data during certain time periods), and OPD emails related to ALPR data. Other requests related to the sharing of data with other agencies as outlined in Section B above. There are also PRRs relating to technology contracts.

For all ALPR PRRs, OPD can generally provide date and time information. OPD cannot provide information related to locations where license plates were photographed, nor information related to the specific vehicles. Some of these PRRs have been processed and

completed in 2022 during the time of the production of this report – status information below reflects recent updates made in 2022.

No.#	PRR#	Nature of Request	Status	Content Provided
1	RT 16630	All records responsive to the below requests dated from January 1, 2014 through July 28, 2016. - The full documentation of all contracts or non-disclosure agreements (enacted OR IN EFFECT between the above dates) with the companies "Persistent Surveillance Systems" or "Vigilant Solutions" (more of request: https://oaklandca.nextrequest.com/requests/RT-16630).	Still being processed	n/a
2	18-649 –	The names of all agencies, organizations and entities with which the Oakland Police department shares Automatic License Plate Reader ("ALPR") data, such as the National Vehicle Location Service; * The names of all agencies and organizations from which the department receives ALPR data; * The names of all agencies and organizations from which the department shares "hot list" information; * The names of all agencies and organizations from which the department receives "hot list" information; more of request: https://oaklandca.nextrequest.com/requests/18-649	open	OPD ALPR Policy 430: https://oaklandca.nextrequest.com/documents/618507/download
3	19-1546	How many automated license plate readers the Oakland Police Department has in use currently? Are they in fixed locations or on police cars, or other? How many vehicles on your hotlist currently? What's is the hit rate currently, and what was it in March 2018? How long is this data retained for? Is there a formal data retention limit? Have you shared any of this LPR data with any third parties, including non law enforcement bodies? If so, who? Have you bought license plate data from any third parties, and if so who? Has there been any communication between the department and representatives from	Open	Content not yet provided

No.#	PRR#	Nature of Request	Status	Content Provided
		<i>or people acting on behalf of US Immigration and Customs enforcement and / or US Border Patrol? If so, please can you share all correspondence (inc attachments)? More information: https://oaklandca.nextrequest.com/requests/19-1546</i>		
4	21-6410	<i>Requesting ALPR Data for the last two years</i>	<i>open</i>	
5	21-6660	<i>Please provide me with an electronic copy (preferably PDF) of the guidelines and procedures referenced here in OPD's ALPR policy 430 enacted in 2016, including all amendments and revisions thereto: "The Bureau of Services Deputy Chief shall be the administrator of ALPR program, and shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq." Please provide records from the years 2016-2021.</i>	<i>open</i>	

J. Total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year:

Zero; OPD did not incur any maintenance, licensing, or training costs. Training is completed using OPD's online portal as well as staff time.

K. Any requested modifications to the Surveillance Use Policy and a detailed basis for the request:

OPD and the PAC are developing and reviewing a new ALPR Surveillance Policy contemporaneous to the production of this report for OPD ALPR Use Policy 430. OPD is requesting PAC review and recommendation to City Council of this new Surveillance Use Policy (SUP). This new policy will cover all required areas of OMC 9.64.

OPD is committed to providing the best services to our community while being transparent and instilling procedural justice through daily police activity. This report is compliance with these OPD commitments. OPD hopes that this report helps to strengthen our trust within the Oakland community.

Respectfully submitted,

LeRonne L. Armstrong,
Chief of Police

Reviewed by,
Drennon Lindsey, Deputy Chief
OPD, Bureau of Investigations

Carlo Beckman, Police Services Manager
OPD, Research and Planning Section

Prepared by:
Bruce Stoffmacher, Legislation and Privacy Manager
OPD, Research and Planning Section

David Pullen, Officer
OPD, IT Unit, Bureau of Services

Appendix A

ALPR Stolen or Carjacked Vehicle Data 2021

For all the examples below, officers performed necessary verification of the stolen vehicle status before acting.

1. 21-001682; 01/11/2021 – Officers on patrol had an ALPR hit on the 1600 block of 18th Street. The vehicle was unoccupied and reported carjacked by San Francisco PD. Vehicle was recovered and towed per SFPD's request. Age of data: ~6days
 - a. Vehicle Data: 2005 Ford F-150
2. 21-001802; 01/11/2021– Officers on patrol had an ALPR hit on the 200 block of 19th Street. The vehicle was unoccupied and reported stolen by South San Francisco PD. Vehicle was recovered and towed per SSFPD's request. Age of data: ~2 days.
 - a. Vehicle Data: 2000 Chevy Tahoe
3. 21-002447; 02/09/2021 – Officers on patrol had an ALPR hit on the 1100 block of E. 15th Street. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~26 days.
 - a. Vehicle Data: 1990 Mazda 626 DX/LX
4. 20-056291; 01/17/2021 – Officers on patrol had an ALPR hit on the 1600 block of 8th Street. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~14 months.
 - a. Vehicle Data: 2000 Ford Focus
5. 21-002722; 01/18/2021 – Officers on patrol had an ALPR hit on the 1300 block of 5th Street. The vehicle was occupied, and officers attempted to detain the suspects, who fled. The vehicle was reported stolen by Berkeley PD. Age of data: ~2 days
 - a. Vehicle Data: 2016 Mazda CX5
6. 21-003887; 01/26/2021 – Officers on patrol had an ALPR hit on the 9700 block of B Street. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~7 days.
 - a. Vehicle Data: 2000 Honda CRV
7. 21-006106; 03/15/2021 – Officers on patrol had an ALPR hit in the area of Fruitvale Ave & Foothill Blvd. The vehicle was occupied, and a stop was conducted. The driver was the registered owner of the vehicle and did not update OPD when they found and recovered the vehicle on 02/08/2021. The driver/registered owner was released. Vehicle was associated with strong-arm robbery, assault & battery, and kidnapping (initially of the victim). Age of data: ~1 month.
 - a. Vehicle Data: 2003 Nissan Maxima
8. 21-006112; 02/08/2021 – Officers on patrol had an ALPR hit on the 3800 block of San Leandro Street. The vehicle was reported stolen out of San Leandro PD. The vehicle was unoccupied, and the vehicle was recovered and towed. Age of data: ~10 days.
 - a. Vehicle Data: 1998 Nissan Frontier

9. 21-006743; 02/17/2021 – Officers on patrol had an ALPR hit on the 250 block of 7th Street. The vehicle was unoccupied, attempts to contact the owner were successful, and the vehicle was released to them. Age of data: ~6 days.
 - a. Vehicle Data: 1999 Ford F-150
10. 21-009814; 03/05/2021 – Officers on patrol had an ALPR hit on the 2800 block of 14th Avenue. The vehicle was unoccupied, attempts to contact the owner were successful, and the vehicle was released to a friend of the owner. Age of data: ~3 days.
 - a. Vehicle Data: 1991 Honda Civic
11. 21-010933; 03/09/2021 – Officers on patrol had an ALPR hit on the 600 block of 6th Street. The vehicle was occupied, and the individual was detained and arrested. The vehicle was reported stolen out of San Francisco PD and was recovered and towed. Age of data: ~20 days.
 - a. Vehicle Data: 2005 Ford Econoline E350
12. 21-0111404; 03/13/2021 – Officers on patrol had an ALPR hit in the area of 45th Ave and E. 12th Street. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~1 day.
 - a. Vehicle Data: 2006 Nissan Maxima
13. 21-011572; 03/17/2021 – Officers on patrol had an ALPR hit on the 1300 block of E. 24th Street. The vehicle was unoccupied, attempts to contact the owner were successful, the vehicle was recovered and released to the owner. Age of data: ~4 days.
 - a. Vehicle Data: 2000 Honda CRV
14. 21-011654; 04/06/2021 – Officers on patrol had an ALPR hit on the 1600 block of Campbell Street. The vehicle was unoccupied, attempts to contact the owner were successful, but the vehicle was disabled, it was recovered and towed. Age of data: ~24 days.
 - a. Vehicle Data: 1994 Honda Civic
15. 21-011750; 03/30/2021 – Officers on patrol had an ALPR hit on the 1700 block of Marin Way. The vehicle was occupied, and a stop was conducted, with one individual being arrested for auto-theft. Attempts to contact the owner were unsuccessful, the vehicle was recovered and towed. Age of data: ~17 days.
 - a. Vehicle Data: 2001 GMC Yukon
16. 21-012745; 04/23/2021 – Officers on patrol had an ALPR hit on the 800 block of Chester Street. The vehicle was unoccupied, attempts to contact the owner were successful, and the vehicle was recovered and released to the owner. Age of data: ~1 month.
 - a. Vehicle Data: 1999 Honda Civic
17. 21-014081; 03/28/2021 – Officers on patrol had an ALPR hit on the 700 block of Wood Street. The vehicle was unoccupied and reported stolen by Hayward PD. The vehicle was recovered and towed. Age of data: ~5 days.
 - a. Vehicle Data: 1998 Ford Econoline

- 18.21-015106; 04/06/2021 – Officers on patrol had an ALPR hit on the 1600 block of 16th Street. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~3 days.
 - a. Vehicle Data: 1989 Toyota Pickup
- 19.21-026244; 06/10/2021 – Officers on patrol had an ALPR hit on the 1100 block of Chestnut Street. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~2 days.
 - a. Vehicle Data: 2003 Silver Nissan Altima
- 20.21-017449; 04/20/2021 – Officers on patrol had an ALPR hit on the 3200 block of Wood Street. The vehicle was unoccupied, attempts to contact the owner were successful, the vehicle was recovered and released to the owner. Age of data: ~3 days.
 - a. Vehicle Data: 2003 Chevy Silverado
- 21.21-018211; 04/25/2021 – Officers on patrol had an ALPR hit on the 3300 block of Helen Street. The vehicle was unoccupied, recovered, and towed. Age of data: ~4 days.
 - a. Vehicle Data: 1997 Honda Civic
- 22.21-018480; 04/23/2021 – Officers on patrol had an ALPR hit on the 1300 block of 5th Street. The vehicle was occupied, and a stop was initiated. An individual was detained and arrested. Attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~1 day.
 - a. Vehicle Data: 1993 Honda Civic
- 23.21-020648; 05/08/2021 – Officers on patrol had an ALPR hit on the 2700 block of 10th Avenue. The vehicle was unoccupied and inoperable, the vehicle was recovered and towed. Age of data: ~2 days.
 - a. Vehicle Data: 2000 Honda Accord
- 24.21-020912; 05/29/2021 – Officers on patrol had an ALPR hit on the 5500 block of Bancroft Avenue. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~22 days.
 - a. Vehicle Data: 1995 Honda Odyssey
- 25.21-035523; 07/31/2021 – Officers on patrol had an ALPR hit on the 2300 block of Embarcadero. The vehicle was moving and occupied, and a stop was conducted. Three suspects were detained with one being arrested for possession of a stolen vehicle. A stolen firearm was also recovered. The vehicle was recovered and released to the owner. Age of data: ~1 day.
 - a. Vehicle Data: 2007 White Mercedes CLK
- 26.21-025743; 06/12/2021 – Officers on patrol had an ALPR hit on the 550 block of 30th Street. The vehicle was unoccupied, recovered, and towed. Age of data: ~7 days.
 - a. Vehicle Data: 2003 Mazda Protégé
- 27.21-027162; 06/12/2021 – Officers on patrol had an ALPR hit while on the 550 block of 34th Street. The vehicle was confirmed to be reported stolen by Berkeley PD. The vehicle was unoccupied, attempts to contact the owner were successful, the vehicle, however, was inoperable and was recovered and towed. Age of data: ~5 days.
 - a. Vehicle Data: 1997 Honda Accord

- 28.21-027192; 06/12/2021 – Officers on patrol had an ALPR hit on the 550 block of 30th Street. The vehicle was confirmed to be reported stolen by Berkeley PD. The vehicle was unoccupied, recovered, and towed. Age of data: ~11 days
 - a. Vehicle Data: 1997 Honda Civic
- 29.21-031826; 07/12/2021 – Officers on patrol had an ALPR hit in the area of E. 15th Street and Miller Avenue. The vehicle was occupied and stopped with an individual being detained and arrested. Attempts to contact the owner were successful and the vehicle was recovered and released. Age of data: ~3 days.
 - a. Vehicle Data: 1992 Toyota Previa
- 30.21-033234; 07/28/2021 – Officers on patrol had an ALPR hit on the 200 block of 11th Avenue. The vehicle was unoccupied, attempts to contact the owner were successful, and the vehicle was recovered and released to the owner. Age of data: ~11 days
 - a. Vehicle Data: 2018 Volkswagen Tiguan
- 31.21-034757; 09/04/2021 – Officers on patrol had an ALPR hit in the area of 30th Street and Telegraph Avenue. The vehicle was unoccupied, attempts to contact the owner were successful, and the vehicle was recovered and released to the owner. Age of data: ~1 month
 - a. Vehicle Data: 1991 Honda Accord
- 32.21-036467; 08/23/2021 – Officers on patrol had an ALPR hit on the 1100 block of E. 15th Street. The vehicle (which was carjacked) was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~18 days.
 - a. Vehicle Data: 2015 Hyundai Veloster
- 33.21-037283; 08/10/2021 – Officers on patrol had an ALPR hit on the 1600 block of 62nd Avenue. The vehicle was reported as being carjacked by BART PD. The vehicle was unoccupied, recovered, and towed. Age of data: ~1 month
 - a. Vehicle Data: 2008 Toyota Corolla
- 34.21-039386; 08/23/2021 – Officers on patrol had an ALPR hit on the 2200 block of Embarcadero. The vehicle was occupied and stopped with an individual being detained and arrested. Attempts to contact the owner were successful and the vehicle was recovered, but the owner did not show up and the vehicle was towed. Age of data: Recovered same day.
 - a. Vehicle Data: 2002 Chevy Silverado 1500
- 35.21-040524; 08/29/2021 – Officers on patrol had an ALPR hit on the 3400 block of Elm Street. The vehicle was reported stolen out of Berkeley PD. The vehicle was unoccupied, inoperable, recovered, and towed. Age of data: ~5 days
 - a. Vehicle Data: 2002 Dodge RAM 2500
- 36.21-044190; 09/20/2021 – Officers on patrol had an ALPR hit in the area of 23rd Avenue and E. 11th Street. The vehicle was occupied and stopped with an individual being detained and arrested. The vehicle was reported stolen out of Emeryville PD. The vehicle was recovered and towed. Age of data: ~1 month
 - a. Vehicle Data: 2011 Ford F150

37. 21-049102; 11/01/2021 – Officers on patrol had an ALPR hit on the 4000 block of Brookdale Avenue. The vehicle was unoccupied, attempts to contact the owner were unsuccessful, and the vehicle was recovered and towed. Age of data: ~12 days
 - a. Vehicle Data: 2007 Chevy Express Van
38. 21-049863; 10/23/2021 – Officers on patrol had an ALPR hit on the 1200 block of 21st Avenue. The vehicle was reported stolen out of San Jose PD. The vehicle was occupied, and a stop was initiated, with two people being temporarily detained. An investigation discovered that the person who reported the vehicle stolen was not the registered owner and driver and passenger were released without further delay. Age of data: ~4 days
 - a. Vehicle Data: 2003 Toyota Corolla
39. 21-051300; 11/01/2021 – Officers on patrol had an ALPR hit on the 4700 block of Bancroft Avenue. The vehicle was reported stolen by the Alameda County Sheriff's Office, was unoccupied, recovered and towed. Age of data: ~5 days.
 - a. Vehicle Data: 1993 GMC Sierra

Non-Stolen Vehicle Cases

1. 21-012691; 03/19/2021 – ALPR was utilized to capture/scan license plates of vehicles participating in an illegal and unpermitted cabaret event party. Age of Data: Not Applicable
2. 21-012836; 03/20/2021 – ALPR was utilized by Pleasant Hill PD for a vehicle that was involved in an attempted murder. A stop was conducted, and an individual was detained and arrested. An illegal firearm was also recovered. Age of Data: ~6 days
3. 21-014039; 03/29/2021; – Officers on patrol had an ALPR hit on the 700 block of Walker Avenue. The vehicle was unoccupied, but the plate did not match the vehicle VIN it was attached to. The officer removed the plate and turned it into evidence. Age of data: 2 days.
4. 21-025695; 06/05/2021 – ALPR was utilized to search for a car that was suspected of being involved in a shooting. A warrant was obtained, and the individual was arrested. Age of data: ~1 month.
5. 21-031812; 07/09/2021 – Officers on patrol had an ALPR hit on the 7200 block of MacArthur Blvd for a vehicle involved in a robbery. The vehicle was occupied, a stop was attempted, and the suspects fled, eventually evading capture. Age of data: ~1 day.
6. 21-034075; 07/23/2021 – Officers on patrol had an ALPR hit on the 200 block of 29th Street. The vehicle was unoccupied, and the license plate was switched. The license plate was removed and attempts to contact the owner were unsuccessful. The license plate was remanded to evidence. Age of data: ~4 days.

Proposal by Vice Chair Katz

It shall be the policy of the Privacy Advisory Commission (“PAC”) that documents submitted by departmental staff for PAC review are to be received and distributed to commissioners no later than 12:00pm on the Friday the week before a meeting of the PAC is to take place.

Oakland Police Department Criminalistics Laboratory

DNA Instrumentation and Analysis Software

Biometric Technology Use Policy

April~~September~~ 20220

1. Purpose

The Oakland Police Department (OPD) Criminalistics Laboratory's (Crime Lab) Forensic Biology/DNA unit utilizes specialized DNA collection and analysis instrumentation and software to perform forensic DNA testing. During this lengthy and complicated process, one step removes and purifies DNA from cells (digestion/extraction), another quantitates how much DNA is present and lastly, by amplifying and analyzing Short Tandem Repeats (STR) in the DNA using Polymerase Chain Reaction (PCR) and separated by Capillary Electrophoresis (CE), forensic DNA profiles are generated. Software is involved in the following processes: (i) collection and processing of STR DNA fragment data; (ii) interpretation of DNA data into DNA profiles used for comparison purposes. At the end of all processes, a determination can be made as to whether a DNA sample collected from a crime scene can be associated with a known individual through a comparison of evidentiary (crime scene) and known reference DNA profiles. Statistical weight is provided for all inclusion comparisons.

The technology within the scope of this Biometric Technology Use Policy includes:

Digestion / Extraction

- **Aurora Biomed:** Versa 1100 liquid handler instrument and VERSAware software for automated cell digestion and microscope slide preparation.
- **Qiagen:** EZ1 Advanced XL instrument and EZ1 Advanced XL Investigator Protocol Card (Software) for extraction and purification of DNA. EZ1 instruments are planned to be replaced with EZ2, the latest model using the same technology from the same manufacturer.

DNA Quantitation

- **Qiagen:** QIAgility Liquid Handler Robots and computers for rapid, high-precision automated PCR setup (also used for Normalization/Amplification and DNA Typing).
- **Applied Biosystems:** 7500-QuantStudio 5 Real Time PCR systems and 7500 QuantStudio 5 System Detection Software for determination of quantity and quality (degradation level) for a DNA sample.

DNA Normalization / Amplification – STR (autosomal and Y)

- **ThermoFisher Scientific:** SpeedVac DNA Concentrator for concentrating low quantity DNA samples.
- **ThermoFisher Scientific:** 9700 and ProFlex Thermalcyclers for PCR amplification of STR DNA fragments.

DNA Typing – STR (autosomal and Y)

- **ThermoFisher Scientific:** Applied Biosystems 3130 (current technology in use) and 3500 (similar technology undergoing validation to replace 3130) Series Genetic Analyzer and Data Collection Software is designed for data collection in human identification (HID) applications. The Crime Laboratory uses/intends to use this software to collect STR DNA data from amplified samples. This software normalizes genetic data and creates “hid” files to be used by data processing (GMIDX or FaSTR) and interpretation (ArmedXpert, STRmix) software.

DNA Interpretation – STR (autosomal and Y)

- ~~Applied Biosystems: GeneMapper ID X Software is used for review and evaluation of sizing and genotyping data generated from the genetic analyzers. This analysis software can be configured to set analysis parameters, edit raw data, and aids to prepare data for further interpretation into DNA profiles.~~
- **NicheVision:** FaSTR software is used for review and evaluation of sizing and genotyping data generated from the genetic analyzers. This analysis software can be configured to set analysis parameters, edit raw data, and aids to prepare data for further interpretation into DNA profiles.
- **NicheVision:** ArmedXpert Analysis Software is used for streamlined DNA typing interpretation resulting in reduced time spent on DNA mixture interpretation. It also uses published and validated population DNA allele frequencies to calculate DNA profile frequency estimates to aid in providing the weight of any inclusion comparison drawn between an evidence sample and a known reference.
- **NicheVision:** STRmix™ software combines established and validated biological modelling and complex mathematical processes to use a continuous model to interpret a wide range of complex DNA profiles. It can compare these DNA profiles to a reference profile and calculate the weight of the comparison using well established Likelihood Ratio statistics.

DNA Databasing

- **HP:** Server for the Combined DNA Index System (CODIS) and peripheral computers used to enter and search evidence DNA profiles against legally obtained reference samples (Convicted Offenders, Arrestees, Missing Persons) and other evidence profiles.

The forensic evidence analyzed by the Forensic Biology Unit develops biometric data, however, the Department does not use it in a surveillance capacity (prospectively), it uses it to solve crimes that have already occurred (retrospectively).

The Forensic Biology/DNA Unit focuses most analytical efforts on violent crimes. Homicides and most sexual assault crimes do not have a statute of limitations. The unit analyzes a wide range of other crime types: robberies, burglaries, thefts, assault, weapons, which may have statute of limitations; however, legal enhancements of penalties (for example 209 PC, aggravated kidnapping) exist, so a 211 PC can be enhanced to a life sentence. It is not the purview of the laboratory to determine the legal status of cases. Laboratory-generated evidence may be used in criminal or civil proceedings. Federal Rules of Civil Procedure 37(e) imparts a duty to preserve potentially relevant evidence including electronically stored information (ESI) for civil trials.

2. Authorized Use

The DNA instrumentation and analysis software described above shall be used primarily on evidence or reference samples submitted by law enforcement and collected pursuant to a search warrant, other legal means, or by documented consent. The DNA instrumentation and analysis software shall be used solely for aiding in criminal or civil investigations; for validating new methods and for special projects designed to evaluate improvements to the forensic DNA collection and analysis process, collecting data for statistical studies or lecture presentations; and for quality assurance purposes. To the latter, reference samples from Crime Laboratory staff members, staff family members, interns, and law enforcement OPD personnel who have access to evidence (from crime scenes), property storage areas (property unit), or the operational areas of the Forensic Biology/DNA unit Crime Lab may be processed using the DNA instrumentation and analysis software. This is necessary as a part of the chain of processes used to develop DNA profiles to measure or detect a contamination event in the unit, should it occur. All other uses are prohibited.

The DNA instrumentation and analysis software shall not be used for personal, non-law-enforcement-related purposes; and shall not be used to surveil, harass, intimidate, or discriminate against any individual or group. The Criminalistics Division and Forensic Biology/DNA unit each maintain manuals [Laboratory Operations and Quality Assurance Manual (LOQAM) and standard operating procedures (SOP)] to which all Forensic Biology/DNA unit staff train annually and are required to adhere. LOQAM and the Forensic Biology/ DNA unit SOPs provide rules and procedures on what elements shall be present in a validation study, data and conclusions from validation studies performed, rules on conducting research and any published results. Failure to follow these rules and procedures may result in discipline.

3. Data Collection

The data collected attests to the purity or amount of the DNA and usually also contains genetic information, specifically STR DNA marker alleles (types) that collectively constitute a forensic DNA profile that has the potential to characterize or identify a single individual. (Note: identical twins typically have identical forensic DNA profiles, since they are derived from a single fertilized egg, or zygote).

The Forensic Biology unit maintains an in-house Quality Control (QC) database. The QC database contains DNA profiles obtained from the following sources:

1. by consent from OPD staff (current and past) and their family members.
2. OPD personnel that may enter the chain of custody for an evidence item or has other contact within the scope of the case,
3. Samples provided by accredited proficiency test providers. The samples are anonymized by the test provider; the test providers are subject to strict confidentiality requirements by the accrediting bodies. The laboratory has no access to the source of these samples.

The purpose and use of the QC database is twofold: 1) for casework quality control checks to ensure that the process worked correctly (positive control) and 2) to determine if there is

possible contamination from a known individual to a casework sample. At this time, there are no victim references in the QC database. Such profiles have never been, nor are they allowed to be, used for the identification of an individual in a criminal matter.

4. Data Access

Criminalists and Forensic Technicians with duties in the Forensic Biology/DNA unit shall be the only Crime Laboratory personnel authorized to use the DNA instrumentation and analysis software in casework, and only after completing a comprehensive training program and qualifying test, at which time, with the Supervisor's recommendation, the Crime Laboratory Manager issues a written authorization. No one else shall have the authority to grant access to use DNA instruments or software in casework. Criminalists and Forensic Technicians are granted access to one another's cases only for the purpose of discovery or CPRA requests, documenting quality checks, verifications or peer review. Interns also are authorized to use the DNA instrumentation and analysis software for special projects, not casework, and only after receiving necessary training and under the supervision of a qualified Criminalist.

5. Data Protection

All data generated using the DNA instrumentation and analysis software shall be securely maintained at all times in a limited access location, or on a secure server*. To evaluate and interpret the DNA analytical data, authorized personnel shall only use computers on secure network drives.

* The Laboratory's remote server, which hosts network drives, is secure because it is physically under lock and key and limits electronic access to current laboratory staff and ITD personnel. Additionally, a separate local server is secured by lock and key during business and after hours, alarm after hours and by running the server on a dedicated intranet line that uses encryption on both the sender and receiver ends of any communication from/to the server.

6. Data Retention

There is no statute of limitations on most of the cases the Forensic Biology/DNA unit analyzes. For crime types that do have statute of limitations, penalty enhancements may make it such that a decision to impose a life sentence may be rendered and civil duty to preserve ESI and electronic evidence exists; therefore, data are retained indefinitely on secure server or network drives. No hard drive leaves laboratory custody without ensuring that all sensitive data has been removed and is irretrievable from the device. Hard copies of case files containing the laboratory report, notes, and instrument printouts are similarly retained indefinitely under Crime Lab control with secure, limited-access areas, or at a Departmentally approved Records Retention facility. Retained data may be used if questions

pertaining to the case in question arise, or if an investigation into a quality issue arises and is documented in Incident Response.

7. Public Access

Members of the public shall have no direct access to the DNA instrument data generated. If requested under the California Public Records Act (CPRA), the Crime Lab shall deny the request on the ground that such data is exempt from disclosure under the investigative exemption (Government Code section 6254(f), (k) and 6255), Evidence Code Section 1040 and perhaps other exemptions, unless and until they are made publicly available in criminal proceedings. If such a CPRA request is made or if a subpoena or court order is issued for such DNA instrumentation and analysis data, the data shall be made public or deemed exempt from public disclosure pursuant to state or federal law, after consultation with the Oakland City Attorney's Office as needed. Criminal defendants are entitled access to the data via third-party data-sharing described in the next section.

8. Third-Party Data-Sharing

Following the completion and review of a specific case, the case file and data are disseminated only to the law enforcement customer and/or City Attorney and/or prosecuting attorney and assisting staff. The material shall be subject to discovery in criminal or civil proceedings and is the means by which criminal defendants are entitled to obtain a copy of the casefile and the data contained therein. The case file and data (including copies) shall not be shared with anyone else without a court order. In addition, crime scene samples that qualify for search in the California State DNA Index System (SDIS) and National DNA Index System (NDIS) (components of the Combined Index System or CODIS database), are uploaded to SDIS according to the NDIS Operational Procedures Manual (<https://www.fbi.gov/file-repository/ndis-operational-procedures-manual.pdf/view>). Suspect DNA profiles that qualify for search are uploaded to SDIS pursuant to California Penal Code 297.

Accessing data collected by the Forensic Biology/DNA unit requires either a right to know or a need to know. A right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law (covered in Section 4. Data Access). A need to know is a compelling reason to request information such as being the OPD Investigator assigned to the case for which DNA analysis has been requested.

Forensic Biology/DNA data may be shared only with other law enforcement agencies based on a need to know and a right to know, or as otherwise required by law, using the following procedures:

1. The agency makes a written request for the Forensic Biology/DNA data that includes:
 - a. The name of the requesting agency.
 - b. The name of the individual making the request.

- c. The need for obtaining the information.
2. The request is reviewed by the Bureau of Investigation Deputy Chief or designee and is approved before the request is fulfilled.
3. The approved request is retained on file, and shall be included in the annual report

9. Training

Forensic Technicians and Criminalists in the Forensic Biology/DNA unit shall complete a comprehensive training program and shall not embark on any casework with the DNA instrumentation and analysis software until they have successfully taken a relevant qualifying test. Once qualified, they shall take proficiency tests bi-annually. Interns shall be authorized to use the DNA instrumentation and analysis software for special projects, and not casework, only after receiving necessary training and under the supervision of a qualified Criminalist. Criminalists, Forensic Technicians, and interns in the Forensic Biology/DNA unit shall be provided with a copy of the DNA instrumentation and analysis software Biometric Technology Use Policy. The Crime Lab Manager and Criminalist IIIs are responsible for providing oversight of the training program, ensuring comprehension of policies and documenting adherence.

10. Auditing and Oversight

The Forensic Biology/DNA unit is overseen by two supervisors and by Crime Lab upper management (Crime Lab Manager and Quality Supervisor), all of whom shall oversee compliance with this Biometric Technology Use Policy and Standard Operating Procedures via Administrative and Quality Reviews of casework, policy updates and annual Internal Audits. Additionally, the Crime Lab is accredited by the American National Standards Institute (ANSI) National Accreditation Board (ANAB), which provides oversight to the operation of the Forensic Biology Unit. The Crime Lab is assessed by ANAB on an annual basis. Moreover, the Forensic Biology/DNA unit complies with the Federal Bureau of Investigation (FBI)'s Quality Assurance Standards (QAS) for Forensic DNA Testing Laboratories. The Forensic Biology unit is audited to the FBI's QAS annually, alternating internal and external audits.

11. Maintenance

The mechanism to ensure the security and integrity of the tools, instrumentation and data are insured by oversight provided by the Forensic Biology/DNA unit Supervisors and upper management as defined in the "Auditing and Oversight" section above.

Oakland Police Department Criminalistics Laboratory
DNA Instrumentation and Analysis and Software
Surveillance Impact Report
AprilSeptember 20220

1. Description

The Oakland Police Department (OPD) Criminalistics Laboratory's (Crime Lab) Forensic Biology/DNA unit utilizes specialized DNA collection and analysis instrumentation and software to perform forensic DNA testing. This is a biometric analysis which produces potentially sensitive information.

During the lengthy and complicated process to obtain a DNA profile from evidence or a reference sample, numerous steps may be necessary including, but not limited to: Digestion, Extraction, Quantitation, Normalization/Amplification, Typing, Interpretation, and Database upload.

OPD does not use Forensic DNA Analysis to surveil residents of Oakland; indeed, it is unlawful to analyze samples and upload them to Combined DNA Index System (CODIS) when no articulable nexus to a crime exists.

2. Purpose

At the end of all DNA analysis processes described previously, a determination can be made as to whether a DNA sample collected from a crime scene can be associated with a known individual through a comparison of evidentiary (crime scene) and reference DNA profiles.

3. Location

The DNA instruments and analysis software are housed in the Criminalistics Laboratory and may not be used elsewhere without disclosure to the Laboratory's accreditation agency ANAB [ANAB = American National Standards Institute (ANSI) National Accreditation Board] and revalidation.

4. Impact

The proposed biometric use policy covers how and when information is to be disseminated, as well as prohibitions against disclosures outside those listed. Civil Rights and liberties are adequately protected in that all samples are to be collected pursuant to search warrant, other legal means, or by documented consent. Nothing in the forensic DNA analysis allows for data collection to be discriminatory, viewpoint-based or biased by algorithm; in fact, the results of DNA analysis can, in a scientifically unbiased manner, include or (more importantly to privacy) exclude a person of interest. OPD recognizes that biometric analysis technology and associated data, if used in ways that violate accreditation, legal standards and uses described and referenced herein, would constitute inappropriate use.

5. Mitigations

The OPD Crime Lab mitigates against the impact of unlawful evidence submissions by requiring that all samples subject to DNA analysis are collected pursuant to search warrant, other legal means, or by documented consent.

Inappropriate uses of DNA biometric analysis technology and associated data are mitigated by:

- (1) Limiting access to the instrumentation and records.
 - a. Only staff authorized to work in the Crime Lab have access.
 - b. Sign-in and escort are required of all guests.
 - c. The laboratory is locked during business hours and locked and alarmed after hours.
- (2) Existence of written policies regarding care of data and casefiles.
 - a. Instrument software is in limited access locations and are hosted on secure servers.
 - b. DNA analytical data are kept on secure network drives.
- (3) Existence of written policies precluding wide dissemination of records.
 - a. Legal Discovery for Criminal or Civil trials is honored.
 - b. California Public Records Act (CPRA) requests are subject to limitations as specified in the Biometric Technology Use Policy.

6. Data Types and Sources

The instruments described previously collect data during one step in the process and may be passed along to another. Data generated by each instrument are stored in a proprietary format readable only by the protocol software or may be converted to tables to be used electronically or printed. The Use Policy indicates how raw data and paper casefiles are to be handled and stored.

7. Data Security

Criminalists and Forensic Technicians with duties in the Forensic Biology/DNA unit shall be the only Crime Laboratory personnel authorized to use the DNA collection and analysis software in casework, and only after completing a comprehensive training program and qualifying test, at which time, with the Supervisor's recommendation, the Crime Laboratory Manager issues a written authorization. No one else shall have the authority to grant access to use the DNA instrumentation or software in casework. Criminalists and Forensic Technicians are granted access to one another's cases only for the purpose of complying with discovery, documenting quality checks, verifications or peer review. Interns also are authorized to use the DNA collection and analysis software for special projects, not casework, and only after receiving necessary training and under the supervision of a qualified Criminalist. Data are stored on secure servers hosted in the Laboratory or by the Department.

8. Fiscal Cost

Digestion / Extraction

- Three EZ1 Advanced XL DNA purification instruments and software are in the laboratory; the cost of one new instrument is approximately \$5763,000. Currently, two EZ2 DNA purification instruments have had grant funds identified for purchase. The current ongoing annual upkeep of the instrument is approximately \$3,100 per instrument.
- ~~Two~~ One Versa 1100 liquid handler instruments ~~are~~ is in the laboratory; the cost of one replacement instrument is approximately \$85,000. The annual maintenance cost is approximately \$6,800 per instrument.

DNA Quantitation

- Three Qiagility liquid handler instruments are in the laboratory; the cost of one replacement instrument is approximately \$33,100. The annual maintenance cost is approximately \$2,700 per instrument.
- Two ~~7500~~ QuantStudio 5 Real-Time PCR DNA quantitation instruments are in the laboratory; the cost of two new replacement instruments is \$114,000. The current ongoing annual upkeep of both instruments is approximately \$10,200.

DNA Normalization / Amplification

- One SpeedVac concentrator is in the laboratory; the cost of one replacement instrument is approximately \$4,000. No annual maintenance cost.
- ~~One 9700 thermal cycler is in the laboratory. Additionally, t~~ Two ProFlex thermal cyclers are in the laboratory; the cost of one replacement ProFlex instrument is approximately \$14,000. No annual maintenance cost.

DNA Typing

- ~~Two 3130 genetic analyzers are in the laboratory. Additionally, there is o~~ One 3500 genetic analyzer; the cost of which was \$135,000. The annual maintenance cost is ~~approximately \$7,500 for one 3130 instrument and approximately \$6,000 for the 3500 instrument.~~

DNA Interpretation

- ~~GMIDX: approximately \$28,000 per license. No annual maintenance costs~~
- STRmix upgrade cost \$66,000; annual maintenance costs run ~\$12,000 annually
- FaSTR cost approximately \$37,000.
- Armed Expert acquisition cost approximately \$15,000

Grants, Proposition 69 funds, and Operations and Maintenance budgets have historically covered these costs.

9. Third Party Dependence

Electronic data are retained indefinitely on secure server or network drives and do not require a third party. Hardcopy data present in paper casefiles are currently stored under laboratory

control. In the future, if storage needs for hardcopy files exceed capacity, a Departmentally-approved records retention facility will be used as articulated in the Biometric Use policy.

10. Alternatives

The DNA analysis instruments and software have been validated and meet or exceed both accreditation requirements and industry standards. Alternatives have either been found to be inferior or would require time-exhaustive and expensive validation to replace the current platform with other technology.

11. Track Record

STR-based DNA analysis as a technology has extensive and longstanding documentation as a standard and effective method to analyze DNA. The methods using these technologies in total are employed by many private and government (local, state, federal) forensic and clinical laboratories. There is no known adverse information extant about the technology.

Apricot 360 Impact Report City of Oakland Department of Violence Prevention

The Department of Violence Prevention (DVP) was formed in 2019 with a mandate to reduce levels of gun violence, intimate partner violence, commercial sexual exploitation, family trauma associated with unsolved homicides, and community trauma associated with ongoing violence in Oakland. The DVP applies a public health approach to violence prevention and intervention efforts that focuses resources on people, neighborhoods, and times of day that are most likely to be impacted by violence. The department also applies different prevention and intervention strategies based on whether individuals are exposed to violence, at risk for violence, or at the center of violence. In Fiscal Year 2022-23, the DVP will distribute \$20 million in funding to community-based organizations (CBOs) in Oakland that deliver prevention and intervention services in the strategy areas of group and gun violence, gender-based violence, and community healing. The DVP also provides direct services in the areas of adult life coaching, violence interruption, and shooting and homicide response.

Since 2006, the DVP (formerly a division within the Human Services Department called “Oakland Unite”) has collected information on individual- and group-level service delivery, as well as contract management, through the Cityspan data management system. Evaluation reports by Mathematica, an evaluation firm contracted by Oakland Unite to evaluate its programs and services, have consistently identified deficits in Cityspan based on interviews with grantees and evaluator experiences working with data collected through Cityspan. Due to these findings and an expanding breadth of services offered through the DVP, the DVP and its contracted service providers require a more sophisticated data management system. The DVP is seeking to contract with Social Solutions Global, Inc. to procure the Apricot 360 data management system for this purpose.

The majority of funding for DVP programs and services comes from the Oakland Public Safety and Services Violence Act, also known as Measure Z. Measure Z requires an annual, independent program evaluation demonstrating that violence prevention and intervention strategies are progressing towards the desired outcomes. Legislation states that this evaluation will “consider whether programs and strategies are achieving reductions in violence and serving those at highest risk” and that “short-term successes and long-term desired outcomes will be considered in the program evaluations.” In order to conduct the required external evaluations of programs and services funded through Measure Z, and in order to conduct internal process evaluations of funded programs to ensure fidelity to DVP models, the DVP must collect data on group- and individual level services delivered by its contracted CBOs, including some personally-identifiable information (PII).¹ These data are used to answer questions like the ones below, which the DVP regularly receives from stakeholders such as City Councilmembers, Safety and Services Oversight Commission members, and others:

- How many individuals are the prevention/intervention programs and strategies serving? How many individuals receiving life coaching support are also receiving other services such as employment support or restorative justice programming?
- How does participation in Measure Z programs affect arrest or victimization rates?
- How does participation in Measure Z programs impact outcomes such as educational attainment and/or employment?

The collection of individual-level and aggregate service data is a common requirement for government funding. Similar agencies that also require this as a stipulation of funding include the City of Oakland’s

¹ Personally-identifiable information (PII) involves the collection of an individual’s full legal name and date of birth.

Fund for Children and Youth, the City of San Francisco's Department of Children, Youth, and Families, and the City of Los Angeles' Mayor's Office of Gang Reduction and Youth Development (LA GRYD). Similar agencies that use the Apricot 360 data management system include the Oakland Unified School District, the City of Stockton's Office of Violence Prevention, and LA GRYD.

A. Description

Social Solutions Global Inc.'s Apricot 360 data management system is the leading cloud software provider for public sector and nonprofit social service organizations. It allows organizations to collect a range of information to facilitate high-quality case management services, and it provides advanced analytics and reporting of collected data through dynamic dashboards. It allows providers to synchronize and manage many programs from the same platform, it allows for easy communication between providers and with clients, and it includes a variety of features that help providers complete their work, such as standardized workflows to ensure key steps are not missed, alerts for missing or incomplete data, mobile data entry capabilities, mechanisms for referring clients to outside agencies, and dashboards that relay organization and client updates to staff in real time. Apricot 360 offers one-way integration capabilities with other data management systems and technology platforms to avoid redundancy in data entry for community-based organizations that use other data management solutions. Apricot 360 also allows organizations to store documents and manage all processes related to contract management, including regular invoicing and tracking of deliverables.

B. Purpose

The purpose of this data management system is for the DVP and its contracted providers to track service delivery methods and outcomes for individuals and groups of individuals engaged in services related to group and gun violence, gender-based violence, and community healing. The data management system will be used by direct service staff to track engagement, milestones, and outcomes for individual clients as well as attendance, duration, and content of group services. Supervisory staff within contracted organizations and within the DVP will use the system to ensure that direct service staff are engaging clients with the expected frequency and delivering services appropriately to facilitate behavior change. The DVP's data and evaluation team will use the data management system to monitor aggregate service delivery and outcome data across each strategy, track the completion of grantee deliverables, and identify challenges with program implementation that require remediation. The DVP's contract staff will use the system to store contract documents, communicate with grantees about contract questions, track budget spenddown, and receive and process invoices based on completion of deliverables. Finally, service delivery and outcomes data will be available to external evaluators contracted by the DVP to conduct an evaluation of programs and services; these data will be identifiable only if clients have previously signed a consent form agreeing to the release of their identifiable data. The currently selected external evaluator is Urban Institute with Urban Strategies Council. This evaluator was chosen through an RFQ process and their contract is set to begin July 1, 2022. Individuals who consent to share their data with the external evaluator sign an Institutional Review Board-certified consent form to consent to provide their deanonymized data to this evaluator. Individuals who do not consent to share their data will not have any data shared.

C. Location

Apricot 360 is a cloud-based system that will be accessed via the internet by program staff within the DVP and DVP-funded organizations. Clients served by Apricot 360 will primarily reside in Oakland, CA.

D. Impact

The aggregation of demographic, service delivery, and outcome data on individual clients receiving services through the DVP or DVP-funded organizations in a single data management system poses the following potential risks:

- Data breach: A staff member could accidentally or purposefully download and share client data with unauthorized users, compromising client privacy. Alternatively, a third party could hack into the data management system to access records without authorization.
- Subpoena or public records request: The DVP could be required by law to release individual client records to an outside agency, compromising client privacy.

In a situation where individual data were released to a law enforcement agency, it is possible that the data could be used to support legal allegations regarding an individual being involved in violent activity due to the individual's enrollment in violence prevention or intervention services.

E. Mitigations

The DVP will take special care to ensure that data are only accessed on a need-to-know and right-to-know basis, meaning that staff from the DVP and DVP-funded organizations will only access information within the data management system that is essential to their job function. Apricot 360 allows administrators to restrict staff access to client records and individual fields within client records based on the staff member's pre-determined access requirements. For example, a case manager within a given DVP-funded organization will only have access to service delivery records for clients served by the case manager's organization; the case manager will not have access to service delivery records for clients being served by other organizations. Only staff within the DVP's Data and Evaluation Unit (currently two staff members) will have access to all data across providers (including individual-level client data) to allow for quality assurance reviews and technical assistance. Other administrative staff within the DVP and DVP-funded organizations will only have access to aggregate service delivery data in order to observe overall trends and progress towards meeting contract deliverables.

To prevent against data breaches, either intentional or unintentional, staff within the DVP's Data and Evaluation Unit will extensively train all staff within the DVP and DVP-funded organizations in proper usage of the Apricot 360 system prior to granting access. For more information on this training, please see the DVP's *Surveillance Technology Use Policy*.

In situations when the DVP receives a subpoena or public records request pertaining to data in the Apricot 360 system, the DVP will first consult with the City Attorney's Office regarding the DVP's obligation to provide the requested data. If the City Attorney's Office confirms that data must be provided, the DVP will work closely with the City Attorney's Office to redact all PII to maintain client privacy, as permitted by law. Additionally, the DVP shall work with the City Attorney's office to notify the grantee and clients whose data were in question. To staff's knowledge, the DVP has not received public records requests for individual-level data since the inception of Oakland Unite. The requests that the DVP has received have only been for aggregate-level data (e.g. how many participants were served in a year).

Hacking attempts will be prevented through strict data security measures that are discussed further under *Data Security* and in **Appendix A**.

The DVP will retain PII on clients engaged in DVP-funded services for three years following service completion to ensure that data are available for impact evaluations conducted by external evaluators, which can last for up to 3 years following service delivery. At the end of three years, PII will be deleted and anonymous service delivery data will be retained for an additional four years to allow the DVP to monitor trends in service delivery over time. At the conclusion of seven years, all data for an individual will be permanently deleted from the Apricot 360 system.

F. Data Types and Sources

Tables 1-3 present the level of personally identifiable information (PII) collected and expected forms completed in the Apricot 360 database by strategy. UI stands for unique identifiers, which are numeric codes that link to a key with client names and dates of birth that is maintained by CBOs outside the Apricot 360 database. **Table 4** provides an overview of the types of data collected through each Apricot 360 form.

Table 1. Level of PII collected through Apricot 360 for the DVP’s group and gun violence strategy.

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database													
			Client record	Employment information	Family support	Group activity	Hospital response	Life map goals and activities	Non-program service delivery	Program enrollment & exit	Program intake & needs assessment	Program service delivery	Referral to services	Relocation	Triangle incident response	Violence mediation
Employment & Education Support Services	Adult employment & education services	PII	x	x		x				x		x	x			
	Youth job exploration & education services	PII	x	x		x				x		x	x			
School Site Violence Intervention and Prevention Teams	Community healing	No PII				x										
	Gender-based violence services	Referrals & accomp: UI Trainings: No PII	x			x				x		x	x			
	Violence interruption	UI										x				x
	Youth Life Coaching	PII	x					x		x	x	x	x			
Violent incident crisis response	Emergency relocation	UI											x			
	Family support	UI			x								x			
	Hospital intervention	UI					x						x			
	Violence interruption	UI											x		x	x
Youth Diversion and Youth & Adult Life Coaching	Adult life coaching	PII	x					x		x	x	x	x			
	Housing-focused case management	UI	x						x	x		x				
	Youth diversion	Groups: No PII Mediation & RJ: UI				x										x
	Youth life coaching	PII	x					x		x	x	x	x			

Table 2. Level of PII collected through Apricot 360 for the DVP’s gender-based violence strategy.

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database											
			Client record	Drop-in center	GBV crisis line	Group activity	Hospital accompaniment	Life map goals and activities	Non-program service delivery	Program enrollment & exit	Program intake & needs assessment	Program service delivery	Referral to services	Triangle incident response
Crisis response	Bedside advocacy and accompaniment	UI					x						x	x
	24-hour hotlines	No PII			x									
Housing	Emergency shelter	No PII							x				x	
	Transitional housing	No PII							x				x	
Wrap-Around Services	Employment support	PII	x							x		x		
	Legal advocacy	No PII							x				x	
	Life coaching	PII	x					x		x	x	x	x	
	Safe space alternatives	No PII		x		x							x	
	Therapeutic support	Therapy: UI Support groups: No PII	x			x				x		x		

Table 3. Level of PII collected through Apricot 360 for the DVP’s community healing strategy.

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database								
			Client record	Family support	Group activity	Mini grant	Outreach	Program enrollment & exit	Program service delivery	Referral to services	
Restorative Services	None	No PII		x	x						
Mini Grants	None	No PII			x	x					
Neighborhood and Community Teams	None	No PII						x			x
Therapeutic Supports	None	Therapy: UI Support groups: No PII	x		x				x	x	
Town Nights	None	No PII			x						

Table 4. Types of data fields present in Apricot 360 database by form type.

Form	Data fields
Client record	<ol style="list-style-type: none"> 1. Name and contact information 2. Demographic information (age, race, gender, education, language spoken at home) 3. Employment and housing information (start date, end date, name of employer, housing arrangement) 4. School information, if applicable 5. Names and contact information of important people for service delivery, if applicable (e.g. probation officer)
Drop-in center	<ol style="list-style-type: none"> 1. Date of visit 2. Basic demographics (age, gender, race)
Employment information	<ol style="list-style-type: none"> 1. Job start and end date 2. Type of job 3. Employer information (name, industry, etc.)
Family support	<ol style="list-style-type: none"> 1. Number of individuals in family 2. Types and amount of support provided (e.g. relocation, funeral/vigil planning, VOC applications, financial) 3. Attendance at funerals/vigils
GBV crisis line	<ol style="list-style-type: none"> 1. Time and date of call 2. Yes/No: Did call relate to GBV? 3. Basic demographic information (age, race, gender)
Group activity	<ol style="list-style-type: none"> 1. Date, location, and duration of activity 2. Number and type (e.g. students, residents, teachers) of people in attendance 3. Type of activity (e.g. training, support group)
Hospital accompaniment	<ol style="list-style-type: none"> 1. Date and time of visit 2. Basic demographic information (age, gender, race) 3. Yes/No: Was safety plan developed?
Hospital response	<ol style="list-style-type: none"> 1. Date and time of notification 2. Date and time of hospital visits for service 3. Type of support provided (e.g. VOC applications, relocation funding)
Life map goals and activities	<ol style="list-style-type: none"> 1. Case plan goals 2. Planned and accomplished actions associated with goals 3. Start dates, completion dates, and current progress 4. Date and amount of financial incentives provided for completion of life map goals
Mini grant	<ol style="list-style-type: none"> 1. Grant amount, term, and recipient 2. Activities planned with grant 3. Number of people served through grant

Form	Data fields
Non-program service delivery	<ol style="list-style-type: none"> 1. Basic demographic information (age, gender, race) 2. Date of service provided 3. Type of service provided (e.g. housing, legal services) 4. Length of service, if applicable (e.g. length of stay in temporary housing)
Outreach	<ol style="list-style-type: none"> 1. Basic demographic information (age, gender, race) 2. Date, method, and outcome of all outreach attempts 3. Referral source
Program enrollment & exit	<ol style="list-style-type: none"> 1. Date and source of referral 2. Dates of enrollment and exit 3. Type of program 4. Reason for exit
Program intake and needs assessment	<ol style="list-style-type: none"> 1. Date of intake and needs assessment 2. Other questions will be specific to strategy or service provider
Program service delivery	<ol style="list-style-type: none"> 1. Date, duration, method, and content of all communication with client 2. Date and amount of financial incentives provided to client 3. Assigned staff member's name and contact information
Referral to services	<ol style="list-style-type: none"> 1. Date of referral 2. Type of service referral 3. Name of organization referred to 4. Status of referral (e.g. sent, received, accepted, denied)
Relocation	<ol style="list-style-type: none"> 1. Yes/No: Was lethality assessment conducted? 2. Date and types of relocation support provided 3. Date and result of request for relocation support/funding 4. Number of people relocated
Triangle incident response	<ol style="list-style-type: none"> 1. Date and time of notification 2. Date and time of scene or hospital response 3. Assessment: Victim demographics, category of incident, homicide (yes/no), level of retaliation (high/medium/low) 4. Notes on follow-up: relocation, mediation, peer outreach, family outreach, school outreach, community outreach
Violence mediation	<ol style="list-style-type: none"> 1. Date and time of mediation conversations 2. Number of people involved in each conversation 3. Basic demographic data (age, gender, race) of people involved in each conversation 4. Type of mediation: proactive vs. retaliation 5. Other people notified of conflict (e.g. family members, school administrators)

Table 5 presents information on Apricot 360’s functionality pertaining to contract management, data visualization and extraction, and data management.

Table 5. Data management system functionality pertaining to contract management, data visualization and extraction, and data management.

Category	Functionality requirement
Contract management	<ul style="list-style-type: none"> ▪ Store documents like scope of work, city council resolution, etc. for reference ▪ Display contract budget and show amount remaining in each budget category based on invoices submitted ▪ Allow for invoice submission, approval, and reminders ▪ Allow for communication between DVP staff and CBO staff
Data visualization and extraction	<ul style="list-style-type: none"> ▪ Download raw data in Excel files and customize file downloads to specify fields included, date ranges, etc. ▪ Within the data management system, display easy-to-understand graphs and charts of service or contract data that are relevant to each individual staff member ▪ Customize and generate reports for CBOs or program strategies that present results in comparison to predetermined metrics or deliverables
System and data management	<ul style="list-style-type: none"> ▪ Display or hide specific data fields based on staff credentials ▪ Flag and prompt a correction for missing or incomplete data ▪ Retain historical data entries (e.g. prior program enrollments for clients) ▪ Store consent forms, sign-in sheets, and other scanned documents ▪ Provide mobile database access that allows staff to easily record data in the field (e.g. crime scene response) ▪ Provide a high level of privacy security that complies with the Health Insurance Portability and Accountability Act (HIPAA) ▪ Issue reminders for staff regarding upcoming tasks or inactive clients ▪ Identify and merge duplicate client records ▪ Allow for staff to make service referrals for clients to other providers, both contracted by the DVP and not contracted by the DVP

Please note that no PII will be collected whatsoever in the contract management element of the system.

G. Data Security

The Apricot 360 system has comprehensive measures in place to maintain data privacy and security. Information about Apricot’s security and hosting is attached as **Attachment A**, which states the following: “Social Solutions’ office sits behind a firewall which extensively controls, tracks, and reports access to our internal infrastructure. Our software meets current HUD Domestic Violence, HMIS, and Social Security Administration data management and security protocols, FedRAMP ready, as well as minimum required FERPA and HIPAA standards.” In addition, **Attachment A** states that Apricot 360 uses “state-of-the art equipment and technology to safeguard the confidential nature of data. Data is automatically encrypted while in transit between your computer and our servers as well as while in the database. Users access Apricot® software web application servers via secure HTTPS connection.”

H. Fiscal Cost

The development of a custom data management system and annual licensing and technical support fees provided by Social Solutions Global Inc. for five years is \$533,056. Funding allocations by fiscal year are outlined in **Table 6**.

Table 6. Budget allocation for Apricot 360 data management system by fiscal year and funding source.

Fiscal year	Description of fees	Funding from Measure Z	Funding from General Purpose Fund or DVP grants	Total amount
2022-2023	Custom system development and implementation	\$70,000	\$1,000	\$71,000
	Annual licenses and training/technical support	\$0	\$49,014	\$49,014
2023-2024	Annual licenses and training/technical support	\$70,000	\$28,028	\$98,028
2024-2025*	Annual licenses and training/technical support	\$70,000	\$28,028	\$98,028
2025-2026*	Annual licenses and training/technical support	\$70,000	\$30,969	\$100,969
2026-2027*	Annual licenses and training/technical support	\$70,000	\$36,017	\$106,017
TBD	Contingency for system development or additional annual licenses	\$0	\$10,000	\$10,000
Total		\$350,000	\$183,056	\$533,056

*Funding allocations in these fiscal years are based on the assumption that Measure Z funding will be reauthorized. If Measure Z is not reauthorized, the DVP will use grant funding or money from the General Purpose Fund to cover the Measure Z allocations.

I. Third Party Dependence

Data collected through Apricot 360 would be stored on Social Solutions Global Inc.’s cloud-based server.

J. Alternatives

One alternative to adopting a contract with Social Solutions Global, Inc. would be to continue using the data management system provided by Cityspan. This would severely limit the DVP’s ability to conduct process and outcome evaluations related to DVP-funded services, and it would limit the system’s utility for direct service staff in supporting service delivery to clients. Functions that are not currently possible in Cityspan are outlined below in **Table 7**.

Table 7. Data management system functions that are not possible using Cityspan.

Category	Function
Individual service delivery	<ul style="list-style-type: none"> ▪ Track outreach efforts with potential clients prior to enrollment, including date, method, and result of each contact ▪ Track multiple program enrollments for a single client ▪ Allow staff to make program or service referrals for clients to outside organizations and track referral acceptance ▪ Flag clients who are inactive and require follow-up ▪ Detect and resolve duplicate client entries ▪ Track client progress on individual life map goals
Crisis response	<ul style="list-style-type: none"> ▪ Automatically notify staff of shooting and homicide incidents that require a response ▪ Track data on deployment, assessment, and response activities ▪ Allow for mobile data entry in the field ▪ Allow for communication within the system between members of the response team to coordinate activities
System and data management	<ul style="list-style-type: none"> ▪ Modify data system fields or functions (done by DVP staff) ▪ Flag and prompt the correction of missing or incomplete data ▪ Present up-to-date data to DVP staff and grantees through visually-appealing dashboards ▪ Allow for automated communication between other grantee data management systems & the DVP's data management system ▪ Allow for staff to make service referrals for clients to other providers, both contracted by the DVP and not contracted by the DVP

Another alternative to adopting a contract with Social Solutions Global, Inc. would be to select a different vendor to develop a new data management system for the DVP and provide ongoing user licenses, hosting, and technical assistance. **Table 8** provides cost information from two comparison quotes that the DVP solicited from Salesforce and Microsoft Corporation pertaining to the requested data management services.

Table 8. Proposal costs from three vendors that meet the DVP's data management system requirements.

Vendor	Location of company headquarters	Average annual license and technical assistance cost	One-time development cost	Contingency cost	Total contract amount
Social Solutions	Austin, Texas	\$90,411	\$71,000	\$10,000	\$533,056
Salesforce	San Francisco, California	\$58,548	\$173,700	\$10,000	\$476,440
Microsoft Corporation	Redmond, Washington	\$9,300	\$1,053,000	\$10,000	\$1,099,500

As demonstrated in Table 5, the proposal from Social Solutions is \$56,616 greater than the proposal from Salesforce, which equates to \$11,323 per year. However, the maintenance and administration of a Salesforce system requires very specialized training that would likely require the DVP to hire an

additional staff person or contract with a Salesforce consultant on an ongoing basis, which would significantly increase the annual costs. After reviewing demonstrations of both the Social Solutions and Salesforce systems, DVP staff felt strongly that the Apricot 360 system was significantly less complex and easier to use. Additionally, Social Solutions specializes in local government, non-profits, and social services, while Salesforce does not. The proposal submitted by Microsoft Corporation was excessive in terms of cost and therefore not considered a viable alternative.

K. Track Record

Social Solutions Global Inc. already contracts with a number of similar social service agencies, including the Oakland Unified School District, the City of Stockton's Office of Violence Prevention, LA GRYD, Roca, Inc. (a nationally-renowned violence intervention agency located in Boston, MA), and five organizations currently funded by the DVP. Social Solutions also received a strong endorsement from Empower Tehama, a service provider based in Northern California that provides services similar to the DVP, during a reference check conducted by DVP staff. Additionally, Social Solutions Global, Inc. estimates that the implementation of their data management system saves approximately 35% time on data entry, 75% time on reporting, and 25% time on reconciling data integrity issues. An independent study of the effect of using Apricot 360 on programming found that it resulted in a 3% increase in funding and a 40% decrease in time spent on service delivery.

Apricot 360 Use Policy

City of Oakland Department of Violence Prevention

The Department of Violence Prevention (DVP) was established in 2019 with a mandate to reduce levels of gun violence, intimate partner violence, commercial sexual exploitation, family trauma associated with unsolved homicides, and community trauma associated with ongoing violence in Oakland. The DVP applies a public health approach to violence prevention and intervention efforts that focuses resources on people, neighborhoods, and times of day that are most likely to be impacted by violence. The department also applies different prevention and intervention strategies based on whether individuals are exposed to violence, at risk for violence, or at the center of violence. Each fiscal year, the DVP distributes millions of dollars in funding to community-based organizations (CBOs) in Oakland that deliver prevention and intervention services in the areas of group and gun violence, gender-based violence, and community healing. The DVP also provides direct services in the areas of adult life coaching, violence interruption, and shooting and homicide response.

A. Purpose

The purpose of the Apricot 360 data management system, developed by Social Solutions Global, Inc., is for the DVP and its contracted providers to track service delivery methods and outcomes for individuals and groups of individuals engaged in services related to group and gun violence, gender-based violence, and community healing, as well as to manage contracts between the DVP and funded organizations. The data management system will be used by direct service staff to track engagement, milestones, and outcomes for individual clients as well as attendance, duration, and content of group services. Supervisory staff within contracted organizations and within the DVP will use the system to ensure that direct service staff are engaging clients with the expected frequency and delivering services appropriately to facilitate behavior change. Staff within the DVP's Data and Evaluation Unit will use the data management system to monitor aggregate service delivery and outcome data across each strategy, track the completion of grantee deliverables, and identify challenges with program implementation that require remediation. The DVP's contract staff will use the system to store contract documents, communicate with grantees about contract questions, track budget spenddown, and receive and process invoices based on completion of deliverables. Finally, service delivery and outcomes data will be available to external evaluators contracted by the DVP to conduct an evaluation of programs and services; these data will be identifiable only if clients have previously signed a consent form agreeing to the release of their identifiable data.

B. Authorized Use

All data will be accessed on a need-to-know and right-to-know basis, meaning that individuals will only be able to access information within the data management system that is essential to their job function. Categories of data management system usage are described below.

- **Service delivery:** Direct service staff and supervision staff will use the data management system to track information on client contacts, progress towards milestones, accomplishments, referrals, and other aspects of service delivery. The system will track tasks related to service delivery and present summarized data on clients served through dashboards that are helpful to staff who are directly responsible for service delivery to clients. Direct service staff are staff such

as case managers and life coaches who work directly with clients to deliver services or programming. Supervision staff are supervisors of direct service staff.

- **Contract management:** DVP program officers will use aggregate data entered into the data management system to ensure that providers are delivering services as outlined in their scopes of work and meeting contract deliverables. Program officers will also use the system to manage grant budgets, budget and scope modifications, invoicing and payments, and communication with grantees about contracts.
- **Internal evaluation:** DVP staff in the Data and Evaluation Unit will use data from the system to ensure that the department is serving the correct target population, services are being delivered as expected, and summarized service delivery data are available to a range of external stakeholders, including councilmembers, committee members, grantors, and the public.
- **External evaluation:** External evaluators contracted by the DVP or City Administrator's Office will use the data from the data management system to evaluate the effectiveness of services delivered by the DVP or DVP-funded agencies. The currently selected external evaluator is Urban Institute with Urban Strategies Council. This evaluator was chosen through an RFQ process and their contract is set to begin July 1, 2022. Evaluators will seek and receive Institutional Review Board (IRB) approval prior to commencing any research activities. Once IRB approval is obtained, evaluators will only have access to personally identifiable information (PII) of individuals who sign a consent form agreeing to have their data be shared with a third-party evaluator. For clients who do not sign a consent form, data from the data management system will only be provided without PII or in aggregate form.

C. Data Collection

Service delivery data will be collected by direct service staff within the DVP and DVP-funded agencies. Prior to enrollment in services, individuals will complete consent forms pertaining to general storage of their information in the data management system and, separately, potential use of their data by a third-party evaluator. Direct service staff will then enter in data provided by participants or related to participant interactions with the staff member into the data management system in accordance with the signed consent forms.

Tables 1-3 present the level of personally identifiable information (PII) collected and expected forms completed in the Apricot 360 database by strategy. UI stands for unique identifiers, which are numeric codes that link to a key with client names and dates of birth that is maintained by CBOs outside the Apricot 360 database. **Table 4** provides an overview of the types of data collected through each Apricot 360 form.

Table 1. Level of PII collected through Apricot 360 for the DVP’s group and gun violence strategy.

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database													
			Client record	Employment information	Family support	Group activity	Hospital response	Life map goals and activities	Non-program service delivery	Program enrollment & exit	Program intake & needs assessment	Program service delivery	Referral to services	Relocation	Triangle incident response	Violence mediation
Employment & Education	Adult employment & education services	PII	x	x		x					x		x			
Support Services	Youth job exploration & education services	PII	x	x		x					x		x			
School Site	Community healing	No PII				x										
Violence Intervention and Prevention Teams	Gender-based violence services	Referrals & accomp: UI Trainings: No PII	x			x					x		x			
	Violence interruption	UI											x			x
	Youth Life Coaching	PII	x						x		x	x	x			
Violent incident crisis response	Emergency relocation	UI												x		
	Family support	UI			x								x			
	Hospital intervention	UI					x						x			
	Violence interruption	UI											x		x	x

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database													
			Client record	Employment information	Family support	Group activity	Hospital response	Life map goals and activities	Non-program service delivery	Program enrollment & exit	Program intake & needs assessment	Program service delivery	Referral to services	Relocation	Triangle incident response	Violence mediation
Youth Diversion and Youth & Adult Life Coaching	Adult life coaching	PII	x					x		x	x	x	x			
	Housing-focused case management	UI	x						x	x		x				
	Youth diversion	Groups: No PII Mediation & RJ: UI				x										x
	Youth life coaching	PII	x					x		x	x	x	x			

Table 2. Level of PII collected through Apricot 360 for the DVP’s gender-based violence strategy.

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database												
			Client record	Drop-in center	GBV crisis line	Group activity	Hospital accompaniment	Life map goals and activities	Non-program service delivery	Program enrollment & exit	Program intake & needs	Program service delivery	Referral to services	Triangle incident response	
Crisis response	Bedside advocacy and accompaniment	UI					x							x	x
	24-hour hotlines	No PII			x										
Housing	Emergency shelter	No PII								x				x	
	Transitional housing	No PII								x				x	
Wrap-Around Services	Employment support	PII	x									x		x	
	Legal advocacy	No PII								x				x	
	Life coaching	PII	x						x		x	x	x	x	
	Safe space alternatives	No PII		x		x								x	
	Therapeutic support	Therapy: UI Support groups: No PII	x			x						x		x	

Table 3. Level of PII collected through Apricot 360 for the DVP’s community healing strategy.

Substrategy	Activity	Level of PII collected in Apricot 360 database	Forms completed in Apricot 360 database							
			Client record	Family support	Group activity	Mini grant	Outreach	Program enrollment & exit	Program service delivery	Referral to services
Restorative Services	None	No PII		x	x					
Mini Grants	None	No PII			x	x				
Neighborhood and Community Teams	None	No PII					x			x
Therapeutic Supports	None	Therapy: UI Support groups: No PII	x		x			x	x	
Town Nights	None	No PII			x					

Table 4. Types of data fields present in Apricot 360 database by form type.

Form	Data fields
Client record	<ol style="list-style-type: none"> 1. Name and contact information 2. Demographic information (age, race, gender, education, language spoken at home) 3. Employment and housing information (start date, end date, name of employer, housing arrangement) 4. School information, if applicable 5. Names and contact information of important people for service delivery, if client chooses to provide (e.g. probation officer)
Drop-in center	<ol style="list-style-type: none"> 1. Date of visit 2. Basic demographics (age, gender, race)
Employment information	<ol style="list-style-type: none"> 1. Job start and end date 2. Type of job 3. Employer information (name, industry, etc.)
Family support	<ol style="list-style-type: none"> 1. Number of individuals in family 2. Types and amount of support provided (e.g. relocation, funeral/vigil planning, VOC applications, financial) 3. Attendance at funerals/vigils
GBV crisis line	<ol style="list-style-type: none"> 1. Time and date of call 2. Yes/No: Did call relate to GBV? 3. Basic demographic information (age, race, gender)

Form	Data fields
Group activity	<ol style="list-style-type: none"> 1. Date, location, and duration of activity 2. Number and type (e.g. students, residents, teachers) of people in attendance 3. Type of activity (e.g. training, support group)
Hospital accompaniment	<ol style="list-style-type: none"> 1. Date and time of visit 2. Basic demographic information (age, gender, race) 3. Yes/No: Was safety plan developed?
Hospital response	<ol style="list-style-type: none"> 1. Date and time of notification 2. Date and time of visits for service 3. Type of support provided (e.g. VOC applications, relocation funding)
Life map goals and activities	<ol style="list-style-type: none"> 1. Case plan goals 2. Planned and accomplished actions associated with goals 3. Start dates, completion dates, and current progress 4. Date and amount of financial incentives provided for completion of life map goals
Mini grant	<ol style="list-style-type: none"> 1. Grant amount, term, and recipient 2. Activities planned with grant 3. Number of people served through grant
Non-program service delivery	<ol style="list-style-type: none"> 1. Basic demographic information (age, gender, race) 2. Date of service provided 3. Type of service provided (e.g. housing, legal services) 4. Length of service, if applicable (e.g. length of stay in temporary housing)
Outreach	<ol style="list-style-type: none"> 1. Basic demographic information (age, gender, race) 2. Date, method, and outcome of all outreach attempts 3. Referral source
Program enrollment & exit	<ol style="list-style-type: none"> 1. Date and source of referral 2. Dates of enrollment and exit 3. Type of program 4. Reason for exit
Program intake and needs assessment	<ol style="list-style-type: none"> 1. Date of intake and needs assessment 2. Other questions will be specific to strategy or service provider
Program service delivery	<ol style="list-style-type: none"> 1. Date, duration, method, and content of all communication with client 2. Date and amount of financial incentives provided to client 3. Assigned staff member's name and contact information

Form	Data fields
Referral to services	<ol style="list-style-type: none"> 1. Date of referral 2. Type of service referral 3. Name of organization referred to 4. Status of referral (e.g. sent, received, accepted, denied)
Relocation	<ol style="list-style-type: none"> 1. Yes/No: Was lethality assessment conducted? 2. Date and types of relocation support provided 3. Date and result of request for relocation support/funding 4. Number of people relocated
Triangle incident response	<ol style="list-style-type: none"> 1. Date and time of notification 2. Date and time of scene or hospital response 3. Assessment: Victim demographics, category of incident, homicide (yes/no), level of retaliation (high/medium/low) 4. Notes on needed follow-up: relocation, mediation, peer outreach, family outreach, school outreach, community outreach
Violence mediation	<ol style="list-style-type: none"> 1. Date and time of mediation conversations 2. Number of people involved in each conversation 3. Basic demographic data (age, gender, race) of people involved in each conversation 4. Type of mediation: proactive vs. retaliation 5. Other people notified of conflict (e.g. family members, school administrators)

Table 5. Data management system functionality pertaining to contract management, data visualization and extraction, and data management.

Category	Functionality requirement
Contract management	<ul style="list-style-type: none"> ▪ Store documents like scope of work, city council resolution, etc. for reference ▪ Display contract budget and show amount remaining in each budget category based on invoices submitted ▪ Allow for invoice submission, approval, and reminders ▪ Allow for communication between DVP staff and CBO staff
Data visualization and extraction	<ul style="list-style-type: none"> ▪ Download raw data in Excel files and customize file downloads to specify fields included, date ranges, etc. ▪ Within the data management system, display easy-to-understand graphs and charts of service or contract data that are relevant to each individual staff member ▪ Customize and generate reports for CBOs or program strategies that present results in comparison to predetermined metrics or deliverables
System and data management	<ul style="list-style-type: none"> ▪ Display or hide specific data fields based on staff credentials ▪ Flag and prompt a correction for missing or incomplete data ▪ Retain historical data entries (e.g. prior program enrollments for clients) ▪ Store consent forms, sign-in sheets, and other scanned documents ▪ Provide mobile database access that allows staff to easily record data in the field (e.g. crime scene response) ▪ Provide a high level of privacy security that complies with the Health Insurance Portability and Accountability Act (HIPAA) ▪ Issue reminders for staff regarding upcoming tasks or inactive clients ▪ Identify and merge duplicate client records ▪ Allow for staff to make service referrals for clients to other providers, both contracted by the DVP and not contracted by the DVP

Please note that no PII will be collected whatsoever in the contract management element of the system.

D. Data Access

The DVP will take special care to ensure that data are only accessed on a need-to-know and right-to-know basis, meaning that staff will only be able to access information within Apricot 360 that is essential to their job function. Apricot 360 allows administrators to restrict access to client records and individual fields within client records for staff members based on their pre-determined access requirements. For example, a case manager within a given DVP-funded organization will only have access to service delivery records for clients served by the case manager’s organization; the case manager will not have access to service delivery records for clients being served by other organizations. Only staff within the DVP’s Data and Evaluation Unit (currently two staff members) will have access to all data across providers (including individual-level client data) to allow for quality assurance reviews and technical assistance. Other administrative staff within the DVP and DVP-funded organizations will only have access to aggregate service delivery data in order to observe overall trends and progress towards meeting contract deliverables. Unauthorized use of the system by any staff person with any level of access will lead to disciplinary action, which could include termination of a service provider’s grant agreement and cessation of funding and, with respect to City employees, discipline up to and including termination.

E. Data Protection

The Apricot 360 system has comprehensive measures in place to maintain data privacy and security. In fact, the level of data privacy and security that Apricot 360 contains is much higher than the current Cityspan data system. Information about Apricot’s security and hosting is attached as **Attachment A**, which states the following: “Social Solutions’ office sits behind a firewall which extensively controls, tracks, and reports access to our internal infrastructure. Our software meets current HUD Domestic Violence, HMIS, and Social Security Administration data management and security protocols, as well as minimum required FERPA and HIPAA standards.” In addition, Attachment A states that Apricot 360 uses “state-of-the art equipment and technology to safeguard the confidential nature of data. Data is automatically encrypted while in transit between your computer and our servers as well as while in the database. Users access Apricot® software web application servers via secure HTTPS connection.”

F. Data Retention

The DVP will retain PII on clients engaged in DVP-funded services for three years following service completion to ensure that data are available for evaluations conducted by external evaluators, which can last for up to 3 years following service delivery. At the end of three years, PII will be deleted and anonymous service delivery data will be retained for an additional four years to allow the DVP to monitor trends in service delivery over time. At the conclusion of seven years, all data for an individual will be permanently deleted from the Apricot 360 system.

G. Public Access

There will be absolutely no public access to raw data in this system. As with any government record, a member of the public may submit a Public Records Act Request, but only aggregate data with no PII would be released subject to any applicable federal, state, and local privacy and/or confidentiality laws. If there were a request of this nature, the DVP shall work with the City Attorney’s office on this and notify the grantee whose data was in question. To staff’s knowledge, the DVP has not received public records requests for individual-level data since its inception. The requests that the DVP has received have only been for aggregate level data (i.e. how many participants were served in a year).

Aggregated data from this system (e.g. how many individuals were served in a specific strategy during a specific year) will be available in the evaluation reports and may be available in tables, charts, or dashboards in public documents or through the DVP’s public website.

H. Third Party Data Sharing

No other city departments will have access to this data. An external evaluator contracted by the DVP or the City Administrator’s Office will use the data in this system for evaluation purposes to examine the effectiveness of programs. They will only have access to the individual-level data for individuals who sign a consent form allowing their data to be shared with a third-party evaluator. For clients who do not sign a consent form, data will only be provided to a third-party evaluator without individual identifiers or in aggregate form.

I. Training

Staff within the DVP's Data and Evaluation Unit will attend the Apricot 360 Train-the-Trainer and Custom End User training sessions, which will review the data management system's configuration and review tips and tricks for training end users. In addition, DVP staff will have access to the Apricot Basic Training package, which includes unlimited access to the following:

- Live Apricot Setup Webinar
- Live Apricot Insights Webinar
- Administrative Video Library
- End User Training Library

Using these tools, staff within the DVP's Data and Evaluation Unit will train internal DVP staff and staff from DVP-funded organizations on how to use the new data system. This will include general trainings, trainings specific to staff members' strategy and sub-strategy areas, and ongoing options for one-on-one training, support, and technical assistance. All trainings will specify appropriate usage of the system pertaining to data privacy and consequences of inappropriate system usage, which could include termination of a service provider's grant agreement and cessation of funding and, with respect to City employees, discipline up to and including termination.

J. Auditing and Oversight

The DVP's Budget and Grants Administrator will be responsible for ensuring that the Surveillance Use Policy is followed by internal DVP staff and staff from DVP-funded organizations. All actions in the system (add, edit, delete, view, etc.) are accessible through audit log reporting built into the system for administrator monitoring. The DVP's Budget and Grants Administrator will review audit logs on a monthly basis to ensure appropriate system usage by all users. Any indication of inappropriate system usage will be thoroughly investigated by the DVP in consultation with the City Attorney's Office. Inappropriate system usage could result in termination of a service provider's grant agreement and cessation of funding and, with respect to City employees, discipline up to and including termination.

K. Maintenance

Social Solutions Global Inc.'s security mechanisms and procedures are built on the Soc2 Type II Framework with HIPAA amendment and audited by third-party security experts annually for meeting best-in-class technical safeguards, processes, policies, and procedures. Social Solutions Global Inc. has an extensive cloud security team led by their Chief Information Security Officer that uses a broad set of tools for monitoring security, vulnerability, integrity, uptime, and more across over 19,000 customers. A complete copy of Social Solutions Global Inc.'s Soc2 Type II has been shared with City of Oakland staff who have signed a non-disclosure agreement, including staff from the DVP's Data and Evaluation Unit and the Information Technology Department.

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE CITY OF OAKLAND

AND

SOCIAL SOLUTIONS GLOBAL, INC.

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DRAFT

**AGREEMENT TO PROVIDE PROFESSIONAL SERVICES BETWEEN THE
CITY OF OAKLAND AND SOCIAL SOLUTIONS GLOBAL, INC.**

This Agreement to provide professional services and related subscription products as set forth with specificity herein (“Agreement”) is entered into as of the date when fully executed below (“Effective Date”) between Social Solutions Global, Inc., a Delaware corporation with a principal place of business at 10801-2 N. MoPac Expressway, Suite 400, Austin, Texas 78759 (“Contractor”) and the City of Oakland (“City”), a municipal corporation, One Frank H. Ogawa Plaza, Oakland, California 94612.

RECITALS

This Agreement is made with reference to the following facts and objectives:

WHEREAS, the City Council has authorized the City Administrator to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met; and

WHEREAS, Contractor is the developer and provider of data management services designed specifically for social service providers (“Services”); and

WHEREAS, City wishes to acquire Contractor’s Services as specifically set forth in this Agreement, including the Statement of Work (“SOW”) which is attached hereto as **Exhibit 1** and incorporated herein; and

WHEREAS, the following Exhibits and Schedules are attached hereto and incorporated by reference into this Agreement:

- Exhibit 1:** Statement of Work (“SOW”)
- Exhibit 2:** Apricot Security and Hosting Statement
- Exhibit 3:** Contract Compliance Provisions
- Exhibit 4:** Insurance Requirements and Certificate of Liability Insurance
- Exhibit 5:** City Schedules
- Exhibit 6:** Waiver of Performance Bond

**THE PARTIES TO THIS AGREEMENT CONVENANT AND AGREE AS
FOLLOWS:**

1. Priority of Documents

In the event of conflicting provisions as between the following documents, except as otherwise expressly stated, the provisions shall govern in the following order: the Amendments to this Agreement and Change Notices (as defined in Section 13 of this Agreement) in reverse chronological order of adoption, this Agreement and its Exhibits. The Exhibits shall govern in numerical order as set out in this Agreement.

2. Conditions Precedent

Before this Agreement will become effective:

- (a) Contractor and City must complete and agree upon a Statement of Work which shall be attached to this Agreement as Exhibit 1;
- (b) Contractor must provide City with:
 - 1. A copy of Contractor's City of Oakland Business Tax License which must be kept current for the duration of the Agreement and shall be attached to this Agreement as part of Exhibit 5; and
 - 2. A completed set of the City of Oakland Schedules which shall be attached to this Agreement as Exhibit 5.

3. Statement of Work

Contractor agrees to diligently and with best efforts perform the work described in the SOW (Exhibit 1).

4. Term

The term of this Agreement (the "Term") shall start on the Effective Date and end on **June 30, 2027** unless terminated sooner as provided herein.

5. Compensation/Payments

- (a) Contractor must complete the work set forth in the SOW at a firm, fixed price which shall, in no event, exceed \$533,056 (five hundred thirty-three thousand, fifty-six dollars) over the Term of this Agreement.
- (b) Upon Contractor's satisfactory performance of the Services and/or completion of the Deliverables as described and set forth in the SOW and City's Acceptance of those Services and/or Deliverables, Contractor will invoice City for the Services and Deliverables City has Accepted. The invoice must be accompanied by an Acceptance Certificate (as defined in section 10(b) of this Agreement) for the Services or Deliverable being invoiced.
- (c) City will pay Contractor's invoice within thirty (30) days of City's receipt of Contractor's invoice. All such payments from the City shall be in immediately available funds and in U.S. dollars.
- (d) Contractor acknowledges and agrees that City shall have no obligation whatsoever to pay Contractor for any Services or Deliverables it has not Authorized and Accepted by issuing an Acceptance Certificate as described in section 10(b) of this Agreement.

6. System Security

Contractor understands and agrees that, in the performance of the work or Services under this Agreement or in contemplation thereof, the City owns all data, information or material that it enters into the Apricot Platform (“City Data”), and the community-based organizations (“CBO’s”) that enter data, information or material into the Apricot Platform (“CBO Data,” collectively, “Data”) own their own data. City shall in its sole discretion determine how City Data may be used and/or shared. The City may use and share CBO Data only as permitted by agreement between that CBO and the City. Contractor’s access to City Data and CBO Data is conditioned upon Contractor’s agreement that all City Data disclosed by the City to Contractor, and all CBO Data disclosed by a CBO to Contractor, is proprietary and confidential. Contractor shall hold all Data in confidence and may use it only in the performance of this Agreement.

As is set forth with specificity in the SOW, Contractor agrees and covenants to collect and store City’s Data and all CBO Data in the Apricot Platform (the “System”) by means of which Contractor further agrees and covenants will provide industry standard security, scalability, high-availability, disaster recovery and dynamic, high-volume computer resources in a proven and trusted environment.

Contractor acknowledges that unauthorized disclosures of the Data could seriously harm the City and third parties. Contractor further acknowledges that, in entering into this Agreement, the City is relying upon Contractor’s representations in Contractor’s SOC2 Type 2 (SSAE18) report which describes Contractor’s security controls. Contractor warrants and covenants that its System protects and preserves the confidentiality and privacy of the Data against unauthorized access (“Breach”) in accordance with industry standards.

In recognition of City’s reliance on its System, Contractor agrees to fully indemnify City, as set forth in detail in Section 15 of this Agreement, for all liabilities, claims, losses, damages and expenses, including without limitation, reasonable attorney’s fees, arising or resulting from (a) any Breach or other compromise of Contractor’s System, (b) unauthorized access to the City Data which is not attributable to the City, and/or (c) unauthorized access to any CBO Data which is not attributable to the CBO that owns the CBO Data.

7. Independent Contractor

- (a) **Rights and Responsibilities.** It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City. Contractor has and shall retain the right to exercise full control and supervision of the Services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor’s Services hereunder. Contractor shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor’s subordinates and employees. Contractor will determine the method, details and means of performing the services described in the SOW, and has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution

of this agreement, Contractor shall complete Schedule M, Independent Contractor Questionnaire, attached hereto.

- (b) Payment of Income Taxes. Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for the Services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.
- (c) Non-Exclusive Relationship. Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in its sole discretion, sees fit.
- (d) Tools, Materials and Equipment. Contractor will supply all tools, materials and equipment required to perform the Services under this Agreement.
- (e) Cooperation of the City. City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.
- (f) Extra Work. Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

8. Contractor Warranties

Contractor represents and warrants that:

- (a) Contractor has the qualifications and skills necessary to perform the services under this Agreement in: (i) a timely, competent and professional manner without the advice or direction of the City, and (ii) in accordance with all applicable governmental requirements, statutes, regulations, rules and ordinances including, without limitation, applicable data privacy laws and regulations ("Laws"). Contractor will promptly advise City of any change in the Laws, or other conditions that may affect the Services. Contractor warrants that Contractor, and Contractor's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Contractor's performance of the Services. Contractor represents and warrants that it is able to fulfill the requirements of this Agreement. Failure to perform all of the Services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement.
- (b) the Services and Deliverables (i) will be free from defects in design, workmanship and materials, and (ii) will conform in all material respects to the Specifications.

- (c) it will use all reasonable efforts, including appropriate testing, to ensure that the Apricot Software and the Apricot Platform do not contain viruses, contaminants, or other harmful code that may harm City systems or other City software.
- (d) as is set forth specifically in Section 12 (Ownership of Results; Intellectual Property), it owns or has the unencumbered right to license and/or assign to City, as provided in this Agreement, access to the Apricot Software and Platform and related network, licensing, technical support, and consultation services (“Services”) and all results of the Services delivered to City hereunder, including all required Intellectual Property Rights therein.
- (e) it acknowledges that City is a provider of public and municipal services to the public and residents of the City of Oakland and that City’s reliance on and use of Contractor’s Services will be vital to: (1) the business operations of the City; (2) the orderly and efficient provision of public and municipal services by the City; and (3) the health and safety of the City’s residents; and, therefore, that any unauthorized interruption of City’s business and operations could result in substantial liability to City. In recognition of City’s status as a provider of such public and municipal services, Contractor warrants and represents that Contractor shall not at any time during the Term of this Agreement and thereafter render the Apricot Software unusable or inoperable, take possession of the Deliverables provided to City by Contractor or Contractor’s subcontractors or in any way deliberately take actions limiting Contractor’s liability under this Agreement.
- (f) EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES MADE IN THIS AGREEMENT, CONTRACTOR MAKES NO REPRESENTATION, ACKNOWLEDGEMENT, CONDITION OR WARRANTY OF ANY KIND WHATSOEVER UNDER THIS AGREEMENT OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY STATUTORY, EXPRESS, IMPLIED OR OTHER WARRANTIES OR ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE REGARDING ANY SERVICES, DELIVERABLES OR ANY OTHER PRODUCTS DELIVERED TO THE CITY UNDER THIS AGREEMENT.

9. Access/Security of City Information Technology Systems

Contractor shall at all times maintain and ensure that all of City’s information technology systems with which Contractor interfaces, or has access to, remain secure and do not through any of Contractor’s actions or lack of action thereof become vulnerable to breach, hacking into or in any way provide any unauthorized access to third parties. Contractor shall not work on any City information technology system unless Contractor first contacts and obtains prior written authorization, through e-mail, from the City’s Director of the Office of Information Technology, or his or her designee. Contractor warrants and represents that it will provide all information, reports, and data that fully informs the City with respect to any work, software deliverables, or

products that the Contractor works on or which alter or affect the City's information technology systems, including without limitation, any source code and passwords necessary to access or make any such work, software, deliverables or products usable by the City.

10. Acceptance

- 10.1 Unless otherwise agreed in writing, the Parties agree that:
- (a) When Contractor completes each Authorized Deliverable, the City shall have five (5) Business Days, or such longer period of time as the Parties may agree upon or as is set out in the SOW and the "Acceptance Period" from the City's receipt of the Deliverable to review and either provide its Acceptance of the Deliverable and an Acceptance Certificate or written notice of its rejection setting out in detail the reasons why such Deliverable failed to be Accepted in accordance with Section 10.2 of this Agreement.
 - (b) For each Deliverable, when corrective action is required by the City's written notice of deficiencies, Contractor shall have a Corrective Action Period of five (5) Business Days, or such longer period of time as the Parties may agree upon, to correct the deficiencies City has identified as provided herein.
 - (c) For each Deliverable, Contractor shall be given at least two opportunities to correct the deficiencies identified by the City, unless the Parties otherwise mutually agree.
 - (d) Contractor shall correct any deficient Deliverables for which the City has delivered written notice to Contractor as set out in subsection 10.1(b) above such that the Deliverable complies with the requirements set out under this Agreement.
 - (e) If Contractor fails to remedy a deficient Deliverable after both opportunities to remedy as set out in subsection 10.1(d) above, then such failures shall constitute a material default of this Agreement.

Changes to Deliverables for which the City has provided Acceptance will be handled through the Change Notice process set out in Section 13 of this Agreement and Contractor will start no work on any change until the Parties have approved and executed any applicable Change Notice.

10.2 Upon delivery by Contractor of any Deliverable and within the Acceptance Period, the City shall review such Deliverable to determine if such Deliverable meets the applicable Acceptance Criteria as set out in the SOW.

- (a) If such Deliverable meets the applicable Acceptance Criteria or is otherwise used or acted upon by the City, the Deliverable will be deemed Accepted on such date unless City has given notice to Contractor that it needs to use or act upon the Deliverable in order to determine whether or not it is acceptable.

- (b) If such Deliverable does not meet the applicable Acceptance Criteria, the City will provide written notice by no later than the end of the Acceptance Period to Contractor setting out reasonable particulars of any deficiency and Contractor will, within the Corrective Action Period, re-work the Deliverable to meet the applicable Acceptance Criteria, or if the City fails to provide written notice rejecting the Deliverable, or fails to respond to Contractor in writing by the end of the Acceptance Period, then the City will be deemed to have Accepted such Deliverable.
- (c) Once the City Accepts a Deliverable under the terms under this Section 10, including its subparts, City will issue Contractor an Acceptance Certificate which must accompany Contractor's invoice to City for that Deliverable.

11. Proprietary or Confidential Information

11.1 Confidentiality Obligations. Confidential Information shall mean all proprietary or confidential information disclosed or made available by the other Party pursuant to this Agreement that is identified as confidential or proprietary at the time of disclosure or is of a nature that should reasonably be considered to be confidential, and includes but is not limited to the terms and conditions of this Agreement, and all business, technical and other information (including without limitation, all product, services, financial, marketing, engineering, research and development information, product specifications, technical data, data sheets, software, inventions, processes, training manuals, know-how and any other information or material), disclosed from time to time by the disclosing Party to the receiving Party, directly or indirectly in any manner whatsoever (including without limitation, in writing, orally, electronically, or by inspection); provided, however, that Confidential Information shall not include the Content that is to be published on the website(s) of either Party.

11.2 Each Party agrees to keep confidential and not disclose to any third party and to use only for purposes of performing or as otherwise permitted under this Agreement, any Confidential Information of the other Party. The receiving Party shall protect the Confidential Information using measures similar to those it takes to protect its own confidential and proprietary information of a similar nature, but not less than reasonable measures. Each Party agrees not to disclose the Confidential Information to any of its Representatives except those who are required to have the Confidential Information in connection with this Agreement and then only if such Representative is either subject to a written confidentiality agreement or otherwise subject to fiduciary obligations of confidentiality that cover the confidential treatment of the Confidential Information.

11.3 Exceptions. The obligations of this Section 11 shall not apply if receiving Party can prove by appropriate documentation, where appropriate, that such Confidential Information (a) was known to the receiving Party as shown by the receiving Party's files at the time of disclosure thereof, (b) was already in the public domain at the time of the disclosure thereof, (c) entered the public domain through no breach of its obligations hereunder by the receiving Party subsequent to the time of the disclosure thereof, (d) is or was independently developed by the receiving Party without access to or use of the Confidential Information; (e)

was provided to the receiving Party by a third party who, to the best of the receiving Party's knowledge, was not bound by any confidentiality obligation related to such Confidential Information; or (f) is required by law or government order to be disclosed by the receiving Party, provided that the receiving Party shall, if legally permissible, (i) notify the disclosing Party in writing of such required disclosure as soon as reasonably possible prior to such disclosure, and (ii) use its commercially reasonable efforts at its expense to cause such disclosed Confidential Information to be treated by such governmental authority as trade secrets and as confidential. The obligations of Contractor set forth in this Article 11 will not apply to any suggestions and feedback for product or service improvement, correction, or modification provided by City in connection with any present or future product or service of Contractor, and, accordingly, neither Contractor nor any of its clients or business partners will have any obligation or liability to City with respect to any use or disclosure of such information.

11.4 Contractor acknowledges that City is subject to public disclosure laws and that City will comply with requests for information ("RFI"), as it is required to do under the federal Freedom of Information Act, California Public Records Act, City of Oakland Sunshine Act or judicial or administrative court order. Contractor acknowledges that an RFI may pertain to any and all documentation associated with City's use of Contractor's Services. Contractor further acknowledges that it is obligated to assist and cooperate with City by producing all documentation that City requests as responsive to the RFI so that City may comply with its statutory obligations. City agrees to give Contractor as timely written notice as possible of the RFI such that Contractor may oppose the RFI or exercise such other rights at law as Contractor believes it has. However, Contractor must produce to City all documents City requests as RFI responsive and City will comply with the RFI unless, within the time frame established by the statute, judicial or court order under which the RFI is made, Contractor procures a Temporary Restraining Order or similar injunctive relief from a court or other tribunal of competent jurisdiction ordering City not to comply with the RFI pending final determination of Contractor's protest of the RFI. Contractor further agrees to accept City's tender of defense and to defend City and pay all City costs of defense in any litigation brought against City with respect to City not complying with an RFI that Contractor protests and will hold City harmless against any claims, attorneys' fees, damages, fines, judgments, or administrative penalties, which may arise from any such actions.

12. Ownership of Results; Intellectual Property

- (a) All of Contractor's work product under this Agreement and all concepts, inventions, ideas, know how, patent rights, data, trademarks, and copyrights which are related to, arise out of, or developed in connection with (i) Contractor's work product under this Agreement or (ii) any and all Services or (iii) the Deliverables (collectively "Intellectual Property") shall be the exclusive property of, and all ownership rights therein shall vest in, the Contractor. To be clear, Contractor delivers a Cloud-based data management software platform to the City and all Intellectual Property associated with the curation, organization, or deployment of information as part of Contractor's Services will remain the sole intellectual property of Contractor. In addition, copyrights on Contractor web-based applications and services, user interfaces and application software will remain the intellectual property of Contractor.

- (b) Contractor represents and warrants that all work product created under this Agreement shall be original work of Contractor. Contractor further represents and warrants that it has all rights, licenses and interests necessary to provide any Third Party Intellectual Property to the City and its affiliates and to grant the City and its affiliates the rights and licenses to use such Third-Party Intellectual Property for the purposes contemplated by this Agreement. Contractor grants to the City for the benefit of City and its affiliates, agents, successors, permitted assigns and contractors the royalty-free paid-up right and license to use such Third-Party Intellectual Property for the purposes contemplated by this Agreement.

13. Change Notices

- (a) Upon fifteen (15) days' written notice to Contractor, City shall have the right to request changes in the provision of any future Deliverables under this Agreement by delivering to Contractor a change notice ("Change Notice"), provided that any and all such changes shall be subject to Contractor's written consent which shall not be unreasonably withheld. Each Change Notice may specify changes to the (i) Apricot Software Contractor is to provide hereunder and the manner in which Contractor is to provide the Apricot Software, or (ii) to the Services Contractor is to provide hereunder. If any Change Notice causes an increase or decrease in the price or the time required for performance under this Agreement, an equitable adjustment jointly agreed upon by City and Contractor shall be made and the Agreement shall be modified in writing accordingly.
- (b) Change Notices issued under this Agreement must be accepted or rejected in writing by Contractor within ten (10) days of Contractor's receipt of its issuance. Notwithstanding as may be otherwise provided here in, if for any reason Contractor should fail to timely accept or reject a Change Notice in writing, such Change Notice shall be deemed rejected unless Contractor and City mutually agree otherwise in writing.

14. Limitation on Liability

- (a) Either party's liability to the other party for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed .
- (b) In no event shall either Party be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss.

- (c) This limitation of liability shall not apply to Contractor's Indemnification obligations as set forth in this Agreement.

15. **Indemnification**

- (a) General Indemnification. Notwithstanding any other provision of this Agreement, Contractor shall indemnify and hold harmless (and at City's request, defend) City, and each of its respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities (of every kind, nature and description), claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, damages, (incidental or consequential) costs, actions or causes of action, and expenses, including reasonable attorneys' fees, asserted by a third party (collectively referred to herein as "Actions") caused by or arising out of any:
 - (i) Actions taken by Contractor that render the Apricot Software unusable or inoperable, or that otherwise interfere with the City's rights under this Agreement with respect to the Apricot Software and all associated Services;
 - (ii) Gross negligence or willful misconduct in the course of performance by Contractor under this Agreement;
 - (iii) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Contractor;
 - (iv) Unauthorized use or disclosure by Contractor of Confidential Information as provided in Section 11 above.
- (b) Proprietary Rights Indemnity. Contractor shall indemnify, defend, save and hold harmless Indemnitees from any and all Actions arising out of claims that the Apricot Software, when used in accordance with this Agreement infringes upon or violates the registered patent or copyright of any third party. If the Apricot Software will become the subject of an Action or claim of infringement or violation of the registered patent or copyright of a third party, then in addition to its obligation to indemnify City hereunder, Contractor shall, at its sole expense and after obtaining the City's written consent which shall not be unreasonably withheld: (1) procure for City the right to continue using the Apricot Software; or (2) replace or modify the Apricot Software so that no infringement or other violation occurs, if City determines that: (A) such replaced or modified Software will operate in all material respects in conformity with the then-current specifications for the Software; and (B) City's use of the Software is not impaired thereby.. Contractor's obligations under this Agreement will continue uninterrupted with respect to the replaced or modified software as if it were the original Apricot Software. The foregoing obligations of Contractor do not apply

(i) to the extent that the alleged infringement results from any change, or any development or configuration made in whole or in part in accordance with City's specifications, made by City or by any third party for City, (ii) if the infringement claim could have been avoided by using an unaltered current version of the Apricot Software which was provided by Contractor, (iii) to the extent that the infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by Contractor, or any material from a third party portal or other external source that is accessible to City within or from the Apricot Software (e.g., a third party web page accessed via a hyperlink), (iv) to the extent that the infringement claim is based upon the combination of any material with any products or services not provided by Contractor, (v) to the extent that the infringement claim is caused by the provision by City to Contractor of materials, designs, know-how, software or other intellectual property with instructions to Contractor to use the same in connection with the Apricot Software, or (vi) to the extent that City is in material breach of its obligations under the terms of this Agreement.

- (c) For the purposes of the indemnification obligations set forth herein, the term "Contractor" includes, without limitation, Contractor, its officers, directors, employees, representatives, agents, servants, sub-consultants, and subcontractors.
- (d) Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any Action which potentially falls within this indemnification provision, which obligation shall arise at the time an Action is tendered to Contractor by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any Action arising from the sole negligence, active negligence or willful misconduct of an Indemnitee.
- (e) City shall give Contractor prompt written notice of any Action and shall fully cooperate with Contractor in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests. Notwithstanding the foregoing, City shall have the right, if Contractor fails or refuses to defend City with Counsel acceptable to City, to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold payments due Contractor in the amount of reasonable defense costs actually incurred. In no event shall Contractor agree to the settlement of any claim described herein without the prior written consent of City.
- (f) All of Contractor's indemnification obligations hereunder are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.

- (g) Contractor's indemnification obligations hereunder shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement.

16. Termination

- (a) **Termination for Breach.** If Contractor breaches any material obligation under this Agreement and fails to cure the breach within 30 days of receipt of written notice from City of said breach, City may terminate the Agreement and, subject to the Limitation on Liability (Section 14), recover all direct damages it incurs as a result of Contractor's breach and require that Contractor repay City all monies City has prepaid Contractor for Services that remain to be delivered under this Agreement.
- (b) Contractor may terminate this Agreement if City breaches a material provision of the Agreement and does not cure the breach within 30 days of written notice from Contractor of said breach. In such event, Contractor will be entitled to payment for Deliverables which City has accepted in accordance with the Testing and Acceptance provisions of this Agreement.
- (c) **Bankruptcy.** Either party may immediately terminate this Agreement if (i) the other party files a petition for bankruptcy or has filed against it an involuntary petition for bankruptcy which is not dismissed within 60 days of its filing, (ii) a court has appointed a receiver, trustee, liquidator or custodian of it or of all or a substantial part of the other party's property, (iii) the other party becomes unable, or admits in writing its inability, to pay its debts generally as they mature, or (iv) the other party makes a general assignment for the benefit of its or any of its creditors.
- (d) **Transition Services after Termination.** In connection with the expiration or other termination of this Agreement, Contractor may provide transition services as requested by City. Such transition services shall be subject to the pricing provided in this Agreement or any amendment thereto.

17. Dispute Resolution

- (a) If dispute or disagreement among the Parties arises with respect to either Party's performance of its obligations hereunder, or any provision of or interpretation of the Agreement, the Parties agree to attempt in good faith to resolve such dispute or disagreement (a "Dispute") prior to submitting the Dispute to mediation or litigation in accordance with this Section 17. Such resolution efforts shall involve the City Administrator of the City of Oakland and an executive officer of Contractor, together with such other persons as may be designated by either Party.
- (b) Any Party may commence said resolution efforts by giving notice, in writing, to any other Party. Such notice shall include at least a description of the Dispute and

any remedial action that the Party commencing the resolution procedure asserts would resolve the Dispute. Upon receiving such notice, the Party against whom the Dispute is brought shall respond in writing within five (5) Business Days. The Parties shall then meet and confer in a good faith attempt to resolve the Dispute.

- (c) If the Dispute has not been resolved within thirty (30) Business Days after the Subsection 17.b. notice is given, and unless the Party initiating the Dispute does not wish to pursue its rights relating to such Dispute, or unless the Parties mutually agree to continue the meet and confer in an attempt to resolve the Dispute, then such Dispute will be automatically submitted to mediation. The mediation will be conducted by a single mediator located in the county of Alameda or San Francisco in the State of California, selected by the Parties to the Dispute by mutual agreement or by the use of the Commercial Mediation Procedures of the American Arbitration Association for appointment of a mediator. The Parties to the Dispute shall equally share the costs of the mediator. The parties, in conjunction with the mediator, shall have sixty (60) Business Days from the submission to mediation to attempt to resolve such Dispute. If the Dispute is not resolved within that time period, the parties will be entitled to pursue such matter by instituting litigation in a court of competent jurisdiction in the county of Alameda or San Francisco in the State of California.

18. Commencement, Completion and Close-out

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of the SOW.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement. Should the Contractor not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, Contractor shall make a determination of any and all final costs due under this Agreement and shall submit an invoice for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Contractor to timely submit a complete and accurate invoice for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Contractor.

19. Bankruptcy

All rights and licenses granted to City pursuant to this Agreement are, and shall be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to “intellectual property” as defined under Section 101 of the U.S. Bankruptcy Code. In a

bankruptcy or insolvency proceeding involving Contractor, the parties agree that City, as licensee of such rights, shall retain and fully exercise all of its rights and elections under the U.S. Bankruptcy Code, and the provisions thereof shall apply notwithstanding conflict of law principles.

20. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City Attorney and City Administrator or their respective designees, which shall not be unreasonably withheld. City may not assign this Agreement or any of the rights or obligations hereunder without the prior written consent of Contractor, which shall not be unreasonably withheld. Either party's consent to any assignment shall be conditioned upon the assignee agreeing to be bound by this Agreement. Any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer. In the event that either party assigns this Agreement in compliance with this provision, this Agreement and all of its provisions shall inure to the benefit of and become binding upon the parties and the successors and permitted assigns of the respective parties.

21. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

22. Publicity

Upon City's prior written approval, any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

23. Conflict of Interest

(a) Contractor

The following protections against conflict of interest will be upheld:

- (1) Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising there from.
- (2) Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- (3) Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor.
- (4) Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Contractor shall exercise due diligence to ensure that no such official will receive such an interest.
- (5) Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matter already made by Contractor to City, that (a) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (b) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (i) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (ii) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (iii) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or

(iv) any source of income or donors of gifts to the official (including nonprofit entities) if the income totaled more than \$500 in the previous 12 months, or value of the gift totaled more than \$350 the previous year. Contractor agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).

- (6) Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "City officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- (7) Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

- (b) No Waiver. Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation.
- (c) Remedies and Sanctions. In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.

24. Validity of Contracts

The Oakland City Council must approve all Agreements greater than \$250,000. This Agreement shall not be binding or of any force or effect until signed by the City Administrator or his or her designee and approved as to form and legality by the City Attorney or his or her

designee.

25. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of California, without reference to its conflicts of laws principles. Any action or proceeding to enforce the terms of this Agreement shall be brought in the courts of Alameda County, Oakland, California or in the courts of San Francisco County, San Francisco, California, and each party agrees to waive any objections to personal jurisdiction and venue in these courts.

26. Headings

Headings and captions used to introduce Sections and paragraphs of this Agreement are for convenience only and have no legal significance.

27. Construction

- (a) Except as provided in Section 13(b) above, acceptance or acquiescence in a prior course of dealing or a course of performance rendered under this Agreement or under any Change Order, or Change Notice, shall not be relevant in determining the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.
- (b) The language in all parts of this Agreement and any Purchase Order, Change Order, or Change Notice, shall in all cases be construed in whole, according to its fair meaning, and not strictly for or against, either Contractor or City regardless of the drafter of such part.

28. Waiver

No covenant, term, or condition of this Agreement may be waived except by written consent of the party against whom the waiver is claimed and the waiver of any term, covenant or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition of this Agreement.

29. Attorneys' Fees

If either party commences an action or proceeding to determine or enforce its rights hereunder, the prevailing party shall be entitled to recover from the losing party all expenses reasonably incurred, including court costs, reasonable attorneys' fees and costs of suit as determined by the court pursuant to a final, non-appealable order.

30. Counterparts

This Agreement may be executed in any number of identical counterparts, including, without limitation, by electronic means such as e-signature or portable document format (.pdf)

for the convenience of the parties, any set of which signed by both parties shall be deemed to constitute a complete, executed original for all purposes. Signatures hereto transmitted by electronic means shall be effective as original signatures.

31. Remedies Cumulative

The rights and remedies of City provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law, including the California Uniform Commercial Code.

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

32. Access

Access to City's premises by Contractor shall be subject to the reasonable security and operational requirements of City. To the extent that Contractor's obligations under this Agreement or any Purchase Order, Change Order, or Change Notice, require the performance of Services or Work by Contractor on City's property or property under City's control, Contractor agrees:

- (a) to accept full responsibility for performing all Services or work in a safe manner so as not to jeopardize the safety of City's personnel, property, or members of the general public; and
- (b) to comply with and enforce all of City's regulations, policies, and procedures including, without limitation, those with respect to security, access, safety and fire protection, City's policy against sexual harassment, and all applicable state and municipal safety regulations, building codes or ordinances.

33. Entire Agreement of the Parties

This Agreement supersedes any and all Agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements,

promises or Agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other Agreement, statement or promise not contained in this Agreement will be valid or binding.

34. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

35. Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via email and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

City of Oakland

Department of Violence Prevention
250 Frank H. Ogawa Plaza
Oakland, CA 94612
Attention: _____
Email: _____

Contractor

Social Solutions Global, Inc.
10801-2 N. MoPac Expressway, Suite 400
Austin, TX 78759
Attention: Legal Department
Email: legal@socialsolutions.com

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective.

36. Right to Offset

All claims for money or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of this Agreement or any Purchase Order, Change Order, or Change Notice or any other transaction with Contractor. To the extent that there are amounts due to the City and to a state or federal funding agency, and the amount of the offset is insufficient to pay such amount in full, the amount of the offset shall be prorated between the City and such state or federal funding agency in proportion to the amounts due them.

37. No Third Party Beneficiary

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

38. Survival

Sections 1, 3, 8, 11, 12, 14, 15, 22, 36 of this Agreement, along with any other provisions which by their terms survive, shall survive the expiration or termination of this Agreement.

39. Time is of the Essence

The special circumstances of this Agreement require Contractor's timely performance of its obligations under this Agreement. Therefore, time is of the essence in the performance of this Agreement.

40. Authority

Each individual executing this Agreement or any Purchase Order, Change Order or Change Notice, hereby represents and warrants that he or she has the full power and authority to execute this Agreement or such Purchase Order, Change Order or Change Notice, on behalf of the named party such individual purports to bind.

41. Subscription Terms

The parties agree and acknowledge that for the purposes of Contractor delivering the products and Apricot Services included in Exhibit 1, the following terms will apply:

“ASC” means the designated support or managed services package as further defined in the Service Level Agreement that, if purchased by City, will begin approximately ten (10) business days from the start date (“Start Date”) of the Services (with a portion of ASC package hours to be utilized during the implementation phase of the Professional Services, as may be applicable). Any purchased but unused ASC package hours will not roll over year over year during the Term of this Agreement.”

“Content” means information, data, text, music, sound, graphics, video messages and other materials to which City is provided access by CONTRACTOR through the Services.

“City Data” means any data, information, or material City or any City User provides or submits through the SaaS Services.

“Documentation” means the user instructions, release notes, manuals and on-line help files as updated by CONTRACTOR from time to time, in the form generally made available by CONTRACTOR, regarding the use of the SaaS Services.

“Error” means a material failure of the SaaS Services to conform to its functional specifications described in the Documentation.

“Independent City Activity” means: (i) use of equipment by City not provided or previously approved by CONTRACTOR; or (ii) negligent acts or omissions or willful misconduct by City or its Users.

“Internet Unavailability” means City's inability to access, or CONTRACTOR inability to provide, the SaaS Service through the Internet due to causes outside of CONTRACTOR direct control,

including, but not limited to: (i) failure or unavailability of internet (“Internet”) access; (ii) unauthorized use, theft or operator errors relating to telephone, cable or Internet service provider; (iii) bugs, errors, configuration problems or incompatibility of equipment or services relating to City’s computer or network; or (iv) failure of communications networks or data transmission facilities, including without limitation wireless network interruptions.

“License Metrics” means the limitation on the usage of SaaS Services as designated and/or defined in Exhibit 1.

“Professional Services” means data conversion, data mapping, implementation, configuration, training, integration and deployment of the SaaS Services, and/or other professional services identified on Exhibit 1, including any training materials, tutorials and related documentation provided in connection with the performance of the Professional Services.

“SaaS Services” means the Apricot software as a service and the subscription products and services identified in Exhibit 1 and associated Support.

“Services” means, collectively, the SaaS Services (as also may be identified as “Subscription Products” or “Products”) and Professional Services.

“Service Level” or “Service Level Agreement” means the customer support service level that CONTRACTOR offers with respect to the SaaS Services, as they may be updated by CONTRACTOR from time to time located at: <http://www.socialsolutions.com/legal/>.

“User” or “Named User” means an individual identifiable by a name and excludes concurrent users. “Administrator” or “Enterprise Manager” means the dedicated and name User of City identified as the individual who shall be responsible for City’s Users, to attend and complete training, administer licenses and to be the technical point of contact on City’s behalf pertaining to Support and Services.

I. SERVICES

A. Environment. CONTRACTOR will provide City online access to and use of the SaaS Service(s) via the Internet by use of a CONTRACTOR-approved City-provided browser. The SaaS Services will be hosted and maintained by CONTRACTOR or its designated third-party supplier or data center. City is solely responsible for obtaining and maintaining, at its own expense, all equipment needed to access the SaaS Services, including but not limited to Internet access, adequate bandwidth and encryption technology.

B. Changes. Access is limited to the version of the SaaS Services in CONTRACTOR’s production environment. CONTRACTOR regularly updates the SaaS Services and reserves the right to discontinue, add and/or substitute functionally equivalent features in the event of product unavailability, end-of-life, or changes to software requirements. CONTRACTOR will notify City of any material change to or discontinuance of the SaaS Services.

C. Security; Back-Ups. Without limiting City’s obligations under Section 4.4, CONTRACTOR will implement reasonable and appropriate measures designed to secure City Data against accidental or unlawful loss, access or disclosure. CONTRACTOR will perform back-ups in accordance with CONTRACTOR’s back-up daily schedule. City Data is automatically encrypted while at rest within the CONTRACTOR database and in transit. CONTRACTOR will use industry-standard cipher key, intrusion detection system (IDS), virus scanning, automated

system checks, and remote logging to guard against unauthorized access. CONTRACTOR utilizes data centers that are staffed 24x7 by trained security guards, and access must be strictly authorized. The cloud infrastructure has been designed and managed to adhere to ISO 27001:2013 for Penelope products and SOC2 standards and procedures for Apricot and ETO products.

D. Service Availability. CONTRACTOR will use commercially reasonable efforts to make the Service generally available for City's use at an uptime percentage of 99.9% ("Service Availability") during the hours of 8:00 am to 8:00 pm Central Standard Time US. Service Availability does not include interruption of Service as a result of (i) downtime for scheduled or emergency maintenance (ii) Internet Unavailability, (iii) Independent City Activity or (iv) force majeure events or any other events that are not under CONTRACTOR's control.

E. Support Services. Support services provided by CONTRACTOR as part of SaaS Services include (i) technical support and workarounds so that the SaaS Services operate in material conformance with the Documentation, and (ii) the provision of updates thereto, if and when available, all of which are provided under CONTRACTOR Support policies (as may be amended by CONTRACTOR from time to time) in effect at the time the Support services are provided ("Support"). For the avoidance of doubt, Support excludes Professional Services. Updates include bug fixes, patches, error corrections, minor and major releases, non-new platform changes, or modifications or revisions that enhance existing performance. Updates exclude new Services, modules or functionality for which CONTRACTOR generally charges a separate fee. Support is provided solely to the number of Administrators or Enterprise Managers specified on Exhibit 1.

CONTRACTOR is under no obligation to provide Support with respect to: (i) Services that have been altered or modified by anyone other than CONTRACTOR or its authorized representatives ; (ii) Services used other than in accordance with the Documentation; (iii) discrepancies that do not significantly impair or affect the operation of the Service; (iv) Errors or malfunction caused by City or its Users' failure to comply with the minimum system requirements as provided by CONTRACTOR or by use or upload of non-conforming City Data, or by Independent City Activity; or (vi) Errors and malfunction caused by any systems or programs not supplied by CONTRACTOR.

G. Professional Services and Training. CONTRACTOR will perform the Professional Services for City described in one or more work orders, work authorizations or statements of work (collectively "SOW"). Either party may propose a change order to add to, reduce or change the work outlined in the SOW. Each change order must specify the change(s) to the Professional Services, and the effect on the time of performance and, the fees due and payable to CONTRACTOR due to the change and executed by both parties. Professional Services must be used within one (1) year of the date of execution of this Agreement by City or will expire and will not be refunded. Professional Services and Training fees are based on Professional Services and Training provided during normal CONTRACTOR business hours, Monday through Friday, 8:30 a.m. – 5:30 p.m. US central time zone (CONTRACTOR holidays excluded), as CONTRACTOR may modify upon notice to City. Professional Services or Training provided by CONTRACTOR outside of normal CONTRACTOR business hours will be subject to a premium service charge

H. City Obligations and Cooperation. City agrees to provide CONTRACTOR with good faith and cooperation and access to such information, facilities, personnel and equipment as may be reasonably required by CONTRACTOR in order to perform the Professional Services and Training (as applicable), as may be applicable and to provide the Services, including, but not

limited to, providing security access, information, and software interfaces to City's applications, and City personnel, as may be reasonably requested by CONTRACTOR from time to time. City acknowledges and agrees that CONTRACTOR's performance is dependent upon the timely and effective satisfaction of City's responsibilities hereunder and timely decisions and approvals of City in connection with the Services. CONTRACTOR is entitled to rely on all decisions and approvals of City. City will follow the instructions and reasonable policies established by CONTRACTOR from time to time and communicated to City and shall make all reasonable efforts not to impede or otherwise delay the performance of any Professional Services.

II. USING THE SAAS SERVICES

A. Limited License. CONTRACTOR hereby grants City and its Users a personal, non-exclusive, non-transferable, limited worldwide license to remotely access and use the SaaS Services during the term of this Agreement solely for City's internal business purpose(s), subject to the terms and conditions of the Agreement. City agrees to limit access to the SaaS Services to the number of Users identified Exhibit 1 during the Term.

B. User Administration. City is solely responsible for the administration, authorization and termination of all User identifications and passwords to access and use the Services. City shall not permit Users to share User identifications and passwords, nor allow for multiple users under the same license. City agrees to immediately notify CONTRACTOR of any unauthorized use of the Services, or any other breach of security suspected or known to City. Fees for the Services are based on the number of Users communicated to CONTRACTOR. City shall report to CONTRACTOR no less than annually the number of Users. Any increase in the number of Users in excess of the established limit(s) in Exhibit 1 will result in an increase in the annual Service Fees. City may not decrease the number of licenses for its Users during the Term this Agreement. Upon termination of this Agreement, all licenses granted to City with respect to the Services shall automatically terminate and City shall immediately discontinue its use thereof.

C. Acceptable Use Policy. City acknowledges and agrees that CONTRACTOR does not monitor or police the content of communications or data of City or its Users transmitted or uploaded through the Services, and that CONTRACTOR will not be responsible for the content of any such communications, transmissions or uploads. City agrees to use the Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations and CONTRACTOR's policies. City agrees not to post or upload any content or data which (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (b) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (c) otherwise violates any applicable law. Should a violation be alleged or become known, CONTRACTOR may remove any violating content posted or transmitted through the SaaS Services without notice to City. CONTRACTOR may suspend or terminate any of City's User's access to the SaaS Services upon notice if CONTRACTOR reasonably determines that such User has violated the terms of the Agreement, including these CONTRACTOR Terms.

D. Security. City will not: (a) breach or attempt to breach the security of the SaaS Services or any network, servers, data, computers or other hardware relating to or used in connection with the SaaS Services, or any third party that is hosting or interfacing with any part of the SaaS Services; or (b) use or distribute through the SaaS Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the SaaS Services

or the operations or assets of any other City of CONTRACTOR or any third party. City will comply with the user authentication requirements for use of the SaaS Services. City is solely responsible for monitoring its Users' access to and use of the SaaS Services. CONTRACTOR has no obligation to verify the identity of any person who gains access to the SaaS Services by means of a City's account. Any failure by any City User to comply with the Agreement, including these CONTRACTOR Terms, will be deemed to be a breach by City, and CONTRACTOR will not be liable for any damages incurred by City or any third party resulting from such breach. If there is any compromise in the security of a User account or if unauthorized use is suspected or has occurred, City must immediately take all necessary steps, including providing prompt notice to CONTRACTOR, to effect the termination of suspected account.

E. City Data. City has sole responsibility for the legality, reliability, integrity, accuracy and quality of the City Data. City Data is subject to the terms of the Agreement, including these CONTRACTOR Terms, along with CONTRACTOR's Privacy Policy located at <http://www.socialsolutions.com/legal/>.

F. Third-Party Providers. Certain third-party providers, some of which may be listed on CONTRACTOR's website, offer products and services related to the Services, including implementation, configuration, and other consulting services and applications (both offline and online) that work in conjunction with the SaaS Services, such as by exchanging data with the Service or by offering additional functionality. CONTRACTOR is not responsible for any exchange of data or other interaction or transaction between City and a third-party provider, including purchase of any product or service, all of which is solely between City and the third-party provider.

G. Links. The SaaS Service may contain links to third party websites or resources. City acknowledges and agree that CONTRACTOR is not responsible or liable for (a) the availability, accuracy, or security of such third-party sites or resources; or (b) the content, advertising, or products on or available from such website or resources. The inclusion of any link on the Service does not imply that CONTRACTOR endorses the linked website. City uses the links at its own risk.

H. Training. It is City's responsibility to ensure that all Users receive training services sufficient to enable City to effectively access and use the SaaS Services. Failure to do so could result in additional fees if support requests are deemed excessive as a result of insufficient training, at CONTRACTOR's discretion. Support may not be used as a substitute for training.

I. Storage space. Storage space is allotted in SKU in the Schedule of Product and Services description in Exhibit 1. City may purchase additional storage space at CONTRACTOR's then prevailing rates. System reviews of the amount of storage space being used by City will be performed periodically. If City is using more than the allotted storage space as noted in the relevant SKU, City will be invoiced for the additional storage usage upon the earlier of (i) discovery of the storage space overage or (ii) then next invoice cycle.

J. Professional Services. Professional Services shall be provided to City on a "Time and Materials" basis, if an estimated total fee amount is stated in Exhibit 1, that amount is solely a good-faith estimate for City's budgeting and CONTRACTOR's resource scheduling purposes and not a guarantee nor a warranty that the work will be completed for that amount or within City's specified time frame. Any delays or lack of timely cooperation by City may result in additional fees. Professional Services purchased must be used within, and rates quoted are valid for, a period

of one year following the effective date of this Agreement. Hours that are not used or have expired after the one-year period are non-refundable.

III. PROPRIETARY RIGHTS

A. Ownership. The SaaS Services and all equipment, infrastructure, websites and other materials provided by CONTRACTOR in the performance of Services will always remain the exclusive, sole and absolute property of CONTRACTOR or its licensors. City does not acquire any right, title, or interest in or to the SaaS Services. If City provides any suggestions, ideas, enhancement requests, feedback, or recommendations relating to the SaaS Services or Professional Services (collectively, "Feedback"), provided that such Feedback does not contain Confidential Information of City, CONTRACTOR may use such Feedback as it deems appropriate in its sole discretion without any restriction or obligation to City. City has no obligation to provide Feedback. City hereby assigns rights to CONTRACTOR any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by City relating to the SaaS Services or Professional Services. CONTRACTOR may use such submissions as it deems appropriate in its sole discretion. All rights, title and interest in or to any copyright, trademark, service mark, trade secret, and other proprietary right relating to the SaaS Services and the related logos, Service names, etc. and all rights not expressly granted are reserved by CONTRACTOR and its licensors. City may not obscure, alter or remove any copyright, patent, trademark, service mark or proprietary rights notices on any portion of the SaaS Services or other materials, including CONTRACTOR Documentation.

B. Restrictions. City may not itself, nor through any affiliate, employee, consultant, Contractor, agent or other third party: (i) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the SaaS Services; (ii) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the SaaS Services, in whole or in part, for competitive purposes or otherwise; (iii) allow access to, provide, divulge or make available the Services to any user other than Users; (iv) write or develop any derivative works based upon the Services; (v) modify, adapt, tamper with or otherwise make any changes to the SaaS Services or any part thereof; (vi) obliterate, alter, or remove any proprietary or intellectual property notices from the SaaS Services; (vii) create Internet "links" to or from the SaaS Services, or "frame" or "mirror" any Content, (viii) use the SaaS Services to provide processing services to third parties, or otherwise use the same on a 'service bureau' basis; (ix) disclose or publish, without CONTRACTOR's prior express written consent, performance or capacity statistics or the results of any benchmark test performed on the SaaS Services; or (x) otherwise use or copy the same except as expressly permitted herein.

C. City Data. City owns all City Data. City agrees that CONTRACTOR may access User accounts, including City Data, to provide Support or enforce the terms of the Agreement, and CONTRACTOR may compile, use and disclose User statistics and City Data in aggregate and anonymous form only. City has sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right of use of all City Data.

D. Transition of City Data at Termination. Prior to termination of this Agreement, City may access and download its City Data at any time at no charge via the standard Services interfaces and reporting. Upon termination of this Agreement, should City elect CONTRACTOR's assistance in the extraction of City Data, including any attachments, separate fees shall apply for the transition

of said City Data. Such transition must occur within thirty (30) days of termination or expiration of the SaaS Services. In no event shall CONTRACTOR be liable to retain City Data for a period in excess of thirty (30) days of the termination or expiration of the SaaS Services unless otherwise required by applicable law.

IV. WARRANTIES AND DISCLAIMERS.

A. City Data Warranty. City represents and warrants that it has the right to use and provide the City Data to CONTRACTOR.

B. CONTRACTOR Warranties. CONTRACTOR warrants that the SaaS Services, as may be updated or enhanced by CONTRACTOR from time to time will perform substantially in accordance with the Documentation under normal City use and circumstances and that the Professional Services will be performed in a manner consistent with general industry standards reasonably applicable to the provision thereof. CONTRACTOR is not responsible for any claimed breach of any warranty set forth in this Section caused by: (i) modifications made to the SaaS Services by anyone other than CONTRACTOR or its authorized representatives; (ii) the combination, operation or use of the hosted CONTRACTOR Software with any items not certified or expressly approved in writing by CONTRACTOR; (iii) CONTRACTOR's adherence to City's specifications or instructions; (iv) Errors caused by or related to Internet Unavailability or Independent City Activity; or (v) City deviating from the Service operating procedures described in the Documentation or as otherwise approved in writing by CONTRACTOR. Correction for defects or issues traceable to the above warranty exclusions will be invoiced at CONTRACTOR's then standard time and material charges.

C. Disclaimers. CONTRACTOR, ITS LICENSORS, AUTHORIZED REPRESENTATIVES, AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED. CONTRACTOR MAKES NO WARRANTY OR REPRESENTATION WITH RESPECT TO THE SERVICES AND ANY RELATED INSTALLATION, CONFIGURATION, MAINTENANCE OR OTHER SUPPORT SERVICES, EXPRESS OR IMPLIED, AT LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, TITLE, and any warranties arising from a course of dealing, usage, or trade practice, ALL OF WHICH ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

V. SUSPENSION; RETENTION OF CITY DATA; SURVIVAL

A. Suspension. CONTRACTOR will be entitled to suspend any or all Services upon 10 days notice to City in the event City is more than 60 days past due with any payment or otherwise for an uncured breach of the Agreement, including these CONTRACTOR Terms ("Suspension"). However, CONTRACTOR may suspend City's access and use of the SaaS Services immediately, with notice to City following promptly thereafter, if, and so long as, in CONTRACTOR's sole judgment, there is a security or legal risk created by City that may interfere with the proper continued provision of the SaaS Services or the operation of CONTRACTOR's network or systems. CONTRACTOR may impose an additional charge to reinstate service following such suspension. In the event of a Suspension of thirty (30) days or more, CONTRACTOR has the right, in its sole discretion and without further notice to City, to terminate this Agreement and to further pursue any rights and remedies under the Agreement as allowable by applicable law.

B. Retention of City Data. CONTRACTOR has no obligation to retain City Data beyond thirty (30) days after the expiration or termination of SaaS Services unless required by applicable law.

VI. OTHER

A. Non-Solicitation. Both parties agree not to recruit, divert, or solicit the employment of each other's employees during the term of the Agreement and for a period of 12 months following termination of the Agreement; provided, however, that either party may engage in general solicitations (e.g., newspaper, online job postings, etc.) for employees in the ordinary course of business not specifically directed or targeted at the other party's employees.

B. Use of Agents. CONTRACTOR may designate any agent or subcontractor to perform such tasks and functions to complete any services covered under the Agreement. However, nothing in the preceding sentence will relieve CONTRACTOR from responsibility for performance of its duties under the terms of the Agreement. To the extent CONTRACTOR utilizes third parties or subcontractors in connection with the Services, CONTRACTOR shall ensure that such third parties and subcontractors are bound by similar confidentiality requirements as required of CONTRACTOR.

SO AGREED:

City of Oakland, a municipal corporation

Social Solutions Global, Inc.

(City Administrator's Office) (Date)

(Signature) (Date)

(Department Head Signature) (Date)

Business Tax Certificate No.

Approved as to form and legality:

Resolution Number

(City Attorney's Office Signature) (Date)

EXHIBIT 3 - CONTRACTS AND COMPLIANCE PROVISIONS

1. Business Tax Certificate

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement.

2. Inspection of Books and Records/Right to Audit

- (a) During the term of this Agreement, and for a period of four (4) years after the termination of this Agreement, or two (2) years after the closure of any disputed matter, whichever occurs later, (the "Audit Period"), Contractor shall maintain financial and operational records related to this Agreement or to any other Agreement with City. Contractor shall make all books and records open to inspection by the governing agency, City Auditor or their individually assigned designee during normal business hours at a location within a twenty-five (25) mile radius of the City of Oakland for the period of this contract and for a period of four years after the close of each contract year.
- (b) During the Audit Period, Contractor hereby grants to City or its designee(s), upon one (1) days prior notice to Contractor, access to and the right to make copies of any of Contractor's books, statements, documents, papers or records ("Financial Information") which arise from or relate to the terms and conditions of this Agreement and the performance of any services pursuant to this Agreement, or any other Agreement between the parties, in order to permit City to conduct audits, examinations, excerpts and transition audits (collectively hereafter referred to as "Audit or Audits"). Contractor authorizes the City Auditor or his designee to obtain such information directly from these sources. City's right to Audit and to make copies shall apply whether such Financial Information is located at Contractor's offices or at Contractor's banks, financial institutions or lenders, or at the offices of Contractor's financial consultants, accountants or bookkeepers. For the purposes of such Audit, Contractor waives its right to the confidentiality of all Financial Information and Contractor authorizes the City or its designee(s) to access, obtain and make copies of Financial Information directly from Contractor's banks, financial institutions or lenders, or from Contractor's financial consultants, accountants or bookkeepers.
- (c) Such Audits may be performed by City through its employees or by its designees including, without limitation, a third party auditor retained by City. City's right to Audit under this Section 2 is independent, separate and distinct from any right to audit such books and records reserved by law or contract, or as a condition of funding, by the county, state or federal government.
- (d) If any Audit of Contractor's invoices or other records reveals any variance from any invoice to City, or of any amount of funds provided to Contractor by City which is in excess of the amount actually due to Contractor by City, then: Contractor shall

immediately refund any excess payment or funds received from City. In addition, if any Audit reveals any variance from any invoice or funds received from City in excess of one-half percent (.5%) of the amount shown on such invoice or the amount of funds actually due to or granted to Contractor by City, Contractor shall immediately reimburse City for all costs and expenses incurred in conducting such Audit. Failure to pay such variance and the cost of the Audit as required herein shall constitute and be deemed a material breach of the Agreement by Contractor and will subject Contractor to termination of the Agreement by City and to a breach of contract claim for damages by City.

3. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- (a) Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- (c) If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining Agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. Americans With Disabilities

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its contractors comply with their ADA obligations and verify such compliance by signing the Declaration of Compliance incorporated herein as **Schedule C-1**.

5. **Local and Small Local Business Enterprise Program (L/SLBE)**

1. **Local and Small Local Business Enterprise Program (L/SLBE)**

- a) *Requirement* – For Professional Services, **50% Local and Small Local Business Enterprise Program (L/SLBE)**: there is a 50% minimum participation requirement for all professional services contracts over \$50,000. Consultant status as an Oakland certified local or small local firm and subcontractor/subconsultant status as an Oakland certified local or small local firm are taken into account in the calculation. The requirement may be satisfied by a certified prime consultant and/or subconsultant(s). A business must be certified by the City of Oakland in order to earn credit toward meeting the fifty percent requirement. The City has waived small local business enterprise (SLBE) subcontracting requirements for Oakland certified local businesses that apply for professional services contracts as the prime consultant with the City. The SLBE requirements still applies for non-certified LBEs and non-local business enterprises.
- b) Good Faith Effort - In light of the fifty percent requirement, good faith effort documentation is not necessary.
- c) Preference Points – Preference points are earned based on the level of participation proposed prior to the award of a contract. Upon satisfying the minimum fifty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to eighty percent participation of the total contract dollars spent with local Oakland certified firms.
- d) A firm may earn up to five (5) preference points for local Oakland business participation and additional preference points for being a long term certified business in Oakland regardless of size and for having an Oakland workforce.
- e) In those instances where Very Small Local Business Enterprise (VSLBE) participation is evident, the level of participation will be double-counted towards meeting the requirement.
- f) Additional Preference Points for Request for Proposals (RFP) and Request for Qualifications (RFQ) may be earned for having an Oakland resident workforce. **Prime consultants seeking additional preference points for having an Oakland resident workforce must submit a completed Schedule E-2 titled the “Oakland Workforce Verification Form” no more than 4 days after the proposal due date. A copy of Schedule E-2 is found on <https://www.oaklandca.gov/documents/contracts-and-compliance-forms->**

[and-schedules.](#)

- g) Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal “evaluation” process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP. Preference points are awarded over and above the potential 100 points.
- h) The Exit Report and Affidavit (ERA) – This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the Schedule F, Exit Report and Affidavit for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application.
- i) Joint Venture and Mentor Protégé Agreements. If a prime contractor or prime consultant is able to develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Contracts and Compliance Unit, prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
- j) Contractor shall submit information concerning the ownership and workforce composition of Contractor’s firm as well as its subcontractors and suppliers, by completing Schedule D, Ownership, Ethnicity, and Gender Questionnaire, and Schedule E, Project Consultant Team, attached and incorporated herein and made a part of this Agreement.
- k) All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- l) In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland’s business community. The City Administrator will track the City’s MBE/WBE utilization to ensure the

absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

- m) In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

6. **Other Applicable Ordinances:**

(a) **Living Wage Ordinance**

This Agreement is subject to the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service Contractors (contractors) of the City and employees of CFARs (Ord. 12050 § 1, 1998). Oakland employers are also subject to the City of Oakland Minimum Wage law (see Section 7, below), and must pay employees wages and provide benefits consistent with the Minimum Wage law or Oakland Living Wage Ordinance, whichever are greater.

The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as Declaration of Compliance – Living Wage Form; and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the contractor must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial **hourly wage rate of \$15.30 with health benefits or \$17.56 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, contractor shall pay adjusted wage rates.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least **\$2.39 per hour**. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.

- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) - To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. For more information, web sites include but are not limited to: (1) <http://www.irs.gov> and <http://www.irs.gov/individuals/article/0,,id=96466,00.html>
- e. Contractor shall provide to all employees and to Contracts and Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Office of the City Administrator, Contracts and Compliance Unit, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to Contracts and Compliance.

(b) Minimum Wage Ordinance

Oakland employers are subject to Oakland's Minimum Wage Law, whereby Oakland employees must be paid the current Minimum Wage rate. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services. This contract is also subject to Oakland's Living Wage Ordinance (see Section 6, above), and must pay employees wages and provide benefits consistent with the Living Wage Ordinance, whichever are greater.

For further information, please go to the following website:
<https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges>

(c) Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City Contractors (contractors) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001)

The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a Contractor's operations that occur (1) within the City; (2) on real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with

the City; and (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or sub-contractors.

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1**, Equal Benefits-Declaration of Nondiscrimination form. For more information, see http://library.municode.com/HTML/16308/level2/TIT2ADPE_CH2.32EQB_EOR.html#TOPTITLE

(d) Nuclear Free Zone

Contractor represents, pursuant to **Schedule P** (“Nuclear Free Zone Disclosure Form”) that Contractor is in compliance with the City of Oakland’s restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this Agreement, Contractor shall complete **Schedule P**, attached hereto.

7. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

8. Insurance

Unless a written waiver is obtained from the City’s Risk Manager, Contractor must provide the insurance listed in **Schedule Q**. **Schedule Q** is attached to the Agreement as Attachment A and incorporated herein by reference.

9. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

10. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

11. Prompt Payment Ordinance

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S, passed January 15, 2008 and effective February 1, 2008). The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Liaison, Division of Contracts and Compliance upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractor is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandca.gov.

12. Arizona and Arizona-Based Businesses

Contractor agrees that in accordance with Resolution No. 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify the Purchasing Department if it's Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

13. Dispute Disclosure

Contractors are required to disclose pending disputes with the City of Oakland when they are involved in submitting bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

14. Border Wall Ordinance

This contract is subject to the Border Wall Ordinance of Oakland Municipal Code (Ordinance 13459 C.M.S, passed November 28, 2017) and effective immediately upon adoption. The purpose of the ordinance is to mandate and direct the City Administrator- in instances where there is no significant additional cost, to be defined in regulations, or conflict with law- to refrain from entering into new or amended contracts to purchase professional, technical, scientific or financial services, goods, construction labor and materials or other services, or supplies from businesses that enter into contracts to provide such services, goods, materials or supplies to build the U.S.-

Mexico border wall; The City of Oakland shall be prohibited from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or

cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" individual, firm, or financial institution who provides any services, goods, equipment or information technology or cloud- based technology or services, to construction of the a wall along any part of the United States – Mexico border.

All vendors seeking to do business with the City of Oakland must are complete and sign “Schedule W” as a statement of compliance with Ordinance 13459 C.M.S.

15. Sanctuary City Contracting and Investment Ordinance

Ordinance N.O. 13540 CMS was adopted by the Oakland City Council on June 4th, 2019 and prohibits the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE) services or goods for data collection or with the United States Customs and Border Protection (CBP) Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) to support immigration detention facilities. These contractors are not to be used unless the City Council makes a specific determination that no reasonable alternative exists. The ordinance also prohibits the City from investing in any of these companies and requires the City to include notice of these prohibitions in any Requests for Proposals (RFPs), Requests for Qualifications (RFQs), and any construction or other contracting bids. The ordinance also requires that the City provide an annual report to the Privacy Advisory Commission on its enforcement.

EXHIBIT 4

Schedule Q INSURANCE REQUIREMENTS IT Professional/Cyber Liability Exposures

a. General Liability, Automobile, Workers' Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

- i. **Commercial General Liability insurance** shall cover bodily injury, property damage and personal injury liability for premises operations, independent contractors, products-completed operations personal & advertising injury and contractual liability. Coverage shall be on an occurrence basis and at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01)

Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- ii. **Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 0001.
- iii. **Workers' Compensation insurance** as required by the laws of the State of California, with statutory limits, and statutory coverage may include Employers' Liability coverage, with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, and \$1,000,000 each employee bodily injury by disease. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall

comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

- iv. **Professional Liability/ Errors and Omissions insurance, if determined to be required by HRM/RMD**, appropriate to the contractor's profession with limits not less than \$ _____ each claim and \$ _____ aggregate. If the professional liability/errors and omissions insurance is written on a claims-made form:
- The retroactive date must be shown and must be before the date of the contract or the beginning of work.
 - Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
 - If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.
- v. **Contractor's Pollution Liability Insurance:** If the Contractor is engaged in: environmental remediation, emergency response, hazmat cleanup or pickup, liquid waste remediation, tank and pump cleaning, repair or installation, fire or water restoration or fuel storage dispensing, then for small jobs (projects less than \$500,000), the Contractor must maintain Contractor's Pollution Liability Insurance of at least \$500,000 for each occurrence and in the aggregate. If the Contractor is engaged in environmental sampling or underground testing, then Contractor must also maintain Errors and Omissions (Professional Liability) of \$500,000 per occurrence and in the aggregate.
- vi. **Sexual/Abuse insurance.** If Contractor will have contact with persons under the age of 18 years, or provides services to persons with Alzheimer's or Dementia, or provides Case Management services, or provides Housing services to vulnerable groups (i.e., homeless persons) Contractor shall maintain sexual/molestation/abuse insurance with a limit of not less than \$1,000,000 each occurrence and \$1,000,000 in the aggregate. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
- vii. **Technology Professional Liability (Errors and Omissions) OR Cyber Liability Insurance, if determined to be required by HRM/RMD**, *appropriate to the Consultant's profession, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy*

violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Insured Status (Additional Insured): Contractor shall provide insured status naming the City of Oakland, its Councilmembers, directors, officers, agents, employees and volunteers as insureds under the Commercial General Liability policy. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 (11/85) or both CG 20 10 and CG 20 37 forms, if later revisions used). If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on an ISO form CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- ii. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents, employees and volunteers shall be primary insurance. Any other insurance available to the City Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Agreement); and
- iii. Cancellation Notice: Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Entity; and
- iv. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents and subcontractors; and
- v. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement; and
- vi. Insurer shall carry insurance from admitted companies with an A.M. Best Rating of A VII, or better.

c. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

e. Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if, and when, requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

f. Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the project to verify compliance with requirements.

g. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

h. Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors, employees and volunteers for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

i. Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice.

j. Higher Limits of Insurance

If the contractor maintains higher limits than the minimums shown above, The City shall be entitled to coverage for the higher limits maintained by the contractor.

k. Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***

If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Date*** prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of ***five (5)*** years after completion of contract work.

END OF SCHEDULE Q – INSURANCE REQUIREMENT

EXHIBIT 1 – Statement of Work (“SOW”) and Schedule of Products and Services

1. DOCUMENT SUMMARY

We are pleased to provide you with a services engagement agreement for your Apricot software. This is an interactive project where Social Solutions Global (SSG) consultants provide guidance and best practices to you as we partner together to configure your software.

To support the success of this project, please ensure that your staff attends the required training as detailed in the project plan. Your Apricot subscription includes the required training. Attending the trainings will provide the foundation necessary for your organization to receive the maximum value of the consultations we will provide.

2. PROJECT SCOPE

GOALS

This project is designed to deliver a solution for your 12 lines of services across the 40 programs within your new Apricot platform. The Apricot software will help your organization with all the following:

1. Implement a new Apricot site to organize data from programs
2. Setup security and user profiles to access the Apricot site
3. Transition use of Apricot site from development to full deployment for your organization

SCOPE AND DELIVERABLES

SSG has prescribed the following hours to deliver the services described below. If you require assistance outside the scope of this project, SSG can provide a quote to meet your specific needs. We will obtain your written approval before charging you for additional work. Services included in this Scope of Work:

Discovery and Solution Design

We are prescribing up to 24 hours to be used towards Discovery and Design of 12 lines of services across the 40 programs.

Every organization uses Apricot's technology platform in unique ways to scale up their programs and reporting capabilities. Before configuring your Apricot site, we'll lead a discovery and requirements-gathering process with a goal of understanding your core needs. Discovery begins with a series of questions related to your current data management and reporting processes, staffing, pain points, and funder/reporting requirements. To get a full picture of your needs, you may be asked to share relevant documents such as existing data-collection forms, report templates, workflows, and organizational charts.

The insights and requirements you share will inform our recommended Solution Design, our plan for a customized Apricot site. The Solution Design draws from available features and functionality and aims always to meet your needs in the simplest way possible, to help achieve your goals of system adoption and unlocking staff time. Our intuitive, scalable Solution Design may include recommendations on changes to your data management workflow. You have the opportunity to review our proposed Solution Design and request revisions prior to giving your sign-off.

Configuration

We are prescribing up to 59 hours towards configuration of your solution, as defined in your Solution Design. We will configure to your specifications the features and functionality required for your programs. This will include custom configuration of forms, reports, workflows, permission sets, and other features as needed within the prescribed hours. This will include the following assets, as well as additional configuration of forms, reports, workflows, permission sets, and other features as needed within the prescribed hours:

Data Migration

We have prescribed 18 hours to import data into your Apricot Database, based on the assumptions below:

Tables	Number of fields	Number of Migrated rows
triangle incident response	38	1,000
triangle incident- tracking	13	1,000
triangle incident-response	6	1,000
Direct Communication-Custom Notifications	35	1,000
Direct Communication- call in	31	1,000
Direct Communication- Data validation	5	1,000
Custom Notification	21	1,000

This data must be provided to us in .csv or .xls spreadsheet format. Data must map into existing form fields in Apricot, meaning each column header in your spreadsheet matches a corresponding form field in Apricot, and each row entry matches an answer option in the Apricot form (spelling, grammar, and capitalization all need to match). We will not do any de- duplication or data standardization as part of this import.

Custom Reporting

We have prescribed up to 72 hours towards the configuration of custom reports. We are basing this off the assumption that you will need 12 reports of moderate complexity.

Demonstration and Testing

We are prescribing up to 24 hours towards Demonstration and Testing. In this phase, we'll provide your administrators and project stakeholders with a live demonstration of your completed configuration. This includes a walkthrough of Apricot from the perspective of your staff members or program managers. The demonstration serves dual purposes: it helps your administrators/stakeholders connect the dots in their understanding of your custom-configured Apricot site and prepares them to complete testing of the solution.

After the demonstration, we'll provide you with Test Scripts and a Testing Log for you to populate with up to 2 rounds of feedback and change requests while testing the solution from various staff member perspectives. All feedback must be provided via the Testing Log by the date communicated by your SSG Project Team, and they may request a call to clarify the exact changes you're requesting. Significant change requests at this stage that veer off the original Solution Design may impact your project budget.

Go-Live Support

We are prescribing up to 24 hours towards Go-Live Support, where we will develop a go-live deployment plan collaboratively with you, then be on-call for immediate troubleshooting and support during SSG business hours for three days. These days can be scheduled consecutively or separate, to support phased go-live on different days.

Close Out and Transition to Support

We are prescribing up to five hours for the project close out and transition to support. You'll be provided with a take-home document visualizing your configured solution, for your future use while training and onboarding staff to Apricot. This document includes a high-level overview of your program(s) and service(s) mapped out within the Apricot system architecture.

You'll be introduced to your long-term support resources, including but not limited to a technical support team member, your assigned Client Success Manager, and Account Manager. Relevant information and documents, including but not limited to your documented solution requirements, Solution Design, and meeting recordings, will be shared along with any future goals for further expansion of your capabilities within Apricot.

If you purchased optional staff training workshops, we'll facilitate the scheduling of those workshops.

Project Management

We have prescribed up to 75 hours of project management services, covering a 20-week timeline. Your Project Manager is an experienced resource assigned to you for the duration of your project. They are responsible for the project plan and timeline, coordinating SSG resources for delivery, and ensuring that the project delivery meets your stated goals and fulfills the requirements lined out in this document. They are your first point of contact for any needs that arise during this project. They will begin the project by scheduling a Scope and Schedule alignment call where we confirm these goals and deliverables, define the stakeholders, and set up the project kick off call. They will then provide you with weekly updates on your project's progress and alert you to any risks.

3. PROJECT SCHEDULE

We expect this project to be completed within 20 weeks, with a go-live projected for 12 weeks from kick-off. Reporting activities will extend beyond go-live. Meeting this timeline will require your active participation, both on weekly 1-hour calls with your SSG project team and via independent work (including but not limited to watching training videos, completing simple configuration tasks, and testing the platform.)

A project schedule will be shared with you and maintained throughout the project. You will be expected to communicate with our project team on the project plan regarding the progress against your assigned action items.

Unless otherwise agreed at the start of this project, we will work with one program group at a time. You may determine the order of programs based on staff availability. We recommend assigning 1-2 program leaders or staff members to attend these meetings – we don't need to meet with your entire staff.

Your SSG project team has been assigned to you for the duration of the project schedule to ensure they have the time and focus needed to complete the work. To this end, if you are not in attendance or unable to reschedule within three (3) business days after a missed meeting, you will be invoiced for one hour of time at SSG's then prevailing market rate (\$200 per hour for calendar year 2021) so that we can extend the availability of your SSG project team beyond the planned timeline. Missing your due dates for assigned tasks could result in an incomplete program delivery by project end, increases to project timeline, and costs associated with extension.

4. RESPONSIBILITIES

We have outlined the responsibilities of both of our teams below. Your team plays a vital role in the success of this project.

Client Responsibilities

1. Designate the individual(s) who will serve in project roles so they can participate and commit to learning the platform starting at the Kickoff.
 1. This includes, at a minimum, 1-2 System Administrators and an internal Project Manager
 2. Your internal Project Manager can also be one of your System Administrators
2. 1-2 staff members from each program will also participate during the phase focused on their program
2. Provide detailed requirements for your program, including but not limited to: outputs and outcomes you hope to track, sample forms and form logic, and an explanation of which program staff are allowed to see which data.
3. Watch your assigned Training Academy videos in advance of their due dates (per the schedule to be agreed upon at Kickoff). Your Apricot subscription includes on-demand training videos through our Training Academy platform.
4. Some configuration tasks may be assigned to you during the project, depending on the scope and complexity of the Solution Design. This has the dual benefit of providing you with hands-on administrative training while also ensuring you end the project with a complete program solution in Apricot.
5. Attend all scheduled meetings, participate in updating and communicating on our project plan, complete assigned tasks on time, and proactively communicate with your SSG project team.
6. Review and approve/reject change orders, deliverables, and/or signoffs, and provide notice to us of any required revisions within one week of receiving documents.

SSG Responsibilities

7. Create and maintain a project plan and manage SSG team's participation during the project.
8. Design a solution (including features and functionality documented in the Solution Design) that will meet the core requirements of your program within the Apricot platform.
9. Lead the effort to configure the solution.
10. Provide best-practice recommendations based on our collective experience onboarding thousands of nonprofit and public sector clients.
11. Complete the project within the agreed-upon timeline and budget.

12. Track issues affecting the project and bring them to timely resolution. Notify you of issues that might affect budget, scope, or project timeline.

5. **IMPORTANT ASSUMPTIONS**

We have identified the following assumptions, which we will rely on in delivering a successful project. Please read these carefully and ask us any questions you may have.

1. SSG cannot guarantee that your current case management processes and data management workflows will remain unchanged when translated into Apricot. Some process changes may be required to make optimal use of Apricot technology solutions. These changes will be discussed and your approval obtained during the Solution Design phase of the project.
2. Training for your staff is not included in this project. While System Administrators will learn from the assigned training videos, assigned configuration tasks, and collaborative work sessions with the SSG project team, thorough product training is available for purchase through the SSG Training Team.
3. SSG-configured Apricot forms may contain no more than 70 fields. Additional fields may cause performance degradation and will be separated into multiple forms.
4. SSG-configured reports will track outputs and outcomes required but could deviate from client-provided report samples in format and style.
5. Custom reports developed and implemented by SSG include a 30-day warranty after implemented in production. Changes to reports after 30-day period will require additional funded services if customer expects SSG to maintain SSG developed custom reports. Any customer developed custom reports requiring SSG to update reports will require services and can be procured via professional services order from account manager based on scope and requirements needed.
6. Data migration is limited to the Forms and, Row and Column amounts listed above. Any other data migration is outside the scope of this engagement and an additional Scope of Work to determine the cost to migrate is required.
7. Data cleaning and de-duplication are the responsibility of the Customer's staff. Your Apricot forms likely will not match the structure of your existing forms, nor will it necessarily contain all the same data points. You will be provided with a template that matches your new forms and your preparation of your data will include conforming it to this template. Additional cost will be incurred if SSG staff performs this work.
8. Customer has its own billing and financial software. Any report associated with expenditures is outside of scope of this engagement.
9. Integration with a 3rd party database via SFTP or API is outside the scope of this engagement.
10. Although we make every effort to assign the same SSG staff member(s) during the project, we may bring in other staff if schedule conflicts arise. Any SSG-driven staff changes will not result in additional charges to the client related to the team transition. Changes in the Client project

team that necessitate repeating meetings or changing requirements will result in additional charges.

11. We will perform all work remotely to limit additional travel costs. Should the need arise to travel, we will first obtain your approval in writing.
12. Last-minute change requests or additions to the scope will impact project timing and cost. We will obtain your written approval before incurring any additional costs.

6. FEES

This is a Time and Materials project. You will receive monthly invoices for the hours worked on the project. Time is billed in 15-minute increments. The cost of this project is shown by Resource and Amount of time billed on your invoices.

Implementation Fees: Time & Materials	Hours Summary	Rate	Fee Summary
Discovery and Solution Design	24	\$200	\$4,800
Configuration	59	\$200	\$11,800
Data Migration	18	\$200	\$3,600
Custom Reporting	72	\$200	\$14,400
Demonstration and Testing	24	\$200	\$4,800
Go-Live Support	24	\$200	\$4,800
Close Out and Transition to Support	5	\$200	\$1,000
Project Management	75	\$200	\$15,000
Total Estimate	301		\$60,200

Additional services may be procured through a change order at the rate of \$200.00/hour.

7. DISCLOSURE

This SOW provides the complete scope of this project. Any services you may have discussed with SSG staff, verbally, or in writing that are not explicitly outlined in this document are not included in this project under any circumstances. SSG offers a broad array of services and would be pleased to provide a cost estimate if additional services are required.

Schedule of Products and Services

SYSTEM DESIGN AND IMPLEMENTATION

Table 1. Implementation deliverables

Service	Description of work	Deliverable	Anticipated completion date
Project management	Provides day-to-day Project Leadership and defines project priorities; Builds and communicates project plan, issues, risks, status while following SSG methodology and SOPs	Apricot 360 data management system for the DVP	11/30/2022
System design	Designs the solution based on the workflow, documents, and Performance Management for standardized collection of data. Subject matter expert (SME) for the design of the software		

Table 2. Payment details

Service	Billing frequency	Hourly rate	Projected hours	Total Cost	Anticipated invoice date
Project management	Once	\$200	75	\$15,000.00	12/1/2022
System design	Once	\$200	226	\$45,200.00	12/1/2022
Total Estimate				\$60,200.00	

TRAINING AND TECHNICAL SUPPORT

Table 1. Product deliverables

Service	Description of work	Deliverable	Completion date
Apricot Advanced Training Subscription	One administrator may access one of each type of administrator class offered per quarter. There are 19 classes of 90 minutes each.	Access to one administrator training class per quarter	6/30/2027
Apricot Diamond Support	Fixed-price reactive consultation provided by an advanced support consultant	96 hours of advanced support consultation per year	6/30/2027
Apricot 360 Basic Training	Unlimited access to Apricot 360 webinars and training library	Access for all licensed users to the following:	6/30/2027

Service	Description of work	Deliverable	Completion date
Package		<ol style="list-style-type: none"> 1. Live Apricot Setup Webinar 2. Live Apricot Insights Webinar 3. Admin Video Library 4. End User Training Library 	
Apricot Train-the-Trainer	One training session will review the client's configuration and review tips and tricks for training end users.	<p>One project kick-off meeting</p> <p>One PowerPoint slide deck</p> <p>Trainer script, notes, and demo instructions</p> <p>One train-the-trainer session for up to 4 hours for up to 12 attendees</p>	12/1/2022
Apricot Custom End User Training	12 sessions of end user training that will review the client's configuration for up to 12 end users.	<p>One project kick-off meeting</p> <p>One PowerPoint slide deck</p> <p>One end user training session for up to 3 hours and up to 12 attendees</p>	12/1/2022

Table 2. Payment details

Service	Billing frequency	Total cost	Anticipated invoice date
Apricot Advanced Training Subscription	Annually	\$900.00	12/1/2022
		\$1,800.00	6/1/2023
		\$1,800.00	6/1/2024
		\$1,854.00	6/1/2025
		\$1,946.70	6/1/2026
Apricot Diamond Support	Annually	\$8,100.00	12/1/2022
		\$16,200.00	6/1/2023
		\$16,200.00	6/1/2024
		\$16,686.00	6/1/2025
		\$17,520.30	6/1/2026
Apricot 360 Basic Training Package	Annually	Free	N/A
Apricot Train-the-Trainer	Once	\$1,200.00	12/1/2022
Apricot Custom End User Training	Once	\$9,600.00	12/1/2022

Total		\$84,207.00	
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SUBSCRIPTION

Table 1. Service deliverables

Service	Description of work	Deliverable	Completion date
Apricot 360 bundle	The Apricot 360 license includes 10GB of database storage with two User licenses designated with Administrator privileges. Each Administrator seat is provided with basic training. Additional licenses for Users or designated Administrators may be purchased on a per-user basis. Purchased licenses may be transferred between users an unlimited number of times without additional cost.	150 annual Apricot 360 licenses for 5 years	6/30/2027

Table 2. Payment details

Service	Billing frequency	Total cost	Anticipated invoice date
Apricot 360 bundle	Annually	\$40,014.00	12/1/2022
		\$80,028.00	6/1/2023
		\$80,028.00	6/1/2024
		\$82,428.84	6/1/2025
		\$86,550.28	6/1/2026
Total		\$369,049.12	

CONTINGENCY

The contract includes \$10,000 in additional funding to cover additional service needs for the City of Oakland in any of the three categories of work: (1) System Design and Implementation; (2) Training and Technical Support; and (3) Licensing.

Social Solutions Global, Inc. ("SSG") takes comprehensive measures to attempt to ensure that data is kept safe, confidential and recoverable in the case of a disaster. Social Solutions' office sits behind a firewall which extensively controls, tracks, and reports access to our internal infrastructure. Our software meets current required HIPAA standards.

Data Security

Apricot® uses user names and passwords to prevent unauthorized access and to restrict user access within the application. Each unique user account is assigned access to programs and permission sets to restrict access to data and features in the system. Customer data is housed in two locations (U.S. and Canada) based on the location of the client. Data is stored using redundant AWS hardware technologies and SSG fault tolerant software and journaling file systems.

Encryption

Social Solutions uses state-of-the-art equipment and technology to safeguard the confidential nature of your data. Your data is automatically encrypted while in transit between your computer and our servers as well as while in the database. Social Solutions uses the largest commercially available SSL cipher key size of 2048 bits. Users access Apricot® software web application servers via secure HTTPS connection.

SOC2

Our SOC2 Type 2 (SSAE18) report is a comprehensive document that describes Social Solutions security controls in the domains of Administrative, Physical, and Technical security. Apricot is certified SOC 2 Type II compliant. SSG security controls are reviewed by independent external auditors during audits for our SOC compliance.

Amazon Web Services (AWS) Server Security

Each of our servers is individually governed by a system that is designed to prevent unexpected Internet data from being processed by our server software. IDS, virus scanning, automated system checks, and remote logging guard against unauthorized access. AWS implements electronic surveillance and multi-factor access control systems to secure its data centers. Data centers are staffed 24x7 by trained security guards, and access must be strictly authorized. Multiple availability zones allow Apricot® to remain resilient in the face of most failure modes, including natural disasters or system failures¹. In case of a disaster in our main AWS region, Social Solutions will have Apricot® up and running between 24-48 hours in a backup AWS region.

Redundant Infrastructure and Backups

- ✓ 24/7/365 monitoring of uptime across the infrastructure
- ✓ Redundant water, power, telecommunications, and internet connectivity to maintain continuous operations
- ✓ Uninterrupted power supply to reduce possible service outages

Retention Policy

Keep daily backups for 12 months

Compliance

The AWS cloud infrastructure has been designed and managed by Amazon.com². AWS adheres to: SOC 1/SSAE 16/ISAE 3402 (formerly SAS70) SOC 2 SOC 3 PCI DSS Level 1 ISO 270012

Passwords

- ✓ can be set to have a minimum length
- ✓ can be set to contain non-alpha-numeric characters
- ✓ can be set to expire
- ✓ can be locked after a set # of invalid login attempts
- ✓ can be changed by a local administrator
- ✓ are not displayed upon entry and are encrypted

¹ For additional information visit: https://d0.awsstatic.com/whitepapers/Security/AWS_Security_Whitepaper.pdf

² For additional information visit: https://d0.awsstatic.com/whitepapers/compliance/AWS_Compliance_Quick_Reference.pdf



Combined Contract Schedules

Project Name: _____

Business Name: Social Solutions Global, Inc. Phone (877) 441-2111 Email: legal@socialsolutions.com

Address 10801-2 N. MoPac Expwy, Suite 400 City Austin State TX Zip 78759

Federal Taxpayer ID Number: 52-2277149 City of Oakland Business License Number: _____

Schedule B-1 and C-1 – (Declaration of Compliance with the Arizona Resolution 82727 and Declaration of Compliance with the Americans with Disabilities Act)

- I declare under penalty of perjury that my company is **NOT** headquartered in Arizona. OR
- I declare under penalty of perjury that my company **is** headquartered in Arizona and my proposal/bid should be considered because _____

I declare under penalty of perjury that my company will comply with the City Of Oakland **American with Disabilities Act** obligations.

Schedule D – (Ownership, Ethnicity and Gender) *Please be advised that ethnicity and gender information will be used for reporting and tracking purposes ONLY.*

Part I - Ownership & Ethnicity of Prime: (Please check one and explain below)

- Self Employed, Name of Owner _____ Corporation, State of Incorporation Delaware
- Partnership, General or Limited _____ Names of Partners _____
- Joint Venture, Names of Participants _____

Ownership Interests

All owners must be listed in this information

Ethnicity	African American	American Indian/ Alaskan Native	Asian /Pacific Islander	Caucasian	Filipino	Hispanic	Other
Number of Owners							1
% Of Total Ownership							100
Women							
Joint Venture Ownership							

Part II - Certifications DBE, MBE, SLEB, L/SLBE etc.: Please list certification type, certification number and expiration date. Please attach a copy of the certification letter if available. N/A

Part III - Ethnicity and Gender of Employees:

Employment Category	Total Employees	Oakland Residents	Male						Female					
			African American	Native American / Native Alaskan	Asian / Pacific Islander	Caucasian	Hispanic	Other	African American	Native American / Native Alaskan	Asian / Pacific Islander	Caucasian	Hispanic	Other
Project Management		0												
Professional		0												
Technical		0												
Clerical		0												
Trades		0												

Schedule K – (Pending Dispute Disclosure)

1. Are you or your firm involved in a pending dispute or claim Against the City of Oakland or its Agency? **(Please circle one)** Yes No X
2. If “Yes”, please list existing and pending lawsuit(s) and claim(s) with the title, contract date, brief description of the issues, officials or staff persons involved in the matter and the City department/division administering the contract. Contract Title and Number: _____
 Date: _____ Official(s), Staff person(s) involved: _____ Administering Department/Division: _____
 Issues: _____ (check) _____ *Additional Disputes listed on Attachment*

Schedule M – (Independent Contractor Questionnaire) – PART A: TO BE COMPLETED BY PROPOSED CONTRACTOR

Please answer questions “yes” or “no” whenever possible. When a more extensive explanation is required and there is no space on this form, please attach a separate sheet. The word contract refers to the agreement the City is contemplating entering into with you.

NOTE: CORPORATIONS MUST PROVIDE THE CORPORATE FEDERAL TAXPAYER NUMBER IN THE SPACE ABOVE AND ATTACH A CALIFORNIA SECRETARY OF STATE BUSINESS REGISTRATION RECORD (FROM WEBSITE) SHOWING “ACTIVE” STATUS. CORPORATIONS ARE NOT REQUIRED TO COMPLETE THE REMAINDER OF THIS FORM, BUT A CORPORATE REPRESENTATIVE MUST SIGN.

	Yes	No
1. Have you performed services for the City in any year(s) prior to 20__? If yes, please indicate which years.		X
2. Have you received any training, guidance, or direction from the City as to how the City expects the job (for which your services are contemplated) to be done. If yes, please describe what you are expecting (or have received) in the way of training or direction. _____		X

	Yes	No
3. Will your services under the contract be performed on City property? If no, please describe where the services are to be performed.		X
4. Do you expect to devote any full days (6 or more hours) or full weeks (30 or more hours) towards performing the services under the contract? If yes, please indicate approximately how many full days and/or full weeks you expect to devote during the life of the contract		X
5. Are there any set or fixed hours or days of the week during which the City is expecting you to perform services under the contract? If yes, please indicate the days and hours during which you will be performing services.		X
6. Please provide the date on which you expect to complete your services under the contract (dd/mm/yy). Unknown at this time		
7. In order to perform services under the contract, do you intend to provide your own supplies or equipment? If yes, briefly describe the equipment/supplies.		X
8. If your response to No. 7 is yes, has the City promised to or will you be expecting the City to reimburse you in any way for the cost of the supplies or equipment?		
9. Other than the above-referenced supplies and equipment, do you anticipate incurring any <u>un-reimbursable</u> out-of-pocket expenses in the performance of the contract with the City? If yes, please describe.		X
10. Do you have federal and state employer identification numbers? If so, please provide these numbers.		
11. <u>Within the past two years</u> have you performed the same type services (as called for in the contract) for any client or customer <u>other than</u> the City? If yes, please identify the client or customer and briefly describe the services performed. SSG has 3,000 Customers	X	
12. Do you <u>currently</u> have clients or customers other than the City for whom you are or will perform services during the duration of the contract? If yes, please identify client or customer by name and briefly describe the nature of services performed. SSG has 3,000 Customers	X	
13. In the past two years have you notified any insurance company in conjunction with obtaining a business-related insurance policy that you are self-employed? If yes, please indicate the insurance company and the nature of the business-related policy.		X
14. Do you have your own <u>employees</u> to help you perform the services called for by your contract? (Do not refer to independent contractors you may use to assist you.)	X	
15. Within the <u>past two years</u> have you been the <u>employee</u> of any employer (received a W-2)? If yes, state the employer(s), the date(s) of employment, and the nature of the services performed.		X
16. Do you have an office or business address other than your own home address, a City of Oakland office or your employer's business address? If yes, please state the address. 10801-2 N. MoPac Expy, Suite 400, Austin, TX 78759	X	
17. With regard to the following, please indicate whether you have:		
a. an existing business letterhead? (please attach)	X	
b. an existing business phone number other than your home number? (please indicate # along with area code) 877-441-2111	X	
c. filed for a fictitious business name? If yes, please attach a certified copy of the County issued certificate and an affidavit of publication.		X
d. done public advertising for your business? If yes, please attach the ad copy or briefly describe your advertising efforts.	X	
18. If you have answered parts or all of No. 17 with "Yes," are the services represented in your answers the same type of services you will be performing for the City? www.socialsolutions.com	X	
19. Do you have a license from any governmental agency to perform the services under the contract? If yes, please state the type of license and name of the licensing agency.		X

	Yes	No
20. Please describe the extent of any personal financial investment you have made in order to be self-employed. You may either choose to indicate the actual dollar amount of investment or, without disclosing any dollar amount, briefly describe any purchases, leases or other types of financial commitments made by you for self-employment purposes. _____		N/A

PLEASE INDICATE WHETHER YOU OBJECT IF THE CITY DECIDES TO TREAT YOU AS A SHORT-TIME CONTRACT EMPLOYEE RATHER THAN AN INDEPENDENT CONTRACTOR AND THE REASON FOR YOUR OBJECTION. Only as an Independent Contractor

FOR CITY USE ONLY
 Based upon a review of this questionnaire and any other factors I have cited below, I have determined that this person (is) (is not) an independent contractor.

Date City Attorney/Assistant City Attorney/Deputy City Attorney

Schedule N - (Living Wage – Declaration of Compliance) applicable to professional services contracts over \$25K only

Employment Questionnaire: Please respond to the following questions:

	Responses
(1) How many permanent employees are employed with your company? (If less than 5, stop here)	400+ Not in AZ
(2) How many of your permanent employees are paid above the Living Wage rate?	N/A
(3) How many of your permanent employees are paid below the Living Wage rate?	N/A
(4) Number of compensated days off per employee? (Refer to “Compensated Days Off” of the Living Wage Ordinance)	Unlimited
(5) Number of trainees in your company?	N/A
(6) Number of employees under 21 years of age, employed by a nonprofit corporation for after school or summer employment for a period not longer than 90 days.	None

Schedule N-1 – (Equal Benefits – Declaration of Nondiscrimination)

Section A. Contractor Information

- (1) Are you an EBO certified firm (**Please circle one**) No (if yes, please attached certificate and skip Schedule N-1)
- (2) Approximate Number of Employees in the U.S. 400+ (3) Are any of your employees covered by a collective bargaining agreement or union trust fund? (**Please circle one**) No X (4) Union name(s) _____

Section B. Compliance

- (1) Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees? **(Please circle one) Yes**
 (2) Does your company provide or offer access to any benefits to employees with domestic partners? **(Please circle one) Yes**

Section C. Benefits PLEASE CHECK EACH BENEFIT THAT APPLIES

Benefits	Offered to Employees only	Offered to Employees and their spouses	Offered to Employees and their Domestic Partners	Not Offered at all	Documentation attached
Health	X	X	X		
Dental	X	X	X		
Vision	X	X	X		
Retirement (Pension, 401K, etc)	X				
Bereavement	X				
Family Leave	X				
Parental Leave	X				
Employee Assistance Program	X				
Relocation & Travel	X				
Company Discount, Facilities & Events	X				
Credit Union				X	
Child Care				X	
Other					

(1) CFAR is a City Financial Recipient. (2) Domestic Partner is defined as a same sex couples or opposite sex couples registered as such with a state or local government domestic partnership registry

Schedule P – (Nuclear Free Zone - Ordinance 11478 C.M.S.)

- I declare under penalty of perjury that I have read Ordinance 11478 C.M.S. titled “An Ordinance Declaring the City of Oakland a Nuclear Free Zone and Regulating Nuclear Weapons Work and City Contracts with and Investment in Nuclear Weapons Makers”, as provided on the City’s website, see “footnote” below I certify that my firm conforms with the conditions as defined in Ordinance 11478 C.M.S.
- I declare that my company is **NOT** in compliance with Ordinance 11478 C.M.S., but my proposal/bid should be considered because
-

Schedule U – (Compliance Commitment Agreement)

- I have read the City of Oakland’s Local/Small Local Business Enterprise Program (L/SLBE) and declare that **I will achieve the 50% L/SLBE participation requirement as described in the L/SLBE program including 50% of the total trucking dollars to certified Oakland Local Truckers.** If I fail to satisfy the proposed 50% L/SLBE participation requirement, I may be assessed a

penalty equal to 1 and 1/2 times the shortfall. The 25% Small Local Business Enterprise (SLBE) subcontracting requirement is waived for Oakland certified local businesses competing for **professional services** contracts as the prime consultant. *The L/SLBE Program is not applicable on Caltrans Federal Highway Administration (FHWA) funded DBE projects.*

As prime contractor for this project, I agree to use the City of Oakland’s Labor Compliance Program tracker (LCP Tracker) to input ALL certified payroll reports including all tiers of subcontractors for this project. I acknowledge that invoice payments will not be released until and unless all certified payrolls are current. I agree to submit with the final payment request a completed “Exit Report and Affidavit form” located on the City’s website (see the link below).

Schedule V – (Affidavit of Non-Disciplinary or Investigatory Action)

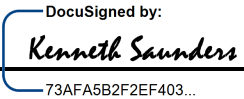
I certify that the following entities: Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH) or the Office of Federal Contract Compliance Programs (OFCCP) has not taken disciplinary or investigatory action against the Firm. If such action has been taken, attached hereto is a detailed^{ps} explanation of the reason for such action, the party instituting such action and the status or outcome of such action. Initial: KS

Oakland’s Minimum Wage Law – (Resolution 85423 C.M.S. - Oakland Municipal Code Section 5.92, et seq.) I certify that I have read Oakland’s minimum wage law and I am in full compliance with all its provisions. Initial: N/A

Affirmative Action - I certify that I/we shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, sexual orientation, national origin, age, disability, Acquired Immune Deficiency Syndrome (AIDS) AIDS related complex, or any other arbitrary basis and shall insure compliance with all provisions of Executive Order No. 11246 (as amended by Executive Order No. 11375). I certify that I/we shall not discriminate against any employee or applicant for employment^{ps} because they are disabled veteran of the Vietnam era and shall insure compliance with all provisions of 41CFR60-250.4 where applicable. Initial: KS

By signing and submitting this combined schedules form the prospective primary participant’s authorized representative hereby obligates the proposer(s) to the stated conditions referenced in this document. I declare under penalty of perjury that the foregoing is true and correct.

Print Name: Kenneth Saunders Title: CFO

Signature:  Date: 3/8/2022

DocuSigned by:
73AFA5B2F2EF403...

PLEASE NOTE: Detailed descriptions of all policies represented in this combined form may be found at Contracts and Compliance website “Policies and Legislation” address <https://www.oaklandca.gov/documents/contracting-policies-and-legislation> For an electronic copy of this combined form and copies of standalone contract Schedules R, E, O, Q, Exit Affidavit and Schedule G please go to this web address <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>. **This form must be dated within 30 days of the contract award.**

SCHEDULE E PROJECT CONSULTANT TEAM LISTING

To be completed by prime consultants only.

Date _____



Note:
The consultant herewith must list all subconsultants regardless of tier and their respective percentages of the project work. No other subconsultants, other than those listed below shall be used without prior written approval by the City of Oakland. Provide all information listed and check the appropriate boxes. Firms must be certified with the City of Oakland in order to receive Local/Small Local Business Enterprise credits.

Company Name: _____

Signed: _____

Type of Work	Company Name	Address and City	Phone Number	% of Project Work	Dollar Amount	Subcontractor	Local (LBE)	Small Local (SLBE)	* Ethnicity	** Gender

Attach additional page(s) if necessary.
Contractors are required to identify the ethnicity and gender of all listed firms majority owner. This information will be used for tracking purposes only.
 * (AA=African American) (AI=Asian Indian) (AP=Asian Pacific) (C=Caucasian) (H=Hispanic) (NA=Native American) (O=Other) (NL=Not Listed)
 ** (M = Male) (F = Female)

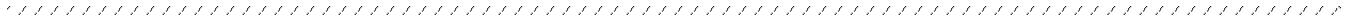


Schedule I

“Sanctuary City Contracting and Investment Ordinance”

United States Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) Prohibition.

This Schedule must be submitted with all proposals or bids by all contractors/Consultants and their sub-contractors/subconsultants, and all vendors seeking to do business with the City of Oakland. Compliance must be established prior to full contract execution.



I, (name) Kenneth Saunders, the undersigned, CFO of Social Solutions Global, Inc.
(Position/Title)

(Business Entity) - hereinafter referred to as Business Entity and duly authorized to attest on behalf of the business Entity), declare the following:

1. Neither this Business Entity nor any of its subsidiaries, affiliates or agents are under contract with the United States Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) to provide services or goods for data collection or immigration detention facilities. The term “data collection” includes the collection of information (such as personal information about consumers) for another purpose from that which it is ultimately used, datamining in large data bases for trends and information, threat-modeling to identify probable attackers to computer systems, predictive risk analysis to predict future events, and similar services. Additionally, this business entity does not anticipate a contract with ICE, CBP, or HHS/ORR for such work for the duration of a contract/contracts with the City of Oakland.
2. The appropriate individuals of authority are cognizant of their responsibility to notify the City’s Project Manager and invoice reviewer or the City Administrator’s Office, Chief Privacy Officer if any of this Business Entity’s subsidiaries, affiliates, or agents are under contract with ICE, CBP, or HHS/ORR for the purposes listed above.
3. To maintain compliance, upon review and approval of invoices, the contractors/vendors hereby agree to submit a declaration on company stationery attached to each invoice that the company remains in compliance with the ICE, CBP, and HHS/ORR Prohibition and will not seek or secure a contract with ICE, CBP, or HHS/ORR.
4. Upon close out or completion of deliverables and prior to issuance of final payment (while honoring the Prompt Payment Ordinance), this business entity agrees to submit a statement attached to the final invoice, under penalty of perjury, declaring full compliance with the ICE, CBP, and HHS/ORR Prohibition. I understand that an invoice is not declared fully complete and accepted unless and until the declaration of compliance is accepted.
5. If this business entity fails to disclose a contract with ICE, CBP, or HHS/ORR to provide services for data collection or immigration detention facilities, the relevant persons may be guilty of a misdemeanor and up to a \$1,000 fine. Additionally, the City Administrator may to the extent permissible by law, remedy any such violations and may use all legal measures available to rescind, terminate, or void contracts in violation.
6. I declare under penalty of perjury that the above will not, have not, and do not plan to contract with ICE, CBP, or HHS/ORR to provide services or goods for data collection or immigration detention facilities.



**CITY OF
OAKLAND**

PLEASE COMPLETE AND SIGN

I declare that I understand Ordinance #13540 C.MS. Based on my understanding the above is true and correct to the best of my knowledge.

or

I declare that I understand Ordinance # 13540 C.MS. Based on my understanding all or a portion of the above is not true and correct to the best of my knowledge.

Kenneth Saunders CFO DocuSigned by:
Kenneth Saunders 3/8/2022
78AFAC5B2F2EF400...
(Printed Name and Signature of Business Owner) (Date)

Social Solutions Global, Inc. 10801-2 N. MoPac Expwy, Suite 400, Austin, TX 78759
(Name of Business Entity) (Street Address, City, State, and Zip Code)

Janis Holdings Company, LLC
(Name of Parent Company) (If applicable)

Contacts:
Office Phone: 877-441-2111 Cell Phone: _____ email: legal@socialsolutions.com

For Office Use Only:	
Approved/Denied/Waived	
(signed) _____	_____
Authorized Representative	Date
SCHEDULE I DB/DM 2019	



**CONTRACTOR ACKNOWLEDGEMENT OF CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS
FOR CONSTRUCTION, PROFESSIONAL SERVICE & PROCUREMENT CONTRACTS**

To be completed by City Representative prior to distribution to Contractor

City Representative Nancy Ceja Phone (510) 387-6070 Project Spec No. _____

Department Violence Prevention Contract/Proposal Name _____

This is an _____ Original _____ Revised form (check one). If Original, complete all that applies. If Revised, complete Contractor name and any changed data.

Contractor Name _____ Phone _____ - _____ - _____

Street Address _____ City _____, State _____ Zip _____

Type of Submission (check one) _____ Bid _____ Proposal _____ Qualification _____ Amendment _____

Majority Owner (if any). A majority owner is a person or entity who owns more than 50% of the contracting firm or entity.

Individual or Business Name _____ Phone _____ - _____ - _____

Street Address _____ City _____, State _____ Zip _____

The undersigned Contractor's Representative acknowledges by his or her signature the following:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act and certify that I/we have not knowingly, nor will I /we make contributions during the period specified in the Act.

I understand that the contribution restrictions also apply to entities/persons affiliated with the contractor as indicated in the Oakland Municipal Code Chapter 3.12.080.

If there are any changes to the information on this form during the contribution-restricted time period, I will file an amended form with the City of Oakland.

Signature

_____/_____/_____
Date

Print Name of Signer

Position

To be Completed by City of Oakland after completion of the form

Date Received by City: ____/____/____ By _____

Date Entered on Contractor Database: ____/____/____ By _____

SCHEDULE W BORDER WALL PROHIBITION

(This form is to be completed by Contractors and their sub-contractors, and all Vendors seeking to do business with the City of Oakland)

I, Kenneth Saunders, the undersigned, a
(Name)
CFO of Social Solutions Global, Inc.
(Title) (Business Entity)

(hereinafter referred to as Business Entity am duly authorized to attest on behalf of the business Entity)

- I. Neither this Business Entity nor any of its subsidiaries, affiliates or agents are under contract with any branch of the federal government to plan, design, build, support, repair and/or maintain any part of the border wall nor do we anticipate entering or competing for such work for the duration of a contract or contracts with the City of Oakland.
- II. The appropriate individuals of authority are cognizant of their responsibility to notify the city contact person/Project Manager, invoice reviewer or the City Administrator’s Office of Contracts and Compliance if any of the identified above decide to compete, plan, design, build, support, repair and/or maintain any part of work or servicing the border wall.
- III. To maintain compliance, upon review and approval of invoices, the contractors/vendors hereby agree to submit attached to each invoice, a declaration on company stationery that the company remains in compliance with the Border Wall Prohibition and will not seek or secure a contract related to all aspects of the Border Wall
- IV. Upon close out or completion of deliverables and prior to issuance of final payment (while honoring the Prompt Payment Ordinance) I agree to submit a statement attached to the final invoice, under penalty of perjury, declaring full compliance with the Border Wall Prohibition. I understand that an invoice is not declared fully complete and accepted unless and until the declaration of compliance is accepted.
- V. I declare under penalty of perjury that the above will not, have not and do not plan to participate in the building, servicing, maintenance of the operations of the so called “Border Wall”.

I declare that I understand Ordinance #13459 C.MS. Based on my understanding the above is true and correct to the best of my knowledge.

I declare that I understand Ordinance #13459 C.MS. Based on my understanding all or a portion of the above is not true and correct to the best of my knowledge.

Kenneth Saunders, CFO DocuSigned by:
Kenneth Saunders 3/8/2022
(Printed Name and Signature of Business Owner) (Date)

Social Solutions Global, Inc. 10801-2 N. MoPac Expwy, Suite 400, Austin, TX 78759
(Name of Business Entity) (Street Address City, State and Zip Code)

Janis Holdings Company, LLC
(Name of Parent Company)

TO: Oakland Privacy Advisory Commission
FROM: City of Oakland Department of Violence Prevention (DVP)
DATE: 4/29/2022

RE: Responses from the DVP to questions from Paula Hawthorne (PH), Safety and Services Oversight Commission Vice Chair, about the DVP's proposed new data management system, Apricot 360.

- 1) Question from PH:** They want to “Track outreach efforts with potential clients prior to enrollment, including date, method, and result of each contact.” From a privacy perspective, there are problems with almost every word in that sentence. Does this mean that you can get your name in a City of Oakland database if you talk with someone at a community-based organization (CBO) funded by Oakland about, say, perhaps applying for job training? How, “prior to enrollment” does the CBO get the person to agree to having their data shared?

Response from DVP: Basic data on client outreach attempts are currently collected by life coaches employed through the DVP and CBOs. These data are stored in Excel spreadsheets due to the lack of a data system to capture this specific information. Transitioning this information to Apricot 360 would tremendously improve data security. Only very high-level information on outreach clients is currently recorded (name, gender, contact information, and age, if known), as well as dates, times, and results of phone calls or in-person contacts. Data collected through Apricot 360 would remain similarly high-level – no additional client information would be collected – but would have stronger security protections. The Apricot system would also help life coaches perform their jobs more efficiently by, for instance, flagging clients who haven't been contacted in a specified period of time and require additional follow-up, storing notes from previous contacts in a format that is accessible via a mobile device, and allowing information on outreach attempts to be easily shared between life coaches from a given agency who might be coordinating outreach efforts.

The ability to track outreach to clients is critical to the delivery of services funded by the DVP. Within the life coaching strategy specifically, clients are often initially hesitant about enrolling in services and require multiple outreach attempts from life coaches before they feel comfortable agreeing to participate. Outreach to prospective clients is an expectation of the job for life coaches, and the term “relentless outreach” has been coined by highly-successful violence intervention organizations like Roca, Inc. as the only way to successfully serve clients who are involved in group and gang violence. Relentless outreach is also an integral component of the Ceasefire strategy that the City of Oakland has advanced for a decade with strong support from Mayor Libby Schaaf and the Oakland City Council. The purpose of collecting these data is for outreach staff to manage their own outreach attempts and document connectivity with individuals.

- 2) Question from PH:** “Track multiple enrollments for each client.” Hence, we infer that all CBOs must enter all their client data into this database. What about those CBOs who care for people who do not want to be identified, like people who are sheltering from abuse?

Response from DVP: CBOs funded by the DVP currently enter client-level data into the existing Cityspan database. This is not a new practice; it has been the requirement of organizations funded through the DVP and Oakland Unite since the passage of Measure Y. It is also the practice of many similar municipal social services agencies, including the Oakland Fund for Children and Youth and the San Francisco Department of Children, Youth, and Families. Occasionally exceptions on staff

access to individual-level data are made for organizations that serve especially vulnerable populations (e.g. victims sheltering from abuse), but this is not standard practice.

The ability to identify clients who are participating in multiple programs is very important for optimal service delivery. For instance, life coaches can better support clients in meeting their goals when they can see that the client is already enrolled in an employment training program through a CBO. This also prevents clients from accessing the exact same services from multiple organizations simultaneously. From an evaluation perspective, the ability to identify multiple enrollments is critical to fully assessing impact. Evaluators need to be able to control for client participation in other services in order to isolate the impact of a specific service; this also allows them to determine whether impact is greater for clients enrolled in multiple services simultaneously. Obtaining these data from DVP-funded organizations directly, rather than from a single data system, and having to match records across agencies would be an extremely time-consuming and costly process for an external evaluation team and would certainly compromise data integrity.

- 3) **Question from PH:** "Allow staff to make program or service referrals for clients to outside organizations and track referral acceptance." Is this not the job of the CBOs?

Response from DVP: Making referrals to other services is the job of any direct service staff member, whether employed directly by the DVP or a DVP-funded CBO. Currently, referrals are made through phone calls or emails by direct service staff to other organizations, and information is not consistently tracked to ensure that all referrals are received and that clients are subsequently contacted (and hopefully enrolled) by the agency receiving the referral. This is a critical component of effective service delivery. The ability to make referrals through a single data system, to see that a referral was accepted by the outside agency, and then to see whether the referral led to enrollment in services will allow DVP staff and staff from DVP-funded organizations to ensure that clients are successfully connected to services that they desire. Staff making referrals will also be able to identify where breakdowns in the referral process are occurring and remedy them, if needed. This will be a very helpful tool for all direct service staff, including those employed by CBOs.

- 4) **Question from PH:** "Track client progress on individual life goals." For all the clients of all the CBOs served by Oakland funding? Is this even possible? And do we really want this?

Response from DVP: The development of a life map with specific goals is an integral component of the life coaching model that is used by life coaches within the DVP and those employed by DVP-funded organizations. Life coaches and clients collaboratively develop life map goals at the beginning of the life coaching period, and the life coach supports the client in meeting those goals over a period of 6 to 12 months. Tracking a client's progress on each life map goal is critical for clients to monitor their progress, feel good about their successes, and receive financial incentives for completing specific activities or goals. Tracking client progress is also important for life coaches who are supporting clients with activities related to their goals and need to determine what additional support is needed on an ongoing basis. Finally, completion of the life coaching model is dependent on the client completing his or her original life map goals. Currently, client progress on life map goals is discussed during each meeting between a client and life coach but is not consistently recorded for reference during future meetings or to demonstrate completion of life coaching.

5) **Question from PH:** The DVP does indeed need to have a good database to track the grants that they are making to the CBOs. There are a lot of grants; Oakland doubled the DVP budget for this coming fiscal year. But this goes beyond managing budgets & grants; this is centralizing data that exists, if at all, within each CBO (some do not collect sensitive data). This data is not needed for evaluation because the DVP does not evaluate the programs, they are evaluated through a contract with an outside agency.

Response from DVP: The DVP currently uses Cityspan to collect individual-level data on clients served by CBOs in addition to monitoring contract documents and processes. This functionality is required in whatever data management system the DVP uses going forward, whether Cityspan or Apricot, for all of the reasons discussed above. Data collected through the DVP's data management system will be used by staff from the DVP's Data and Evaluation team to conduct ongoing process evaluations of services rendered by CBOs to ensure that services are being delivered in accordance with CBO scopes of work and that deliverables are being met.

----- Forwarded message -----

From: Lou Katz <lou@metron.com>

Date: Wed, May 25, 2022 at 12:41 AM

Subject: DVP questions for AdHoc

To: Brian Hofer <brian.hofer@gmail.com>

I may have other comments, but I wanted to get this to you now.

These are not necessarily in any particular order

1. The data is to be 'owned' by the City. However, the CBOs are REQUIRED to have a significant fraction of their funding (20%) from other sources. Then these other sources ought to own the data also.
2. It has been asserted that the CBOs were consulted about this project and agreed with it, yet several have both denied having been consulted and do not agree with it.
3. An assertion is made that this proposal will give better data security, but there is no indication that the current system had failed in any way. This seems to be fixing something that was not broken.
4. In the past, clients may not have opted out of certain data collection policies because the information they gave was to the single CBO they were interacting with. That is very different from a data collection policy which combines data to a centralized entity. In fact, that combination itself undermines privacy. Exactly how will the 'goals' of this setup be met if all clients opt-out?
5. The 'statement of work' (exhibit 1) of the contract was not provided. There is an exhibit 6, but what about exhibits 2-5 in the contract.
6. Social Solutions Global, Inc. is a Delaware Corp with principal place of business in Austin, Texas. The State of Texas is vigorously and aggressively attempting to bring legal action of the most vicious form against women and persons of non-binary gender. If the vendor were a California corporation, they might be able to withstand Texas subpoenas, but they are not. We are about to enter a legal stage equivalent to the Fugitive Slave Act. Can Social Solutions Global, Inc. provide a genuine legal opinion as to how they can reject a Texas demand for data?? Asserting that it can't or won't happen is a useless misdirection and of no value.
7. Who has the encryption keys for the data at rest? Will the data from each CBO be encrypted with a different key? If not, why not? The Impact Report states that 'Only staff within the DVPs Data and Evaluation Unit (currently two staff members) will have access to all data across all providers (including individual-level client data)'. Why should they be trusted? There is no indication that DVP is required to get permission from a CBO to do this.
8. Table 1 (p2 of the Surveillance Technology Use Policy) is horrifying in terms of scooping up personal sensitive information. The justification for each of the 24 items is totally lacking, but should be provided.
9. Clarity is needed regarding 'direct service staff' and 'supervision staff', and what is meant by 'milestones'. I do not understand at all how a CBO attempting to provide support and services for extremely vulnerable (and most likely confused and upset

people) can be 'milestoned'.

10. Who and how will data be provided to the as yet unspecified external evaluator? The data are allegedly encrypted. The evaluator might easily be able to de-anonymize the data.

I am confident that Social Solutions Global, Inc. has fulfilled or satisfied all known official forms and requirements for data security, and that their system works as intended in allowing analysis of the data. What is at issue is why the analyses proposed by DVP are needed at all, to the detriment of the client's privacy. Parroting the vendors marketing material is useless, because it is focused on questions and issues we are not asking about. Clearly the DVP either does not understand or does not wish to understand privacy and conflating it with whether the vendor's system is 'secure' and encrypted is not helpful.

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No shoes, no masks, no service

"Our political rallies literally include worshippers of ancient gods planning to bring them back to destroy the world, cheered on by throngs as they introduce a man selling hate who's there to promote a pedophile for office"
Yonatan Zunger

PROPOSED USE POLICY
Mobile Parking Payment Systems for
Parking Management and Enforcement

Quinn Wallace
Parking & Mobility Division
Department of Transportation
City of Oakland
July 7, 2022

1. Purpose

The City of Oakland Department of Transportation (DOT) intends to enter into an agreement with six selected Providers whose services permit individuals to pay for parking sessions through a mobile phone application (app), website, or text message in Oakland. The six Providers are:

- PayByPhone US Inc. (PayByPhone),
- Passport, Inc. (Passport),
- ParkMobile, LLC (ParkMobile),
- HonkMobile USA Ltd. (Honk),
- Marina Security Services, Inc. and Mortimer Smythe LLC (Oakland Parking Solutions),
and
- IPS Group, Inc. (IPS).

Agreements with each of these Providers will permit individuals in Oakland to pay for their parking sessions with Providers' services and in turn, share data on parking transactions with DOT through online portals. All six Providers will comply with the City's Surveillance Technology Ordinance, including the approved use policy and impact report for this system, per the future revised agreement and scope of services (see **Appendix A**). Providers will process transaction data collected in Oakland to show the following fields in the portal regarding parking sessions:

- Parker license plate (note: this data is necessary for DOT staff in the Parking Citation Assistance Center to respond to citation disputes)
- Transaction date
- Start and stop times
- User fee charged
- Parking (meter) fee charged
- Numerical zone corresponding to parking block

Per the requirements of the agreement (see **Attachment A**), Providers will maintain their respective online system portal/back-office systems with **none** of the following information visible to City staff at any time for any reason:

- Personally identifiable information (PII), such as phone number and email address
- Individual user account details, such as email address, phone number, and credit card information

Oakland is implementing “demand-responsive” parking areas in which parking fees may vary by block in order to reflect demand. So far, this has been limited to the Montclair business District, but will be expanded to Chinatown and then all of Downtown. In these areas, each block has a unique “zone” number. In these demand-responsive areas, zones will correspond to a City-provided Facility ID. This ID will be printed on new parking signs and will not differ by Provider. In all other metered parking areas prior to demand-responsive rates being implemented, the Provider-created ID per block will be used. When choosing to pay by app, customers must enter the zone number with the Provider’s platform. Zones are shown in Providers’ apps and on signs.

DOT is procuring a multi-vendor mobile parking payment (pay by app) system in order to increase the convenience of this service to parkers, enhance data privacy and security components of the system, promote the use of this contactless payment method through a City-branded system, and more holistically support the active management of the parking system. A key improvement will be City of Oakland-branded signs in the public right of way (PROW) that will direct parkers to a webpage (oaklandca.gov/oakparkplus) with all available Providers, their transaction fees, and promotions. New City-branded signs will first be installed in Montclair and Chinatown before being installed in other metered areas. Parking meters are primarily located in commercial districts where demand for curbside spaces is highest.

By allowing multiple vendors to operate in Oakland, visitors will likely not need to download any additional apps and share their information with another vendor; rather, they are more likely to be able to use an existing app on their phone and conveniently pay for their parking session. They may also “shop around” among the six Providers to choose a Provider that best suits their needs based on promotions, transaction fees, registration requirements, and privacy policies. Providing more choices to parkers in Oakland may also minimize the number of Providers with whom users, especially visitors to Oakland, must share their information to access this payment option. Vendors may compete for long-term customers with lower user fees and promotions, and from new community engagement requirements intended to make Providers’ services more equitable and inclusive.

DOT receives parking data from Providers in order to analyze parking revenues and demand, to reconcile parking payments, to enforce parking restrictions, such as time limits and meter payments, and to review citation disputes. License plate information is particularly critical to staff issuing citations and processing disputed citations. These uses ultimately inform parking policies and practices that support the City’s Parking Principles (Resolution No. 84664 CMS) and shape a more equitable mobility system. Notably, parkers are not and will not be required to use the mobile parking payment system in on- or off-street facilities in Oakland, as the California

Vehicle Code requires a physical payment option.¹ As noted above, individual user account details (such as email, phone number, credit card information) and PII will not be visible to City staff in each of the Providers' portals. This data is not necessary to City staff's management or enforcement of the parking system and thus, will not be displayed in the portal.

In receiving parking data, DOT can confirm that parking rates are accurately charged to parkers, that the City receives accurate parking payments, particularly from parkers in demand-responsive parking program areas, and that citations were issued correctly, in the event that a parking citation is contested over an active mobile payment session. For example, in demand-responsive areas, meter rates change by time of day and block; if staff could not see the zones in transaction data, DOT would not be able to program these specific areas' rates or confirm the accuracy of Providers' rates or revenues in reconciliations and audits. Outside the portal, DOT staff's parking data analyses may summarize this data by zone, date, hour, transaction type, parking duration, or amount. When summarizing by zone (location), staff will use Census blocks for spatial analyses.

2. Authorized Use

Only designated DOT and Finance Department staff will have access to the anonymized data (excluding PII and user account details) received from Providers through unique portal credentials. Specific applications of mobile parking payment data that supports this effort will include only the following:

- a) Estimating parking demand, occupancy, and revenues
- b) Evaluating parking payment options
- c) Monitoring demand-responsive parking areas and compliance
- d) Reconciling payment transactions with total parking revenues received
- e) Promoting compliance and enforcing parking restrictions, permits, and payment
- f) Reviewing contested parking citations
- g) Remitting user transaction fees to Providers via invoices

Parking policies and practices informed by this data are intended to support the City's Parking Principles (Resolution No. 84664 CMS) and shape a more equitable mobility system. For example, DOT staff have analyzed parking payments made by credit/debit card, coin, and ParkMobile to better understand the expenses in the parking system, such as those paid to the City's merchant bank and to the City's meter vendor. As parking revenues have historically made up a significant portion of the General Fund, this analysis helped staff understand how to minimize expenses where possible.

3. Data Collection

¹ California Vehicle Code Section 22508.5(d) is available online here: https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH§ionNum=22508.5

DOT will receive anonymized parking data through the selected Providers' platforms. Mobile parking payment users generate data by making transactions. Providers collect raw data from these transactions and push processed data to their portal for DOT and Finance staff to view. As stated in Section 1, this dataset will never include PII or individual user account details. Rather, this dataset will include parking date and start and end times, payment amounts, transaction fees for the Providers, and numbered "zones" corresponding to parking location. The Providers collect this data in order to process financial transactions in compliance with Payment Card Industry Data Security Standard (PCI-DSS). All six selected Providers currently maintain PCI-DSS compliance and will continue to do so.

4. Data Access

Authorized staff will only be from the DOT and the City's Finance Department. Data will be accessed through Providers' online platforms. Authorized users of the online platforms will require a unique username and password. Because all data in the platform will have no personally identifiable information or individual user account information, any data shared outside the platform, such as through public records requests, court orders, or in the City's Open Data Portal, will be anonymous, thus prohibiting City staff from identifying individuals from this parking data.

5. Data Protection

DOT will depend on each Provider to securely store, transmit, and audit transaction and user data per language in the Scope of Services and per industry best practices. All six Providers comply with PCI-DSS standards at a level corresponding to their number of annual transactions processed. Five of six Providers also have existing user terms and conditions and privacy policies available for their services (see **Appendix B** and **Appendix C**). Only Oakland Parking Solutions, a local company that is custom-building an app for Oakland, does not have these documents available for review yet.

However, all Providers, including Oakland Parking Solutions, will be required to comply with the City's Surveillance Technology Ordinance, including the approved use policy and impact report for this system (see **Appendix A**), upon the signing of their respective agreements. DOT also requires that every Provider has a secure gateway service for secure (encrypted) credit card data transmission to the City's merchant account Provider.

DOT staff are currently working with the Capital Contracts Division and the City Attorneys Office to include the requirement to comply with the approved use policy and impact report for this system in the Professional Services Agreement. By situating this requirement in the body of the agreement, in addition to the scope of services (see **Appendix A**), the City will have greater capability to enforce this requirement in the event of non-compliance. The existing agreement language to be edited by the City Attorneys can be found in **Appendix D**.

6. Data Retention

Under the existing agreement with ParkMobile, the precedent for retaining mobile parking payment data in their portal is two (2) years. However, staff will reduce this requirement to one (1) year in order to provide sufficient time for parking citation appeal processes. In addition to this processed, anonymous data shown in their portals, Providers will store raw (unaggregated) parking payment transaction data collected in Oakland for no more than one (1) year. If the contract between a Provider and DOT is severed, the Provider will be required per the signed agreement to delete all raw parking payment transaction data collected in Oakland (see **Appendix A**). If such an event occurs, the Provider will email the DOT Project Manager a confirmation that all raw data collected in Oakland has been deleted.

Staff currently do not have access to any user account information and will continue to not have this access to protect user privacy. With multiple vendors now competing for Oakland parkers' payments, staff will not ask ParkMobile to migrate user information or data to any of the new Providers operating under the upcoming mobile parking payment system. Parkers may continue to use ParkMobile in Oakland, or any other selected Provider's app of their choosing.

7. Public Access

The public may access the anonymized data provided in each Provider's portal through public records requests, subpoenas, warrants, and other court orders. Anonymized mobile parking payment data may also be added to the City's Open Data Portal.

8. Third-Party Data-Sharing

Providers collect and generate the raw data associated with the mobile parking payment system. Anonymizing this data in the portal that Providers give to City staff (removing PII and user account details) reduces the risk of surveillance and eliminates the possibility of user identification by City staff. However, staff understand that a primary concern is the security of the third party services that Providers use, particularly following the ParkMobile data breach in March 2021. Providers may use third party services to process or store data. Providers' privacy policies disclose to users what data is shared with third parties (see **Appendix B**).

Notably, DOT does not have the capacity or means to create a mobile parking payment service in-house specific to Oakland parkers and is thus reliant on the selected Providers' services. Because working with third parties to securely store data is a widespread industry practice, staff believe that Providers are in a similar position – they do not have the capacity or means to securely process and/or store millions of parking transaction data in-house.

9. Training

Each Provider is required to provide web-based or on-site training for authorized City staff in the DOT Parking & Mobility Division, the Finance Department, or both (see **Appendix A**).

10. Audit and Oversight

As shown in the draft agreement scope (see **Appendix A**), all six selected Providers are required to provide a fully auditable mobile parking payment service. DOT or Finance staff will audit Providers through their respective back-end online data portals, in addition to Providers going through PCI DSS audits and any other audits that Providers have independently arranged. Audits by DOT or Finance staff will occur on an as-needed basis, such as audits of a sub-set of zones where meter rates were recently changed. General oversight of the Providers are the responsibility of the Parking & Mobility Division Manager. The legally enforceable sanctions for violations of the policy include relevant administrative instructions as well as provisions in the Surveillance and Community Safety Ordinance.

11. Maintenance

Providers are responsible for maintaining and managing all data generated through their respective app, website, and text message services. As noted in the Third-Party Data-Sharing section of this report, third parties are generally used by Providers for storage and/or security purposes.

Questions or comments concerning this draft Use Policy should be directed to Michael Ford, Division Manager, Parking and Mobility Division, via email at mford@oaklandca.gov or phone at (510) 238-7670.

DRAFT ANTICIPATED IMPACT REPORT
Mobile Parking Payment Systems for
Parking Management and Enforcement

Quinn Wallace
Parking & Mobility Division
Department of Transportation
City of Oakland
July 7, 2022

1. Information Describing the Proposed Data Sharing Agreement and How It Works

The City of Oakland (City) Department of Transportation (DOT) intends to enter into agreements with each of the six selected providers (Providers), including:

- PayByPhone US Inc. (PayByPhone),
- Passport, Inc. (Passport),
- ParkMobile, LLC (ParkMobile),
- HonkMobile USA Ltd. (Honk),
- Marina Security Services, Inc. and Mortimer Smythe LLC (Oakland Parking Solutions),
and
- IPS Group, Inc. (IPS).

These Providers' services permit individuals to pay for parking sessions through their mobile phones in Oakland. With these services, parkers will be able to initiate a parking session through a mobile phone application (app), website, text message, or phone call, depending on the Providers' services. To initiate a parking session, parkers are required to enter their payment information (such as a credit card or Google Pay), "zones" corresponding to City blocks, and license plate number on the Providers' app. Oakland is implementing "demand-responsive" parking areas in which parking fees may vary from block to block in order to reflect demand. So far, this has been limited to the Montclair business District, but will be expanded to Chinatown and then all of Downtown. In these areas, each block has a unique "zone" number. In demand-responsive areas, zones will correspond to a City-provided Facility ID printed on new parking signs and will not differ by Provider. In all other metered parking areas prior to demand-responsive rates being implemented, the Provider-created ID per block will be used. When choosing to pay by app, customers must enter the zone number with the Provider's platform. Zones are shown in Providers' apps and on signs.

DOT uses parking data from mobile parking payment Providers in order to enforce parking restrictions, such as time limits and meter payments, to analyze parking revenues and demand, and to review citation disputes. License plate and zone information are pushed to DOT's

Automated License Plate Readers (ALPR)¹ through an application programming interface (API) between other vendors who support the City's parking enforcement system. Parking Control Technicians use ALPR to scan vehicles' license plates and check for an active ParkMobile session associated with the license plate and location (numbered zone).

In addition to pushing data to enforcement technologies, the Providers also collect data from parking sessions and "publishes" these datasets to an online platform that authorized staff can access through a unique username and password. The data published to the online platform will be provided from parkers' transactions and include license plate number, parking date and start and stop times, payment amounts, transaction fees for the Providers, and "zones" corresponding to parking location. This data will include no personally identifiable information, and DOT staff will use this data for financial and parking analyses and for responding to parking citation disputes. Outside the portal, DOT staff will analyze and summarize this data by zone, date, hour, transaction type, device type, parking duration, or amount. When summarizing by zone (location), staff will use Census blocks for spatial analyses.

In receiving parking data, DOT can ensure that programmed parking rates and time limits are accurate and parking citations are correctly issued. For example, in an event a parker disputes a citation due to having a paid ParkMobile session, the parking payment can be properly reconciled, particularly in demand-responsive parking program areas.² In these areas, meter rates change by time of day and Value or Premium Rate area. DOT will ensure that zones would be visible in the transaction data in order to program these specific areas' rates or audit the accuracy of Providers' rates/revenues. The importance of this auditability recently came up regarding the demand-responsive rates at the La Salle Garage and in Montclair, where time-of-day pricing was not correctly programmed in ParkMobile's app and showed this incorrect pricing to parkers. This error had financial implications but was able to be corrected through the portal and through ParkMobile's client support services.

The draft agreements with each Provider (see **Appendix A**) will allow Providers to share parking data, including location-based information corresponding to numbered block zones, with DOT. Importantly, the draft agreements will require that certain data is excluded from the portal in order to better protect individual parkers' privacy (see excerpt below). DOT staff will be able to access up to one (1) year of processed, anonymous parking data in each Provider's online portal. If a contract between a Provider and the City is severed, then the Provider will be required to delete all raw parking data collected in Oakland. City staff will not have access to raw parking data in this portal.

The contract term is for up to seven years, including two optional years, and in an amount not to exceed \$900,000 in Providers' transaction fees collected from parkers in Oakland.

¹ See the Privacy Advisory Commission's approved use policy and anticipated impact report for automated license plate readers. Available online at:

<https://www.oaklandca.gov/documents/automated-license-plate-reader>

² More information on ParkOakland, the Demand-Responsive Parking & Mobility Management Initiative, is available on the City's website here: <https://www.oaklandca.gov/topics/park-oakland>

DOT staff have aimed to procure the most secure mobile parking payment system through the RFP process. The Request For Proposals (RFP) was issued in March 2022, and proposals were due in April 2022. DOT staff received seven proposals, of which six were deemed Responsive. When DOT staff initially presented the next-generation mobile parking payment system to the PAC in April 2021, data security for users was a key component of discussion. The Commission's comments were adopted into the RFP, primarily through the following scope section:

1.4 Data Privacy Requirements. *One of the key goals of this new pay-by-phone system is to enhance user data protections. The system must comply with the City's Surveillance Technology Ordinance (Oakland Municipal Code Chapter 9.64) and subsequent system use policy and anticipated impact report in the following capacities:*

- *Maintain an online system portal/back-office system with **none** of the following information visible to staff at any time for any reason:*
 - *Personally identifiable information (PII), such as phone number and email address*
 - ~~*Customer license plate information (note: this information must be visible for real-time enforcement purposes, but not to office staff accessing the online portal)³*~~
 - *Individual user account details*
- *Provide a system with data security, storage, and encryption practices that meet or exceed industry standards. DOT expects that these best practices will primarily address user payment methods to protect credit card information.*
- *Disclose any additional companies who would support the Consultant's system, such as third-party cloud storage services.*
- *Ensure the security of user and transaction data through security protocols per current industry standards.*
- *Provide a data storage and privacy system that meets or exceeds industry standards. Consultant must comply with the City's Surveillance and Community Safety Ordinance (Oakland Municipal Code Chapter 9.64), the approved use policy regarding the mobile parking payment system, and any other relevant surveillance laws relevant to Oakland, California.*

Notably, parkers are not required to use the mobile parking payment system in on- or off-street facilities in Oakland. The California Vehicle Code requires that parking meters must be operable in order to write a defensible citation; in other words, parking payment for a space cannot only

³ Though this was a requirement provided in the RFP, new information has arisen that this license plate data is necessary for DOT staff to respond to parking citation disputes. Per the current Parking Citation Assistance Center's standard operating procedures, parker license plate, zone number, and parking session start date and time are essential data to staff's determination if a citation was issued correctly. Thus, staff are planning to remove this section from the scope of services.

be accepted by nonphysical means like an app or website (CVC Section 22508.5(d)).⁴ While there is no anticipated possibility that parkers will be required to use the new mobile parking payment system in Oakland, DOT staff seek to implement a system that meets, if not exceeds, the requirements of the Surveillance Technology Ordinance.

DOT staff are currently working with the Capital Contracts Division and the City Attorneys Office to include the requirement to comply with the approved use policy and impact report for this system in the Professional Services Agreement. By situating this requirement in the body of the agreement, in addition to the scope of services (see **Appendix A**), the City will have greater capability to enforce this requirement in the event of non-compliance. The existing agreement language to be edited by the City Attorneys can be found in **Appendix D**.

2. Proposed Purpose

Data from mobile parking payment services currently shape parking policies, plans, and practices in Oakland. Analyses of this data guide staff's active management of the parking system and access to finite, valuable curb space. Importantly, this data is also used in the issuance of citations and the review of citation disputes. Mobile parking payment services expand the available payment options for parkers, in turn increasing the convenience and ease of parking. Making parking easy and more actively managing the parking system are two of the City's Parking Principles (Resolution No. 84664 CMS) and shape a more equitable mobility system.

Under the current mobile parking payment system, a single Provider is permitted to operate in Oakland. From 2015 to 2019, parking payments made through this Provider comprised about 10% to 15% of the City's total on-street parking revenue, generating a total of approximately \$6.5 million in parking revenues. Signage promoting this Provider's brand is currently posted in the public right-of-way (PROW) but given maintenance challenges, is not always readable. The City's current Provider, ParkMobile, also supports ongoing pilots at the LaSalle Garage in the Montclair District and the Telegraph Plaza Garage to integrate the City's off-street facilities into the on-street system and thus, eliminate costly one-time expenses such as traditional parking access and revenue control systems (PARCS), and ongoing expenses, such as administrative and accounting overhead, maintenance of equipment, and back-office labor. This integration was adopted by City Council in the Fiscal Year 2021-2022 Budget.

DOT has pursued an enhanced multi-vendor mobile parking payment system for several reasons: 1) increase the convenience of this service to parkers, 2) promote the use of this contactless payment method with City-branded signs in the PROW, and 3) more holistically support the active management of the parking system. A key improvement will be City of Oakland-branded signs that will direct parkers to a webpage with all available Providers and promotions, as well as supporting future pilots and innovations like the LaSalle Garage. Existing ParkMobile signs that display the zone number are currently in a state of severe disrepair, when

⁴ This CVC section is available online here: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH§ionNum=22508.5

they are still present on-street at all (see **Figure 1**). New City-branded signs will be printed and installed in demand-responsive project areas in phases, as meter rates are adjusted and Value and Premium Rate areas implemented (see **Figure 2**). Signs in Montclair and bilingual signs in Chinatown will be implemented first. Providers will contribute to the costs of installing and maintaining the system, particularly signs, through a one-time up-front fee of \$190,000 (split across all selected Providers) and 10% of ongoing user fees. In addition to these fees, Providers may run their own marketing campaigns aimed at parkers in Oakland.

Figure 1: Existing Pay Here + Mobile Parking Payment Signs

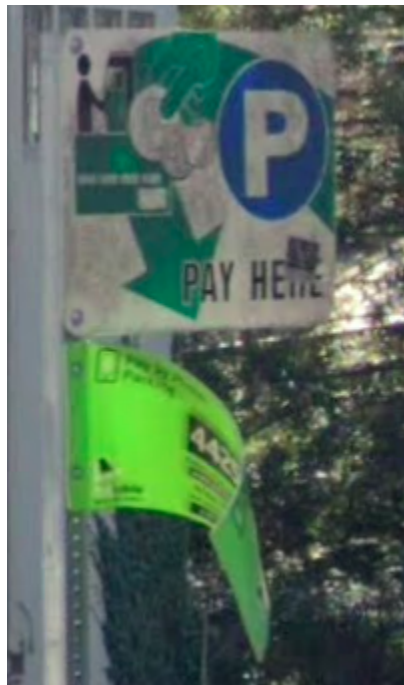


Figure 2: New Approved Pay Here + Mobile Parking Payment Signs



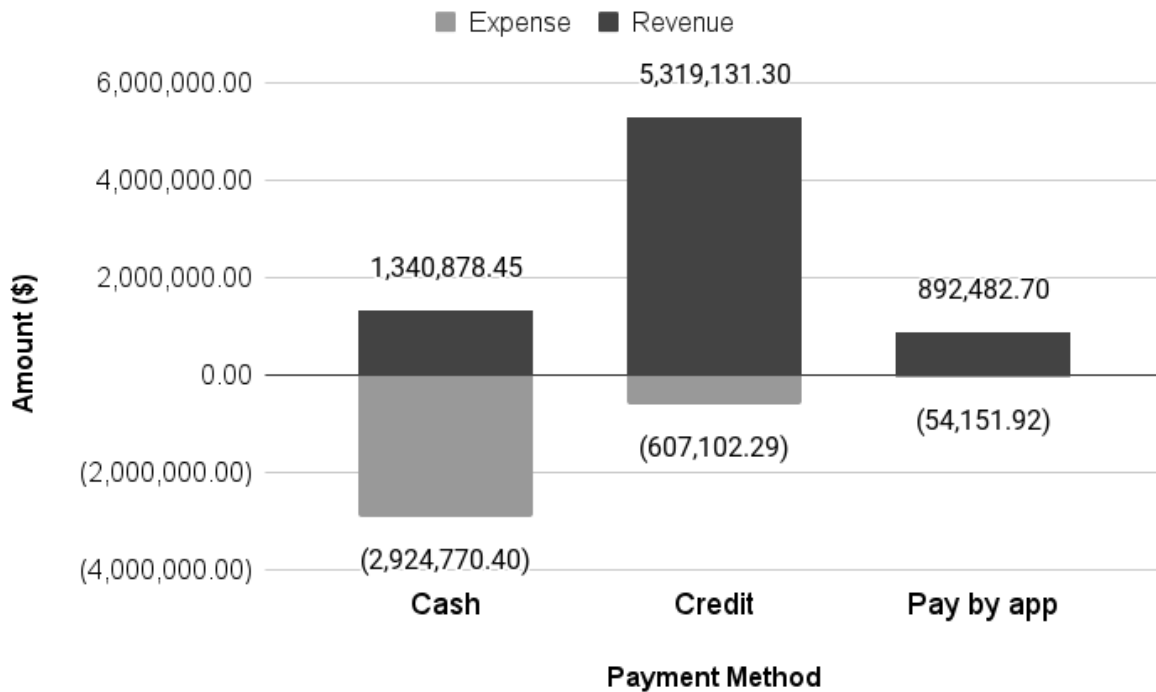
The mobile parking payment system provides several key advantages to both parkers and the City that contribute to the importance of this system. The mobile parking payment system meets rising demand for contactless payment options and supports the health and safety of consumers by reducing touch-points.⁵ It is anticipated that positive consumer experiences with contactless payments, including the City’s pay-by-app parking services, will make more individuals interested in using this payment type, even as the pandemic continues to subside. Additionally, the City pays lower fees for parking transactions made by app than transactions made by coin or credit/debit card (see **Figure 3**). In Fiscal Year 2020-2021, 6% of parking revenues paid by app were spent on fees and expenses, compared to 11% spent on credit/debit card expenses and 218% on coin expenses.

Figure 3: Revenue and Expense by Payment Method (July 2020 to June 2021)

⁵ Retail Leader. “Will Consumers Stick With Contactless Payments?” August 6, 2020. Available online here: <https://retailleader.com/will-consumers-stick-contactless-payments>

Revenue and Expense By Payment Method

July 2020 to June 2021



By accepting multiple vendors to operate in Oakland, visitors will likely not need to download any additional applications (apps) and share their information with another Provider. Rather, they are more likely to be able to use an existing app on their phone and conveniently pay for their parking session. With this variety of Provider options available to parkers, the enhanced system is intended to minimize the number of Providers with whom users, especially visitors to Oakland, must share their information to pay for parking by app and maximize parkers' choices as consumers.

Residents will also benefit from having multiple vendor options, as vendors will compete for long-term customers with lower user fees and promotions, and from new community engagement requirements that aim to make Providers' services more equitable and inclusive. Each Provider's user fee and website will be clearly shown on the City's go-to parking resource webpage (oaklandca.gov/oakparkplus). A QR code and the URL to this webpage are shown on the new City-branded signs to be installed in demand-responsive project areas.

Specific applications of mobile parking payment data that supports this effort will include only the following:

- a) Estimating parking demand, occupancy, and revenues
- b) Evaluating parking payment options

- c) Monitoring demand-responsive parking areas and compliance
- d) Reconciling payment transactions with total parking revenues received
- e) Promoting compliance and enforcing parking restrictions, permits, and payment
- f) Reviewing contested parking citations
- g) Remitting user transaction fees to Providers via invoices

3. Locations of Deployment

The data shared under this proposed agreement is user-generated within the City's parking system and therefore collected in all neighborhoods with parking meters or public parking facilities. Parking meters and public parking facilities are primarily found in commercial zones, near public transit stations, and in other areas with high demand for parking. Existing meters and Council-approved meter zones (OMC Section 10.36.140) are shown in this map: <https://oakgis.maps.arcgis.com/apps/mapviewer/index.html?webmap=8fa241d70ab5494f8e50e678065d627b>

While new signs showing new zone numbers will be installed first in Montclair and Chinatown, the Providers will operate in all metered areas. Providers may begin operating in phases, such as if beta testing is required, and may start in certain geographic areas before operating at citywide scale. In this case, the geographic areas where Providers operate would be listed on the City's parking webpage to minimize any confusion to parkers and appropriately communicate how to use the mobile parking payment system.

4. Potential Impact on Civil Liberties & Privacy

DOT acknowledges the private and sensitive nature of personally identifiable information (PII) and block-level location data included in mobile parking payment data. Without mitigations, mobile parking payment data would be vulnerable to privacy risks such as re-identification, as users' names and contact information are typically collected by Providers and made available to their clients via the portal. In order to minimize, if not eliminate, privacy and surveillance risk, DOT has developed a set of guidelines based on feedback from the Privacy Advisory Commission received in March and April 2021 for how mobile parking payment data will be handled and obfuscated to protect users' data, using mitigations outlined below. These mitigations were provided to prospective bidders in the recent competitive process for the enhanced mobile parking payment system; through their proposals, all six Providers have initially agreed to follow the mitigations below and this impact report and use policy, upon finalization and approval.

In addition to the City's requirements to enhance privacy, five of the six Providers have privacy policies that apply to their platform specifically (see **Appendix B**). Under this new mobile parking payment system, parkers will have five more options for paying for parking than they currently do. Each privacy policy is available for an individual's review online and through the Providers' apps, so privacy can be a factor by which parkers make a decision.

5. Mitigations

DOT recognizes the sensitive nature of parking and user data generated through mobile parking payment Providers and has developed the following guidelines for the responsible handling of this data:

1. Per the draft agreement scope (see **Appendix A**), DOT will not have access to any PII of parkers who use the Providers' services. The public may access anonymized minimally-processed data available in the portal through public records requests, subpoenas, warrants, and other court orders. This data will not be raw, as Providers will have removed PII and individual user account details from the portal.
 - a. In the competitive process to procure the new mobile parking payment system, DOT issued the requirement below. All six proposed Providers have initially agreed to this requirement in their respective proposals. This mitigation would effectively eliminate privacy risk by anonymizing parking data.
- *"Maintain an online system portal/back-office system with **none** of the following information visible to staff at any time for any reason:*
 - *Personally identifiable information (PII), such as phone number and email address*
 - ~~*Customer license plate information (note: this information must be visible for real-time enforcement purposes, but not to office staff accessing the online portal)*~~⁶
 - *Individual user account details"*
2. DOT has sought and selected Providers whose data security, storage, and encryption practices meet or exceed industry standards. All Providers currently and must continue to maintain Payment Card Industry Data Security Standard (PCI-DSS) compliance. Additional privacy and security measures, such as California Consumer Protection Act compliance, differs between Providers but is available in their respective privacy policies (see **Appendix B**).
3. After each agreement has been signed and executed, login credentials to the Providers' online portals will be unique to each authorized staff who has been granted access to the mobile parking payment data. Login credentials will not be shared outside of authorized staff in DOT and Finance.

6. Data Types and Sources

⁶ Though this was a requirement provided in the RFP, new information has arisen that this license plate data is necessary to respond for DOT staff to parking citation disputes. Per the current Parking Citation Assistance Center's standard operating procedures, parker license plate, zone number, and parking session start date and time are essential data to staff's determination if a citation was issued correctly. Thus, staff are planning to remove this section from the scope of services.

In this proposed system, the Providers will “publish” parking data on their respective online platforms. While these platforms vary by Provider, parking data available within the platform will include the following:

- Numbered zone indicating approximate parking location
- Parking date and start and end times
- Parking transaction amount
- Transaction fee (to be paid to the Provider)

Provider’s portals primarily differ by aggregate data analyses, such as charts and graphs showing growth over time in Oakland parking transactions made by app. Importantly, as stated in the previous section no Provider will show PII or individual user accounts in the portal at any time for any reason.

Regarding license plate numbers, this data is necessary for both enforcement purposes and for responding to parkers’ citation disputes. License plates are scanned or entered by Parking Control Technicians in automated license plate readers (ALPR) to check if the vehicle has an active parking session. All citations issued require that a license plate number be inputted, and the handheld device prohibits a Parking Control Technician from issuing and printing the citation if there is an active ParkMobile session associated with the plate. In the event that a parking citation is disputed, then this request is processed and analyzed by the Parking Citation Assistance Center Staff. Currently, staff look up the license plate number in ParkMobile’s portal and verify their parking session by license plate, zone number, and parking session date and start time. Without being able to view license plate information, Parking Citation Assistance Center staff would have to rely on vendors to look up this data, which would pose a significant burden on the Center’s processing time and resources.

Only authorized staff in DOT and the Finance Department with unique usernames and passwords may log in and access this data, unless requested through a public records request.

7. Data Security

Each provider responded with details regarding their own unique data security protocols. Per the draft agreement section in Section 1 of this impact report, DOT is requiring that each Provider securely store, publish, and audit the data according to industry standards and best practices. Providers are required to provide a fully auditable mobile parking payment service. DOT or Finance staff will audit Providers through their respective back-end online data portals, in addition to Providers going through PCI DSS audits. Audits by DOT or Finance staff will occur on an as-needed basis, such as audits of a subset of zones where meter rates were recently changed.

Upon execution of the draft agreements (see **Appendix A**), Providers are required to provide a current certification through the Payment Card Industry Data Security Standards (PCI DSS). All Providers currently meet these standards. Major Providers such as ParkMobile, Passport, and

PayByPhone maintain PCI DSS Level 1 certification. Smaller Providers may maintain a lower level due to the smaller number of annual transactions processed through them. PCI DSS certification was the primary security requirement that the City sought when procuring mobile parking payment services in 2015 and continues to be industry standard. Procurement of the new mobile parking payment system has sought to maintain and exceed this standard through additional privacy and security requirements by disclosing data storage and encryption practices and PII protection.

Auditability was also a requirement of the 2016 agreement between the City of Oakland and ParkMobile, and ParkMobile has published information regarding account and payment security on its website:

<https://support.parkmobile.io/hc/en-us/articles/203299650-Is-my-account-and-credit-card-information-safe->.

More information on individual users' data security is available in five of the six Providers' existing user terms and conditions and privacy policies (see **Appendix B** and **Appendix C**). These documents are not yet available for Oakland Parking Solutions due to their app being a custom-build. However, all Providers will be required to comply with the City's Surveillance Technology Ordinance, including the approved use policy and impact report for this system (see **Appendix A**).

Regarding data retention, staff will require that Providers store only one (1) year of processed, anonymous data in their respective portals in order to provide sufficient time for parking citation appeal processes. Providers will store raw (unaggregated) parking payment transaction data collected in Oakland for no more than one (1) year. If the contract between a Provider and DOT is severed, the Provider will be required per the signed agreement to delete all raw parking payment transaction data collected in Oakland (see **Appendix A**). If such an event occurs, the Provider will be asked to email the DOT Project Manager a confirmation that all raw data collected in Oakland has been deleted.

8. Fiscal Cost

Providers operate at no direct cost to the City of Oakland. Instead, parkers who use the Providers' services pay a fixed fee to the Provider per parking session, in addition to the cost generated by the meter. Currently, parkers pay \$0.25 per transaction *plus* the amount of time that they wish to park according to the meter rates.⁷

To adhere to generally accepted accounting principles (GAAP), the draft agreement requires that the City collect all revenues for all parties, including the Providers' user fees. As a result, Providers will invoice the City monthly to receive their user transaction fees. This practice is consistent with the existing agreement and practice with ParkMobile.

⁷ The Master Fee Schedule permits that meter rates may be adjusted between \$0.50 and \$4 per hour.

Staff are anticipating an increase in parkers using mobile parking payment services under the enhanced system and have thus allocated that up to \$900,000 of user fees per year in the contract amount that will be reimbursed to the Providers. The Providers will only receive the reimbursed user transaction fees and will not receive any payment from the City. DOT staff have estimated a total of 14,000,000 transactions generated over the total contractual period across all Providers, including in the optional extension years. The contract amount has been set based off the maximum projected transactions per year (see **Table 1**).

Table 1: Estimated Parking Revenues and Transactions

	2019 Actual	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6 optional	Year 7 optional
Total Estimated Parking Revenue	\$14.6 million	\$15.3 million	\$16.1 million	\$16.9 million	\$17.8 million	\$18.6 million	\$19.6 million	\$20.5 million
Estimated Parking Payment by Phone/App	13.40%	16.75%	20.00%	25.00%	30.00%	35.00%	40.00%	45.00%
Estimated Average Transaction Amount	\$2.57	\$2.60	\$2.65	\$2.70	\$2.75	\$2.80	\$2.85	\$2.90
Total Estimated Transactions	761,443	987,606	1,214,830	1,564,938	1,935,970	2,329,214	2,746,021	3,187,810

Additionally, selected Providers will contribute to the City’s expenses to operate and maintain the enhanced mobile parking payment system, including but not limited to installing signs and reconciling the system’s funds. At the beginning of the contract term, each Provider will pay their designated portion of the one-time upfront “start-up” fee of \$190,000. Each Provider will also share 10% of their user fee revenues generated in Oakland with the City on an ongoing basis.

Currently, the user fee is \$0.25 per transaction with ParkMobile. The proposed user transaction fees for each selected Provider are below (see **Table 2**). In the enhanced mobile parking payment system, user fees are expected to be a primary point of competition between Providers for parkers’ business and loyalty. Providers may also compete through their marketing efforts, such as first-time user promotional codes. Per the draft agreement, the City may choose to waive user fees at any time and instead pay them on behalf of the parker.

Table 2: Selected Proposers' User Transaction Fees

Provider	User Fee (per user transaction)
PayByPhone	\$0.25
Passport	\$0.20 *Note: may include gateway fee (+\$0.05)
ParkMobile	\$0.40
Honk	\$0.25
Oakland Parking Solutions	\$0.30
IPS	\$0.25

9. Third Party Dependence

Raw (unaggregated) parking payment transaction data will be received and stored by the Providers on an ongoing basis. The City does not collect this data, nor does it have the means to store this data in compliance with industry standards. Most Providers, including the six selected Providers, rely on third party storage and/or security services. These detailed processes and services were provided in confidence in each Provider's proposal. However, third party authorization and use is broadly covered in five of the six Providers' privacy policies (see **Appendix B**). Because Oakland Parking Solutions is custom-building an app in order to operate in Oakland's mobile parking payment system, their privacy policy is not yet available for review. All Providers will be required to comply with the City's Surveillance Technology Ordinance, including the approved impact report and use policy for this system (see **Appendix A**).

10. Alternatives

The primary alternative to the proposed data sharing agreement is not enforcing any of the additional privacy or security features provided in the RFP. This may have reduced barriers to entry for Providers to Oakland's mobile parking payment system but would have resulted in a less secure mobile parking payment system. Because DOT staff received proposals from a range of Providers (large and small, local and not local) in the competitive process, this alternative may not have actually resulted in an "easier" proposal process for potential or existing Providers but certainly would have compromised the security of users' data in Oakland.

11. Track Record

Mobile parking payment services are available in cities throughout California, the United States, and the world. However, the City's 10 years of experience with mobile parking payment services is most pertinent to the purpose of this report. ParkMobile has been the City's Provider since 2011. In a typical year since 2015, about 10 to 15% (typically \$1.5 to \$2 million) of annual on-street parking payment transactions are made through ParkMobile. In addition to procuring a system with enhanced privacy and security measures, a key challenge with this service has been the maintenance of signage showing the zone number. Thus, a renewed investment in

signage, including the initial start-up fee and ongoing revenue share, was a key component of the new system's RFP and innovative for the nature of this procurement.

In March 2021, ParkMobile experienced a data breach of over 20 million users' information. In an email sent by ParkMobile on April 13, 2021, DOT staff were notified of the following: "[Parkmobile's] investigation has confirmed that basic account information – license plate numbers and, if provided by the user, email addresses and/or phone numbers, and vehicle nicknames – was accessed. In a small percentage of cases, mailing addresses were affected. No credit cards or parking transaction history were accessed, and [Parkmobile does] not collect Social Security numbers, driver's license numbers, or dates of birth." In response to community members' concerns regarding the breach, DOT provided more information and resources about the breach on the City's website.⁸ Staff did not discover any other reported data breaches from the other five Providers in their research.

Staff will not ask ParkMobile to migrate user information or data to the additional new Providers operating under the enhanced mobile parking payment system in order to avoid any compromise of the company's marketing and customer retention efforts. Rather, ParkMobile will now be competing with five (5) other Providers for parkers' business in Oakland. Providers will primarily compete through transaction fees and promotions but may also compete through their privacy policies and practices that enhance parkers' privacy.

The enhanced mobile parking payment system service supports the City's Parking Principles (Resolution No. 84664 CMS) by making parking easier and will be used as a pillar of the parking system. As cities increasingly move to multi-vendor mobile parking payment systems, the City continues to be on the forefront of innovation and data privacy standards through this next-generation mobile parking payment system. DOT staff are thrilled to be delivering a more secure system to parkers in Oakland that complies with the Surveillance Technology Ordinance and enacts the necessary mitigations to protect individual user data.

Questions or comments concerning this draft Impact Report should be directed to Michael Ford, Division Manager, Parking and Mobility Division, via email at mford@oaklandca.gov or phone at (510) 238-7670.

⁸ This response is available here: <https://www.oaklandca.gov/topics/parkmobile-march-2021-data-breach>

PROPOSED USE POLICY
Mobile Parking Payment Systems for
Parking Management and Enforcement

Quinn Wallace
Parking & Mobility Division
Department of Transportation
City of Oakland
May 6, 2021

1. Purpose

The City of Oakland Department of Transportation (DOT) intends to enter into an agreement with six selected Providers whose services permit individuals to pay for parking sessions through a mobile phone application (app), website, or text message in Oakland. The six Providers are:

- PayByPhone US Inc. (PayByPhone),
- Passport, Inc. (Passport),
- ParkMobile, LLC (ParkMobile),
- HonkMobile USA Ltd. (Honk),
- Marina Security Services, Inc. and Mortimer Smythe LLC (Oakland Parking Solutions),
and
- IPS Group, Inc. (IPS).

Agreements with each of these Providers will permit individuals in Oakland to pay for their parking sessions with Providers' services and in turn, share data on parking transactions with DOT through portals. All six Providers have stated they will comply with the City's Surveillance Technology Ordinance, including the approved use policy and impact report for this system. Providers will minimally process raw data to show the following fields in the portal regarding parking sessions:

- Transaction date
- Start and stop times
- User fee charged
- Parking (meter) fee charged
- Numerical zone corresponding to parking block

Per the requirements of the agreement (see **Attachment A**), Providers will maintain their respective online system portal/back-office systems with **none** of the following information visible to City staff at any time for any reason:

- Personally identifiable information (PII), such as phone number and email address

- Customer license plate information (note: this information must be visible for real-time enforcement purposes, but not to office staff accessing the online portal)
- Individual user account details

Oakland is implementing “demand-responsive” parking areas in which parking fees may vary from block to block in order to reflect demand. So far, this has been limited to the Montclair business District, but will be expanded to Chinatown and then all of downtown. In these areas, each block has a unique “zone” number. In these demand-responsive areas, zones will correspond to a City-provided Facility ID. This ID will be printed on new parking signs and will not differ by Provider. In all other metered parking areas prior to demand-responsive rates being implemented, the Provider-created ID per block will be used. When choosing to pay by app, customers must enter the zone number with the Provider’s platform. Zones are shown in Providers’ apps and on signs.

DOT is procuring a multi-vendor mobile parking payment system in order to increase the convenience of this service to parkers, enhance data privacy and security components of the system, promote the use of this contactless payment method through a City-branded system, and more holistically support the active management of the parking system. A key improvement will be City of Oakland-branded signs in the public right of way (PROW) that will direct parkers to a webpage (oaklandca.gov/oakparkplus) with all available Providers, their transaction fees, and promotions. New City-branded signs will first be installed in Montclair and Chinatown before being installed in other metered areas. Parking meters are primarily located in commercial districts where demand for curbside spaces is highest.

By allowing multiple vendors to operate in Oakland, visitors will likely not need to download any additional apps and share their information with another vendor; rather, they are more likely to be able to use an existing app on their phone and conveniently pay for their parking session. They may also “shop around” among the six Providers to choose a Provider that best suits their needs based on promotions, transaction fees, registration requirements, and privacy policies. Providing more choices to parkers in Oakland may also minimize the number of Providers with whom users, especially visitors to Oakland, must share their information to access this payment option. Vendors may compete for long-term customers with lower user fees and promotions, and from new community engagement requirements intended to make Providers’ services more equitable and inclusive.

DOT receives parking data from Providers in order to analyze parking revenues and demand, to reconcile parking payments, and to enforce parking restrictions, such as time limits and meter payments. These uses ultimately inform parking policies and practices that support the City’s Parking Principles (Resolution No. 84664 CMS) and shape a more equitable mobility system. Notably, parkers are not and will not be required to use the mobile parking payment system in on- or off-street facilities in Oakland, as the California Vehicle Code requires a physical payment option.¹

¹ California Vehicle Code Section 22508.5(d) is available online here: https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH§ionNum=22508.5

In receiving parking data, DOT can confirm that parking rates are accurately charged to parkers, that the City receives accurate parking payments, particularly from parkers in demand-responsive parking program areas, and that citations were issued correctly, in the event that a parking citation is contested over an active mobile payment session. For example, in demand-responsive areas, meter rates change by time of day and block; if staff could not see the zones in transaction data, DOT would not be able to program these specific areas' rates or confirm the accuracy of Providers' rates or revenues in reconciliations and audits. Outside the portal, DOT staff's parking data analyses may summarize this data by zone, date, hour, transaction type, parking duration, or amount.

2. Authorized Use

Only designated DOT and Finance Department staff will have access to data received from Providers through unique portal credentials. Specific applications of mobile parking payment data that supports this effort will include only the following:

- a) Estimating parking demand, occupancy, and revenues
- b) Evaluating parking payment options
- c) Monitoring demand-responsive parking areas and compliance
- d) Reconciling payment transactions with total parking revenues received
- e) Promoting compliance and enforcing parking restrictions, permits, and payment
- f) Reviewing contested parking citations
- g) Remitting user transaction fees to Providers via invoices

Parking policies and practices informed by this data are intended to support the City's Parking Principles (Resolution No. 84664 CMS) and shape a more equitable mobility system. For example, DOT staff have analyzed parking payments made by credit/debit card, coin, and ParkMobile to better understand the expenses in the parking system, such as those paid to the City's merchant bank and to the City's meter vendor. As parking revenues have historically made up a significant portion of the General Fund, this analysis helped staff understand how to minimize expenses where possible.

3. Data Collection

DOT does not collect mobile parking payment data and will not have access to any individual user account information through any of the selected Providers' platforms. Mobile parking payment users generate data by making transactions. Providers collect raw data from these transactions and push select data to their portal for DOT and Finance staff to view. As stated in Section 1, this dataset will never include PII, license plate information, or individual user account details. Rather, this dataset will include parking date and start and end times, payment amounts, transaction fees for the Providers, and numbered "zones" corresponding to parking location. The Providers collect this data in order to process financial transactions in compliance with

Payment Card Industry Data Security Standard (PCI-DSS). All six selected Providers currently maintain PCI-DSS compliance and will continue to do so.

4. Data Access

Authorized staff will only be from the DOT and the City's Finance Department. Data will be accessed through Providers' online platforms. Authorized users of the online platforms will require a unique username and password. Because all data in the platform will have no personally identifiable information, license plate numbers, or individual user account information, any data shared outside the platform, such as through public records requests, court orders, or in the City's Open Data Portal, will be anonymous, removing privacy risk.

5. Data Protection

DOT will depend on each Provider to securely store, transmit, and audit transaction and user data per industry best practices. All six Providers comply with PCI-DSS standards at a level corresponding to their number of annual transactions processed. Five of six Providers also have existing user terms and conditions and privacy policies available for their services (see **Appendix B** and **Appendix C**). Only Oakland Parking Solutions, a local company that is custom-building an app for Oakland, does not have these documents available for public review yet. However, all Providers, including Oakland Parking Solutions, have initially agreed to comply with the City's Surveillance Technology Ordinance, including the approved use policy and impact report for this system. As provided in the draft agreement scope (see **Appendix A**), DOT requires that every Provider has a secure gateway service for secure (encrypted) credit card data transmission to the City's merchant account Provider.

6. Data Retention

Providers may store raw (unaggregated) parking payment transaction data for no more than two (2) years. This amount of time represents the precedent that was required in the 2016 agreement between ParkMobile and the City of Oakland. If the contract between a Provider and DOT is severed, the Provider will be required per the signed agreement to delete all raw parking payment transaction data collected in Oakland (see **Appendix A**). If such an event occurs, the Provider will be asked to email the DOT Project Manager a confirmation that all raw data collected in Oakland has been deleted.

Staff currently do not have access to any user account information and will continue to not have this access to protect user privacy. With multiple vendors now competing for Oakland parkers' payments, staff will not ask ParkMobile to migrate user information or data to any of the new Providers operating under the upcoming mobile parking payment system. Parkers may continue to use ParkMobile in Oakland, or any other selected Provider's app of their choosing.

7. Public Access

The public may access the anonymized data provided in each Provider's portal through public records requests, subpoenas, warrants, and other court orders. Anonymized mobile parking payment data may also be added to the City's Open Data Portal.

8. Third-Party Data-Sharing

Providers collect and generate the raw data associated with the mobile parking payment system. Anonymizing this data in the portal that Providers give to City staff (removing PII, license plate information, and user account details) reduces the risk of surveillance and eliminates the possibility of user identification by City staff. However, staff understand that a primary concern is the security of the third party services that Providers use, particularly following the ParkMobile data breach in March 2021. Providers may use third party services to process or store data. Providers' privacy policies disclose to users what data is shared with third parties (see **Appendix B**).

Notably, DOT does not have the capacity or means to create a mobile parking payment service in-house specific to Oakland parkers and is thus reliant on the selected Providers' services. Because working with third parties to securely store data is a widespread industry practice, staff believe that Providers are in a similar position – they do not have the capacity or means to securely process and/or store millions of parking transaction data in-house.

9. Training

Each Provider is required to provide web-based or on-site training for authorized City staff in the DOT Parking & Mobility Division, the Finance Department, or both (see **Appendix A**).

10. Audit and Oversight

As shown in the draft agreement scope (see **Appendix A**), all six selected Providers are required to provide a fully auditable mobile parking payment service. DOT or Finance staff will audit Providers through their respective back-end online data portals, in addition to Providers going through PCI DSS audits and any other audits that Providers have independently arranged. Audits by DOT or Finance staff will occur on an as-needed basis, such as audits of a sub-set of zones where meter rates were recently changed. General oversight of the Providers are the responsibility of the Parking & Mobility Division Manager. The legally enforceable sanctions for violations of the policy include relevant administrative instructions as well as provisions in the Surveillance and Community Safety Ordinance.

11. Maintenance

Providers are responsible for maintaining and managing all data generated through their respective app, website, and text message services. As noted in the Third-Party Data-Sharing section of this report, third parties are generally used by Providers for storage and/or security purposes.

Questions or comments concerning this draft Use Policy should be directed to Michael Ford, Division Manager, Parking and Mobility Division, via email at mford@oaklandca.gov or phone at (510) 238-7670.

Appendix A

Scope of Services

APPENDIX A

C. SCOPE OF SERVICES

The Consultant will be expected to provide the development, implementation, and operation of a mobile parking payment system that, at minimum, would enable customers to remotely pay for parking sessions using mobile phones or mobile devices through Consultant's mobile software application, website, and/or phone number for City-controlled paid parking. The City is also seeking, but is not requiring, services that support special permits (daily or monthly permits by zone) and merchant validation.

The mobile parking payment system provided by the Consultant shall be fully interfaced with the City's existing enforcement and citation management systems. The City's Parking Control Technicians must be able to view valid parking sessions made with the Consultant through their handheld devices. In demand-responsive parking areas of Oakland, the corresponding zone number must be visible in Parking Control Technicians' handhelds. In the case of an errant citation, the City must be able to check if parking sessions made through the Consultant have approved payment methods. Upon approval through the Consultant's system, valid parking session payment made through the Consultant must be received by the City and its financial system. All parking fees, including system and user fees, will be deposited into the City's bank account, then reimbursed to the Consultant.

The term of the awarded Agreement shall be for a base term of five (5) years, with two (2) consecutive one-year options to extend the term of the Agreement at the City's sole discretion. The mobile parking payment system(s) must be fully developed, implemented, and operational on the date specified in the awarded Agreement. Consultant shall be permitted to charge customers a single flat convenience/user fee per transaction for each use of the service. The convenience/user fee amount shall be approved in writing by the City. The City reserves the right to subsidize this convenience/user fee at any time during this agreement's duration. After the five-year base term of the agreement, selected Consultant(s) may request changes to the convenience/user fee amount. This request must be submitted in writing to the City of Oakland project manager or designated representative 90 calendar days prior to taking effect. The City of Oakland reserves the right to refuse a change to a Consultant(s)' requested change(s) to the convenience/user fee amount. Any changes to the convenience/use fee amount must be approved in writing by the City of Oakland in order for those changes to take effect.

The successful proposal(s) shall demonstrate that the Proposer(s) have the appropriate professional and technical background as well as access to adequate resources to fulfill the scope of services, as outlined in Tasks 1 and 2 below. The City may select multiple qualified Proposers for the mobile parking payment system (Task 1). Proposer(s) may also choose to respond to Task 2, if the Proposer has additional services or products that can effectively support the on-street and off-street parking system.

TASK 1 Mobile Parking Payment System

1.1 Technical Requirements and System Integration. The system must perform key technical functions and have full integration capabilities with the City's existing systems. The following system requirements must be met at no cost to the City of Oakland, as only the convenience/user fees applied be invoiced by the awarded Consultant(s):

- Integrate with the City's current parking citation processing system (Conduent's eTIMS®) and accommodate any future potential changes to the system.
- Integrate with current parking enforcement handhelds (Zebra TC75X) and Automated License Plate Readers (Genetech's AutoVu) and accommodate any future potential changes to parking enforcement equipment.
 - For context, City of Oakland Parking Control Technicians conduct enforcement queries by zone up front and double check for payment at the end of the ticket-writing transaction to confirm a payment has been made.
- Integrate with digital payment technology and IPS single- and multi-space meters, should the City decide to "push" mobile payments to meters.
- Integrate with any other parking data, payment, and management systems and platforms that the City may acquire during the Consultant(s) operation.
- Display the status of paid vehicles on any Internet browser, in real time, through a secure portal requiring unique credentials for each staff with access.
- Provide the ability to cross-reference transactions between vehicles, individual meters, streets, block, zone, or other designated identifiers.
- Provide the ability to geographically depict/map parking transaction activity.
- Provide real-time transaction information in the form of printable reports (such as through an online portal/back-office system) and accessible through enforcement handheld devices for purposes of enforcement and verification/audit of real-time push to IPS smart meters.
- Integrate payment zones with the City's selected number typology.
- Provide the capability for the City, instead of parkers, to pay transaction fees on an as-needed basis, such as for a district-specific holiday promotion.
 - This capability should include a pop-up or notification to customers that the City of Oakland is covering user fees. Consultant(s) shall be able to provide this capability citywide or in specific zones upon the City's request and may recommend zones/districts where this promotion would be beneficial to parkers, such as where there is low mobile parking payment adoption.

1.2 Point of Service. The system must provide key points of service to parking customers. The system must allow customers to perform the following functions:

- Create an account/register via mobile smartphone app, over the phone through an automated system, and over the Internet via mobile and desktop web with minimal input requirements (basic information) and be able to immediately begin using account.
- Other registration options/platforms are encouraged but not required (Facebook, etc.).

- Start a parking transaction and make payment via smartphone software application, Interactive Voice Response (IVR), Short Message Service (SMS), or website.
- Be alerted automatically via text prior to a parking session expiring.
- Extend a parking session and purchase additional time within established time parameters via smartphone software application, IVR, SMS, or over the internet via mobile and desktop website.
- Extend a parking session without re-entering complete location information.
- Extend a parking session without incurring additional convenience/user fee.
- Initiate a new parking session at a previously parked location without re-entering information.
- Prepay for parking during a designated “prepayment period.”

1.3 System Setting Requirements. The system must include unique settings that permit the following functions:

- Utilize and display City-created block ID numbers containing up to eight (8) alphanumeric characters for payment zones.
- Allow settings to vary at each individual meter, by block, by zone, by time, by restriction, and by other custom configurations/groupings.
- Allow custom settings to define and/or modify maximum stay restrictions.
- Allow the programming of multiple, custom, and variable rate structures by time of day, day of week, hours of operation, length of stay, by individual meter, by zone, and by other custom configurations/groupings.
- Allow custom, unlimited configuration changes related to rates, hours of operation, and time limits to be programmed in advance with the ability to be active within two (2) days of the programming change. All other system configuration changes/updates shall be made within five (5) days of notification.
- Have the ability for Consultant to change parking session rates to support the City’s demand-responsive parking program. Consultant should specify in how many business days they are able to adjust rates and for rates to be available with the system.
- Disallow parking transactions to be initiated on City designated holidays or during periods designated by the City as no parking.
- Allow for custom grouping of meters to facilitate enforcement, revenue reporting, and demand-responsive parking rate programming.
- Enable City staff to add, remove, or alter meters or spaces within the pay-by-phone system inventory.
- Allow for the deactivation or suspension of a customer account in the event that a parking payment transaction is declined three (3) times and provide notification to customer of such action.
- Allow City staff to access up to two (2) years of data in the Consultant’s online portal/back-office system.
 - If the contract between the Consultant and DOT is severed, the Consultant will be required to delete all raw parking payment transaction data collected in Oakland.

- Provide an online system portal/back-office system that includes parking date and start and end times, payment amounts, transaction fees for the Providers, and numbered “zones” corresponding to parking location.
- Incorporate the latest Americans with Disabilities Act (ADA) Guidelines and best practices for accessible digital content, including but not limited to Section 508.

1.4 Data Privacy Requirements. One of the key goals of this new pay-by-phone system is to enhance user data protections. The system must comply with the City’s Surveillance Technology Ordinance (Oakland Municipal Code Chapter 9.64) and subsequent system use policy and anticipated impact report¹ in the following capacities:

- Maintain an online system portal/back-office system with **none** of the following information visible to staff at any time for any reason:
 - Personally identifiable information (PII), such as phone number and email address
 - Customer license plate information (note: this information must be visible for real-time enforcement purposes, but not to office staff accessing the online portal)
 - Individual user account details
- Provide a system with data security, storage, and encryption practices that meet or exceed industry standards. DOT expects that these best practices will primarily address user payment methods to protect credit card information.
- Disclose any additional companies who would support the Consultant’s system, such as third-party cloud storage services.
- Ensure the security of user and transaction data through security protocols per current industry standards.
- Provide a data storage and privacy system that meets or exceeds industry standards. Consultant must comply with the City’s Surveillance and Community Safety Ordinance (Oakland Municipal Code Chapter 9.64), the approved policy use regarding the mobile parking payment system, and any other relevant surveillance laws relevant to Oakland, California.

1.5 Customer Base System Requirements. The system must support customer transactions and should provide a positive customer experience. The system must allow the following functions:

- Provide a toll-free live customer service telephone support for all aspects of the pay-by-phone system.
- Allow customers the option to transfer to a live customer service agent at any time when utilizing an automated system.

¹ These documents will be made available on the City’s website: oaklandca.gov/topics/approved-impact-reports-and-use-policies

- Allow customers the ability to manage, modify and track account details, update settings and profile, review usage, view transactions, and print receipts via the smartphone software application and over the internet via mobile and desktop web.
- Allow customers the ability to designate multiple vehicle license plates to a single account.
- Provide customers email receipts of all parking transactions.

1.6 Payment System Settings. The system must permit the following functions to support customer payments, parking system management, and parking payment reconciliation and audits:

- Include all applicable convenience/user fees assessed to users.
- Notify customer of any convenience/user fees to be charged regardless of payment type/option utilized.
- Provide revenue, utilization, and other reports in a format exportable to Excel, allowing for easy data analysis, record keeping/documentation, and reconciliation.
- Provide a secure gateway service for secure (encrypted) credit card data transmission to the City's merchant account provider. Credit card data transmission shall meet the Payment Card Industry Data Security Standards (PCI DSS) Level 1 certification.
- Authorize payments in real time and accept payment through Visa, MasterCard, Discover, American Express, all debit cards, and other alternate payment methods (i.e. PayPal, Apple Pay, Google Pay, Venmo, etc.).
- Document for review and report rejected/declined transactions to the customer.
- Provide a single opportunity for customers to try a different credit or debit card when a rejected transaction occurs.
- Ensure declined transactions are not incorrectly posted within the revenue reporting system or pushed to the meter.
- Synchronize batch settlement times for the merchant account and report of the same sent via the Internet to the City.
- Have expansion capacity and state how much expansion capacity the system has in terms of spaces, meters, or any other defined criteria.
- Have the capability to implement parking validation, such as allowing merchants to generate and provide customers with unique discount codes.
- Provide a fully auditable service and online portal/back-office system for as-needed audits conducted by City staff, in addition to complying with PCI DSS audits.

1.7 Informational Materials and Promotion. The system must include informational materials and the promotion of the City's integrated mobile parking payment system, such as through the use of stickers, decals, and/or signage and online promotions. All materials in the public right-of-way will be Oakland-branded and connect parkers to an Oakland-branded website. The website will direct parkers to all permitted Consultants, such as by showing individual Consultant logos and links to their platforms.

While the City will install and maintain informational materials, such as City-branded

parking signs, in the public right-of-way, Consultant(s) shall pay for the cost of these activities through both an initial fee and ongoing revenue sharing of user/transaction fees paid to the City. The City is committed to promoting the use of this new system and is seeking financial support from Consultant(s) to fully execute this commitment and ensure Oakland parkers' access to their services.

The City is seeking an initial one-time combined payment of \$190,000 from all selected Consultant(s) to contribute to the costs of establishing the new mobile parking payment system. \$190,000 shall be divided equally between all selected Consultant(s), unless otherwise specified or unless the Consultant(s) is a certified LBE. If the Consultant(s) is a certified LBE, then this Consultant(s) shall contribute 75% of their divided portion.

Unless otherwise determined in negotiation, selected Consultant(s) shall pay: 1) their agreed-upon portion of \$190,000 one-time fee to the City at the beginning of the agreement term and 2) 10% of all convenience/user fees collected shall be kept by the City of Oakland.

The system must include the following materials and promotion:

- Contribute toward the cost to install City-branded signage for paid parking areas. Consultant must propose a certain annual percentage of transaction, user, and/or gateway fees that they will commit to a City account dedicated to installing, maintaining, and replacing parking signs, stickers, and/or decals.
- Provide funding for Oakland-branded materials to promote the mobile parking payment system that will be displayed in the public right-of-way and online. Materials shall include but are not limited to signs, stickers, and decals.
 - Materials must show individual zone numbers and a link to the City's website page on available mobile parking payment system(s). City will approve final stickers, decals, and signs prior to the Consultant's installation.
 - Signage proposals shall meet the City's requirements/specifications for signage design, manufacturing, and maintenance.
- Support City staff in connecting parkers to the Consultant's product on the City's online Oakland-branded platform. Support may include but is not limited to links that open Consultant's smartphone software applications or website and official Proposer logos provided as .png or .jpg images.
 - Provide City staff with digital informational or marketing materials, such as promotions to include on the City's mobile parking payment system website (e.g., a digital coupon code for new sign-ups on the Proposer's app) and instructions on how to use the Consultant's product.

1.8 System Set-up and Training. The system set-up shall be without cost to the City and must include but not be limited to the following functions:

- Supply reports for account sign-up and use, customer service issues, revenue, and

additional reports deemed necessary by the City to properly evaluate program progress.

- Describe reporting options in their response including whether reports can be customized.
- Provide on-site or web-based training and manuals for the authorized City personnel to navigate and utilize the online portal/back-office system.

1.9 Community Benefit and Engagement. Consultant(s) staff shall maximize the benefits of their pay-by-phone system to Oakland parkers by engaging directly with community members and organizations. Methods of engagement will include, but not be limited to, the following:

- Attend up to four (4) community events per year either in-person or virtual, such as business improvement district (BID) meetings, Oakland City Council or commission meetings, and neighborhood events.
 - Two (2) or more of these events must occur in Equity Priority Communities, as defined by the Metropolitan Transportation Commission, as shown here: <https://mtc.maps.arcgis.com/apps/mapviewer/index.html?layers=28a03a46fe9c4df0a29746d6f8c633c8>
- Incorporate community feedback into Proposer's product functionalities, promotions, marketing materials, and system.
- Align Proposer's goals for their product in Oakland with community goals, such as goals formed in the Proposer's collaboration and outreach with community members and goals stated in OakDOT plans to promote a sustainable, equitable and livable city.

Task 1 Deliverables:

- *Fully integrated and set-up parking payment system that meets all technical requirements, permits all points of service to the public, meets setting and customer base requirements, includes all payment system settings, and provides informational materials and promotion.*
 - *Informational materials and promotion including but not limited to stickers, decals, and signage installation.*
 - *Web-based trainings and manuals for authorized City personnel to navigate and utilize the online portal/back-office system.*
- *Attendance and support at up to four (4) community events per year, either in-person or virtual.*

TASK 2 (OPTIONAL) Additional Parking System Support

In addition to providing a mobile parking payment system, Proposer(s) may choose to include additional innovative products or services for the City's consideration. These products or

services should support the active management of the City's parking system, supporting access to commercial areas and curbside spaces, and integrating off-street facilities into the City's on-street system.

Task 2 Deliverables:

- *Innovative product(s) or service(s) that supports the parking system.*
 - *Examples of such products or services may include: pay-by-text parking payment, gateless parking system technologies, integrated pay-by-phone services for Proposer(s), commercial vehicle parking permits, integrated enforcement features, and equitable cash payment alternatives.*
 - *Product or service should include detailed pricing, technical requirements, named benefits to Oakland's parking system, other municipalities or organizations where the product or service is in use, and any other relevant information.*

D. DELIVERABLES

Deliverables listed below shall provided to the City per a timeline agreed upon by City and the Proposer. Request for information or reports shall be fulfilled by the Proposer within three (3) business days of the request.

Task 1 Deliverables:

- *Fully integrated and set-up parking payment system that meets all technical requirements, permits all points of service to the public, meets setting and customer base requirements, includes all payment system settings, and provides informational materials and promotion.*
 - *Informational materials and promotion including but not limited to stickers, decals, and signage installation.*
 - *Web-based trainings and manuals for authorized City personnel to navigate and utilize the online portal/back-office system.*
- *Attendance and support at up to four (4) community events per year, either in-person or virtual.*

Task 2 Deliverables:

- *Innovative product(s) or service(s) that supports the parking system.*
 - *Examples of such products or services include: pay-by-text parking payment, gateless parking system technologies, and equitable cash payment alternatives.*
 - *Product or service should include detailed pricing, technical requirements, named benefits to Oakland's parking system, other municipalities or organizations where the product or service is in use, and any other relevant information.*

Appendix B

Providers' Privacy Policies

- [Payment Processing](#)
- [Mobility Platform](#)

APPENDIX B

- [Transportation Software](#)
- [Curbside Management](#)
- [Smart Cities](#)
- [Open Ecosystem](#)

We're committed to your data privacy.

Updated May 2020

Passport is committed to protecting the privacy of our clients and our users. When we facilitate transactions on behalf of our clients (cities), we act as their trusted agents, collecting for them only the aggregated and anonymized data they requested. This data helps our clients deliver beneficial outcomes including improved urban planning, congestion relief and easy access to parking.

When Passport facilitates transactions, users agree to provide information such as name, email and phone number so that Passport can deliver parking, permitting and transit services. Passport can also use this information to provide useful notifications, for example, when a parking session is about to expire or a permit needs to be renewed.

We protect personal information

- We understand that any data we collect must be used carefully. We only collect data that is voluntarily submitted by users when engaging in transportation services, such as parking, micro-mobility and permitting. All data provided by users remains private except for the anonymized or necessary data shared with the client city. Credit card and transaction data is never sold or privatized.
- We won't use personally identifiable information for any purpose other than to support the services authorized by our clients and to deliver and improve Passport products and services. We will not sell personally identifiable information to any third parties under any circumstances.
- We do not share any city data or user transaction data with any third party not directly affiliated with our applications offerings.

We ensure privacy and security

- We comply with all applicable laws and regulations concerning privacy and data protection including the California Consumer Privacy Act (CCPA) and the EU General Data Protection Regulation (GDPR).

- We take all reasonable steps to protect the security of data, utilize reputable third party security testing and intrusion prevention services to audit and validate our efforts, and maintain certifications and/or compliance with all applicable industry payments and data standards including PCI-DSS Level 1 and SSAE-18.

We deliver a digital infrastructure that supports open APIs

- We provide open API access allowing only authorized third party service providers to assist customers in transacting with our clients (for example, a map application from which a motorist can initiate a parking transaction). We believe that our clients benefit from simplified integrations that avoid vendor lock-in and promote user freedom of choice.
- Any authorized third party affiliated with our applications will have access only to the data needed to complete its part of any relevant transactions. Passport's use of such data will continue to be governed by these principles.
- We are committed to the development and integration of commonly accepted data standards that support data portability, simplify integrations, and avoid data-based vendor lock-in. We believe in freedom of choice for our users.

We support client right of use to inform policy and planning

- We provide access to aggregated and anonymized data to our clients for municipal planning, program management, public engagement, and any other municipal purpose to the extent consistent with [Passport's Privacy Policy](#), and support our clients in making data-driven decisions and policies based on our expertise across more than 800 clients of all sizes and mobility environments.
- In connection with this purpose, we work to build bridges with academic or other researchers with appropriate safeguards for privacy.



- Products
- [Parking Management Software](#)
- [Parking Enforcement Software](#)
- [Digital Parking Permits](#)
- [Mobility Management](#)

- Our Apps
- [Passport Parking](#)

Changer de langue

Français

[Paybyphone](#)

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PayByPhone is committed to respecting your privacy and complying with all applicable data protection and privacy laws. In this Privacy Policy, we describe how we collect, use, share and protect your Personal Data.

As part of our commitment to you, we ensure that your Personal Data is accurate, confidential, and secure and allow you to access, correct, or erase your Personal Data. Please note that in order to offer our Services, we transfer your Personal Data to Canada and to certain service providers which may be located in other countries.

When you create an Account with us or use our Services, you agree to this Privacy Policy and the [Terms and Conditions](#). Each time you use your Account or our Services, or provide us with information, the current version of this Privacy Policy and the Terms and Conditions govern the processing of your Personal Data.

If you do not agree with the terms of this Privacy Policy or the Terms and Conditions, please refrain from creating an Account or using our Services.

If you have any questions or comments about this Privacy Policy, please contact the relevant Data Protection Officer at the address listed in Section 15 below.

SPECIAL NOTICE REGARDING CHILDREN

Our Services are not directed to people under 16. We do not knowingly collect personal information from children under 16. If you become aware that a child has provided us with Personal Data without the proper consent, please contact the relevant Data Protection Officer at the address listed in Section 15 below and we will take steps to remove such information and terminate the account, as necessary.

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1. Who processes your information?

Your contract and Account may be with PayByPhone Technologies Inc. or one of its subsidiaries, including without limitation PayByPhone US Inc. (United States), PayByPhone Limited (United Kingdom), PayByPhone SAS (France, Monaco, Netherlands, Belgium), PayByPhone Suisse AG (Switzerland), PayByPhone Italia S.r.l. (Italy) or sunhill technologies GmbH (Germany). Collectively, all of these entities are referred to here as “PayByPhone”. The applicable contract party depends on the country from which you open your Account and in which you conduct your Parking Sessions, as set out in the [Terms and Conditions](#) in greater detail.

Your PayByPhone contract party and PayByPhone Technologies Inc., incorporated in Canada, are jointly responsible for the processing of your Personal Data, including in the context of the registration for and general use of the Services, product and system development including ensuring IT security, and for advertising and marketing purposes. The controllers have agreed among themselves who will fulfill specific obligations with respect to the data processing and shall work closely together. In particular, they will provide each other with the information necessary to fulfill their respective obligations and to enable the exercise of data subject rights.

You will have statutory protection in the applicable territories and this Privacy Policy is without prejudice to those statutory rights.

PayByPhone is committed to complying with all applicable privacy laws (“Data Protection Laws”), including without limitation the Canadian Personal Information Protection and Electronic Documents Act (“PIPEDA”), the European General Data Protection Regulation (“GDPR”) and the UK General Data Protection Regulation (“UK GDPR”).

Facilities Operators for the locations where you park process parts of your Personal Data which relate to the Parking Sessions at their parking facilities and which, among other things, enable them to effect parking validation, enforcement and fines.

For information on additional processors of your Personal Data, see section 5 below.

2. What information is processed?

We only collect and process Personal Data that is required to create an Account and to offer the Services you request and to communicate with you.

You and anyone you authorize to use your Account provide some of this information directly when you create an Account, use a Service or contact us for support, including:

- Mobile phone number
- Vehicle license plate
- Billing information (such as credit card and debit card numbers and expiry dates) (NOTE: We do not store CVV/CVV2 security numbers on our servers.)
- Password
- Transaction data (such as Parking Session date, time, duration, zone number and amount paid)
- Customer support issue details
- Email address

In some cases, for example when you permit another party, such as your employer, to pay for parking sessions on your Account through linking your Account to theirs and adding their payment method to your Account, we ask you or the owner of the payment method to provide your:

- Profession
- Professional affiliations membership
- Work email address
- Unique username

- Work mobile phone number
- Job Title
- Department
- Office Name
- Employee Cost centre

You may also give us additional information when you choose to open your Account using information from third party services you already have, including:

- Your device settings and credentials
- Credentials from a third-party app or platform

You may also choose to give us additional information to obtain a Service or receive communications from us including:

- Name
- Postal code/zip code
- Location
- Type of vehicle
- Communication preferences
- Any information related to your voluntary participation in our contests, promotions, and research, including demographic or occupation information that you choose to provide

You may stop providing us this additional information at any time by adjusting your Account settings in the App, on the Site or by contacting us.

We also collect other data indirectly when our software interacts with your device and when we use technologies like cookies and error messages. This may include:

- IP address and information about the device you use to access the Services
- Media Access Control (MAC) address
- Operating system name and version
- Device manufacturer and model
- Your language preferences
- Type and version of your Internet browser
- Name and version of the App you use
- Site traffic data
- Landing and exit page details
- Details of your session between pages of the Site to provide a continuity of experience
- Details of when you install and uninstall the App

Please see our [Cookies Policy](#) for more information.

We also sometimes obtain data about you from third parties (including parking operators, payment facilitators, parking enforcement agencies and hardware/software manufacturers). For example:

- When you register a credit card or debit card with us to use the Service, we will use card authorization and fraud screening services to verify that your card information matches other information that you supply to us, and that the card has not been reported as lost or stolen.
- When you opt into Autopass (available in some countries), a Service that allows you to automatically pay for parking at facilities that support automatic number plate recognition, we will obtain from the parking operator the time of the vehicle entry and exit from the parking facility and we may receive a photograph of the vehicle taken at that time.

3. Why is your information processed?

We process your information so that we can offer you our Services and communicate with you.

Contractual Relationship

When we process your Personal Data in relation to our Services (including, without limitation, for customer service, security messages, processing payments, sending receipts and reminders of parking session expiry) and our related internal purposes (including administration, risk management, compliance, product development, research, debt collection, financial audit, security and record keeping,) we rely on the lawful basis of having a contractual relationship with you.

Consent

When we process your information to communicate with you (including about our and our affiliate promotions, events occurring in localities where you recently parked, targeted advertising and marketing of services), we rely on the lawful basis of consent to process your Personal Data and we are committed to obtaining that consent in a legitimate way.

You can provide your consent in the App, on the Site or verbally to our authorized representatives. You will be asked specifically if you would like to opt-in to each of these communications and you can choose whether to receive some, all, or none of these communications.

Unless the type of use is necessary for us to provide the Services, you will have the right to remove your consent to such use at any time (more on this below) by logging in to your Account on the Site, in the App or by calling your Customer Support Center or writing to your respective Data Protection Officer at the contact listed in Section 15 of this Privacy Policy. You will have an opportunity to unsubscribe each time we communicate with you. Note that your decision to withhold or withdraw your consent to certain other uses of Personal Data or certain types of communication may restrict our ability to provide a particular service or product.

Subject to Data Protection Laws, we may collect, use, store or share Personal Data without your consent in the following limited circumstances:

- As instructed by local authorities in emergency situations that threaten an individual's life, health, or personal security such as emergency warnings for tsunami or earthquakes.
- When the Personal Data is available from a public source (e.g. a telephone directory).
- To protect ourselves and other users from fraud.
- To investigate an anticipated breach of an agreement or a contravention of law.
- When such collection, use or disclosure of Personal Data is permitted or required by law.

Legitimate Interest

Where permitted by law, we will process your Personal Data on the basis of our legitimate interest, for example when contacting you about new product offerings and conducting customer satisfaction surveys to enhance our services or sending you newsletters and parking, vehicle or road use related service and security messages. For this type of processing, we will always take into consideration the effect of such processing on your fundamental rights and freedoms, and if we believe that the communication would be an infringement on your rights, we will not proceed with that communication.

PayByPhone Technologies Inc. acts on the basis of legitimate interest in the group-wide use of a central IT infrastructure (including for registration and processing of parking transactions, product and system development and ensuring IT security).

You may opt-out of receiving legitimate interest-based communications by logging in to your Account on the Site or in the App or by calling your Customer Support Center or writing to your respective Data Protection Officer at the contact listed in Section 15 of this Privacy Policy. Note that your decision to opt-out may restrict our ability to provide a particular service or product.

4. How is your information processed?

We only process your Personal Data for the purposes for which we have a lawful basis.

Some processing associated with the purpose of providing you our Services include:

- Creating your Account.
- Operating the Service.
- Providing you with navigation services to your parking location.
- Providing you with parking information at or near you or at your location.
- Sending you notifications of the end of your parking session.
- Facilitating, processing, and keeping a record of your Transactions.
- Serving as the merchant of record for certain Transactions.
- Collecting or attempting to collect any unpaid amounts owed by you.
- Sending you the receipt for your Transactions.
- Providing you with your parking history.
- Facilitating communication between you and PayByPhone.
- Providing you customer support.

- Cooperating with relevant authorities (for example: regarding your Parking Penalties).
- Analyzing and monitoring App and Service usage and making improvements, enhancements, and customizations to your experience.
- Investigating and resolving outages, malfunctions, or problems that you may be having with our App or Services.
- Ensuring the security of the App and Services, preventing fraud, and enforcing our policies.
- Complying with any applicable law and assisting law enforcement agencies under applicable law.
- Working with you to terminate your Account and retaining only your Personal Data when we are required to retain such information by law or pursuant to our other agreements.
- Responding to any dispute, or legal proceeding of any kind between you and PayByPhone.
- Providing required reports to our financial partners or service providers.
- Creating Anonymized Data sets for internal, external, commercial, and analytical purposes.
- Performing other activities with your consent.

Some processing associated with the purpose of communicating with you include:

- Sending you updates, notices, announcements, and additional information related to our Services, vehicle, parking or road use related service and security messages, or information about events occurring in localities where you recently parked.
- Conducting surveys, contests, questionnaires, discounts or rewards programs, sweepstakes, or promotions for ourselves.
- Sending you marketing, advertising material, and other content and provide you with information and advertisements about offers, discounts and other services relevant to you, or that we believe you may find interesting.
- Sending you updates, notices, announcements, and additional information related to other products and services or those of our affiliates or those of other third parties.
- Conducting surveys, contests, questionnaires, discounts or rewards programs, sweepstakes, or promotions on behalf of our affiliates or third parties.

5. With whom is your information shared?

We will never use or disclose your Personal Data unless we have a lawful basis to do so.

We do not sell your Personal Data to parties outside of PayByPhone. We will not rent, license or exchange customer lists or your Personal Data to other parties outside of PayByPhone, except as we describe below.

No Personal Data will be shared with third parties, except as required to offer the Services to you or as you specifically consent. We may:

- Send your vehicle information to parking operators and parking enforcement agencies to confirm your parking sessions.
- Send some information to third party service providers that help us to operate our Services including, but not limited to, website hosting, data warehousing, data analysis, event logging, information technology, customer service, user analytics, email delivery, messaging, auditing, and debt collecting.
- Send your credit or debit card payments to our payment processors.
- Send some information to police, security forces, competent governmental, intergovernmental or supranational bodies, competent agencies, departments or regulatory, self-regulatory authorities or organizations or other third parties where the information is subject to disclosure in accordance with the applicable law, or where we believe, in good faith, it is appropriate to cooperate with in relation to investigations of fraud or other illegal activity or potential illegal activity, or to conduct investigations of violations of our Terms and Conditions.
- Send some information to auditors in connection with independent audits of our financial statements and operations. These auditors cannot use personally identifiable information for any secondary purposes.
- Share your Personal Data with a potential purchaser of PayByPhone (or the majority of its assets), or a merger, reorganization, or internal acquisition.
- Send information to our affiliates, including for example members of the Volkswagen Group, as allowed by law. Any Personal Data relating to you that we provide to our affiliates will be treated by those affiliates in accordance with this Policy and we are responsible for the management of the jointly used Personal Data.
- Disclose aggregated statistical data for statistical or public relations purposes. For example, we may disclose that a specific percentage of our users drive a blue car. However, this aggregated information is not tied to personal information.
- Share some Anonymized Data with third party partners who use the Anonymized Data to create mobility-related analytics including for example, parking analytics & predictive occupancy as well as parking availability reports.

- Share information with the party which pays for Parking Sessions on your Account through linking your Account, with your permission, to theirs and adding their payment method to your Account. The information shared includes data collected from you, data collected on parking and other transactions including financial information, data collected on your mobile devices, and derivative data used and stored in PayByPhone databases, to the extent that such data relates to the use of third-party payment method added to your Account. The data will be shared primarily for the purposes of verifying parking transactions paid for with the third-party payment methods and generating parking activity reports for the third party.

6. Where is your information transferred?

We will transfer your Personal Data to PayByPhone in Canada, irrespective of the country in which you reside or from which you provide Personal Data.

The transfer of your Personal Data is done in a secure way and in compliance with Data Protection Laws. The European Commission has found, on the basis of Article 45 of the GDPR, that Canada, while not bound by the GDPR, ensures an adequate level of protection of personal data. This adequacy decision took into account Canada's domestic law, its supervisory authorities and international commitments it has entered into.

We may also transfer your Personal Data to third party suppliers in other countries to provide part of our Service to you. In our agreements with these parties, we require them to protect your Personal Data and to adhere to Data Protection Laws and we make sure that they have provided appropriate safeguards.

Your personal information may be accessible to regulatory, law enforcement and national security authorities of those jurisdictions, and may be subject to disclosure in accordance with the laws of those countries.

7. How is your information kept safe?

We have put appropriate technical and organizational protection measures in place to protect your Personal Data from unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks.

PayByPhone commits to the following security measures:

- All Personal Data of users is stored electronically on an encrypted database of PayByPhone protected by a firewall.
- The PayByPhone Service is hosted in a secure server environment that uses a firewall and other advanced technology to prevent interference or outside access.
- Physical access to the database where Personal Data is stored and the servers where the PayByPhone Service is hosted is protected by 24/7 guards who only allow authorized personnel access to the database, such personnel is limited to those that need access.
- PayByPhone complies with PCI Data Security Standard Level-1 with a robust security process for payment card data and other Personal Data, including prevention, detection and appropriate reaction to security incidents.
- Parking transactions processed through our Services are encrypted using x-bit (for example 128-bit) secure sockets layer (SSL).
- PayByPhone uses appropriate security measures when destroying customers' Personal Data such as deleting electronically stored information.

We will continually review and update our security policies and controls as technology changes to ensure the ongoing security of your Personal Data.

8. How long is your information retained?

PayByPhone will retain your data in accordance with Data Protection Laws.

We will retain your Personal Data (including information related to each parking session and to each of your Transactions) for only so long as is reasonably necessary to fulfil the purposes for which the information was collected or as required by law.

If you create an Account with us, we will retain your Personal Data as long as you have that Account. If you close your Account or if there is no activity on your Account (including no log-ins and no parking sessions) for a period of more than 3 years, we will mark your Account in our database as "Closed," but may have to keep some information for as long as is required to comply with our legal obligations or 7 years, whichever is shortest.

9. What rights do you have with regards to your information?

According to the controller arrangement between your PayByPhone contract party and PayByPhone Technologies Inc., your PayByPhone contract party is responsible for fulfilling the obligations related to data subject rights.

You can contact the relevant local Data Protection Officer at the address set out at Section 15 below with requests related to the rights described below. You are also free to assert your data subject rights against PayByPhone Technologies Inc. at the contact listed in the first line of Section 15 below.

Any request must be made to PayByPhone in writing and provide sufficient detail to identify the Personal Data that it relates to. PayByPhone may request that you verify your identity. PayByPhone will address the request within 30 business days or provide written notice of an extension where additional time is required to fulfil the request.

Access

You have the right to request access to your Personal Data, to know how we use it and to whom we have disclosed it, subject to certain limited exceptions.

You can assert this right by accessing your Account on the Site or the App. You may also contact us with a Personal Data access request and we will take all reasonable steps to assist you with any legitimate request for access.

We may not be in a position to respond to a data access request. If a request is refused in full or in part, we will notify you in writing and provide the reasons for refusal and the recourse available to you.

Rectification

You have the right to make sure that your Personal Data is accurate.

We make reasonable efforts to ensure that all of our users' Personal Data is kept accurate and complete. If you are the Account holder, we provide you with tools to access or modify the Personal Data associated with your Account. You may also request that we correct your Personal Data.

If your Personal Data is demonstrated to be inaccurate or incomplete, we will, so far as practicable and as soon as practicable, correct your Personal Data and send the corrected information to any organization to which we disclosed the Personal Data in the previous year. If the correction is not made, we will note your correction request in your file.

Erasure

You have the right to obtain from us the erasure of your Personal Data.

At any time, you may close your Account and uninstall the App. You may also request that we erase your Personal Data.

In the event that you delete your Account and the App or request erasure of your Personal Data, we will use commercially reasonable efforts to remove your Personal Data from our files, however, we may not be able to delete some of your Personal Data to the extent that it is still required for discharging our legal obligations. We may also retain, use, and share your Anonymized Data that we previously collected prior to your deletion of your Account.

Withdraw consent (when processing is based on consent)

As mentioned above, when PayByPhone is relying on consent as the lawful basis for processing your Personal Data, you may remove such consent at any time, examples of this include:

- For certain types of communications, you can change your preferences in your Account permissions via the settings in the App.
- For emails, you may click on the "Unsubscribe" link in the received email.
- For push notifications, you can change the setting on your mobile device or adjust your Account settings.
- For Cookies on the Site, you can change the Cookies settings on your browser.
- For collection of location information, you can change your location access to our App using your mobile device settings and by adjusting your Account settings.

Please note that changing your consent may result in a change in your Services and experience.

Lodge a complaint

You have the right to communicate with PayByPhone about any issues that you may have relating to your Personal Data.

The Data Protection Officer of your respective PayByPhone contract party is responsible for ensuring PayByPhone's compliance with this Privacy Policy and Data Protection Laws. You should direct any complaints, concerns or questions regarding PayByPhone compliance in writing to the respective Data Protection Officer at the contact information below in Section 15.

You may also write to the Privacy Commissioner of Canada or the privacy supervisory authority in your country.

10. Definitions

- **Account** - The PayByPhone parking service account opened by you in the App, on the Site or by calling our Customer Support Centers.
- **Anonymized Data** - Anonymous, statistical, or aggregated information, on a de-identified basis (such as anonymous location information, enrollment numbers, demographic group information, etc.), in a form that does not enable the identification of a specific user.
- **ANPR** – The automatic number plate recognition feature which (1) identifies an opted-in vehicle, prior to payment, as authorized to park at the participating parking facilities and allows access to the parking facilities without having to perform any action normally required to remove a barrier to entry and (2) automatically records the time of entry and exit from the participating parking facility, calculates the length of stay and the cost of the Parking Session for the purposes of initiating payment.
- **App** - The PayByPhone mobile parking payment application and other applications that we may develop.
- **Autopass** – The service from PayByPhone that you opt your vehicle or vehicles in using the App, the Site or our Customer Support Center which allows you to automatically pay for parking at participating parking facility operators that support ANPR.
- **Cookies** - The small data files on your computer or other device which consist of cookies, pixel tags, e-tags, “flash cookies”, or other local storage provided by your browser or associated applications.
- **Data Protection Officer** - The individual designated as responsible for ensuring that PayByPhone complies with this Privacy Policy and applicable privacy laws, and is listed in the Contacts section below.
- **Facilities Operator** - The operator of a parking facility offering the option to pay for parking with the PayByPhone service.
- **Parking Penalties** - Parking fines, violation notices, tickets, citations, or penalties; your vehicle being wheel booted, your car being towed, or impounded; and other enforcement of vehicle parking requirements.
- **Parking Session** - The parking service you obtain from a Facilities Operator within the Transaction. Details of a parking session can include location, license plate, start parking session time, end parking session time and are usually linked to a payment.
- **Payment Information** - Information of any type necessary to process payments by credit cards, debit cards, digital wallets, in-app and web purchases and any other payment method accepted by PayByPhone now or in the future in connection with any Transaction.
- **Personal Data** - Information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier. Note that not all personal information that is shared with PayByPhone is considered Personal Data.
- **Services** - All services offered by PayByPhone, including those that allow you to pay for a Parking Session at participating parking clients, including Autopass, pursuant to the Terms and Conditions, by using our App, Sites, Application Programming Interfaces, backend technologies, products, services, content, features, functions, applications, IVR System, PayByPhone Portal, PayByPhone Business Portal, and any future updates, changes or additions thereto.
- **Site** - All PayByPhone operated websites including <https://www.paybyphone.com>, <https://www.paybyphone.fr>, <https://www.paybyphone.co.uk>, <https://www.paybyphone.ch>, <https://paybyphone-parken.de>, <https://www.pbp.it/>, as well as any successors to such sites.
- **Terms and Conditions** – Our [Terms and Conditions](#) which are accepted and agreed to by you when you open an Account or use the Services and which govern your use of the App and Services.
- **Transactions** – Any time you start, pay for, complete, or make a parking session transaction using our App or Services.

11. App store; links to other websites

Your app store (e.g., iTunes or Google Play) may collect certain information in connection with your use of the App, such as Personal Data, Payment Information, geolocational information, and other usage-based data. We have no control over the collection of such information by a third-party app store, and any such collection or use will be subject to that third party's applicable privacy policies.

Some pages on the Site and the App include links to third party websites. These third-party sites are governed by their own privacy statements, and we are not responsible for their operations, including but not limited to, their information practices. You should review the privacy statement of those third-party sites before providing them with any personally identifiable information. PayByPhone is not responsible for the processing of Personal Data on those third-party sites. We strongly advise you not to share any personal information about your Account, including your account number or password, on any social media site or with any third-party application that is not operated by PayByPhone.

12. Applicable law

All matters related to this Privacy Policy shall be governed in all respects by the laws of and all disputes shall be subject to the exclusive jurisdiction of the competent courts located in the jurisdiction in which the PayByPhone entity with whom you have a contract is domiciled, excluding the application of any conflict of laws principles and/or rules. In the case of PayByPhone Technologies Inc., the relevant jurisdiction is the Province of British Columbia, Canada (subject to the provisions of the Consumer Protection Act applicable to residents of Quebec), in case of PayByPhone US Inc. – the State of Delaware, United States, in the case of PayByPhone Limited - United Kingdom, in the case of PayByPhone SAS - France, in the case of PayByPhone Suisse AG - Switzerland, in case of PayByPhone Italia S.r.l. - Italy and in the case of sunhill technologies GmbH - Germany. Notwithstanding the above, you agree that it shall be nevertheless permissible for PayByPhone to apply for equitable relief in any jurisdiction. You also agree to comply with all local laws, rules, and regulations, including but not limited to those applicable to online conduct and acceptable Internet content.

13. Changes to this policy

We may amend, update, modify, replace, or revise this Privacy Policy at any time by communicating those updates with you and by posting such on our Site. All such amendments, updates, modifications, replacements, versions, or revisions are effective immediately upon posting on our Site. All references in this Privacy Policy to the [Terms and Conditions](#), [Legal Notice](#), and any other Services matters are references to the same as they are amended, updated, modified, replaced, or revised.

14. Further questions

If at any time you would like to contact us with your views about our privacy practices, or with any enquiry relating to your personal information, you can do so by emailing us at the addresses listed below.

15. Contacts

Contact information for PayByPhone Data Protection Officer:

Location	Address	Email
USA and Canada	Suite 403 1168 Hamilton Street Vancouver, BC V6B 2S2 Canada	dpo@paybyphone.com
UK	Bishops Court 17A The Broadway Old Hatfield AL9 5HZ	dpo-uk@paybyphone.com
France, Monaco, Netherlands, Belgium	62bis Avenue André Morizet 92100 Boulogne-Billancourt	dpo-france@paybyphone.com

and Switzerland		
Italy	Via Canton, 11 37055 Ranco all'Adige	dpo-italia@paybyphone.com
Germany	Allee am Röthelheimpark 15 91052 Erlangen	dpo-germany@paybyphone.com

PayByPhone is owned by Volkswagen Finance Overseas B.V.

Last updated: 2021-12-15

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Reserve Parking for Later

Solutions for Parking Providers

Privacy Policy



Choose Your Language

Ready to Park

Reserve Parki

Solutions for f

More +

Thank you for using ParkMobile!

At ParkMobile, we are committed to respecting your privacy. This policy i you understand how we collect, use, and share information that we colle ParkMobile websites, mobile applications, and other services we operat internet company, some of the concepts below are a little technical and c but we've tried our best to explain things simply and transparently. If you l about our privacy policy, please [let us know](#).

What's changed

- We updated our toll-free number;
- We made it easier for you to update your [cookie preferences](#);
- We added more details about the data we collect and how it's used;
- We made some stylistic changes so that our policy is easier to read

What information we collect

You may be asked to provide personal information anytime you interact v affiliates, such as when you use one of our mobile apps. The types of info depends on how you use our services. We collect information in a few dif

1. When you give it to us or give us permission to obtain it

When you sign up for or use ParkMobile you voluntarily share certain info your name, telephone number, email address, payment card information, information, and any other information you give us. When you use ParkM parking transaction, we collect information related to the transaction, suc

Blog

Contact Us

Fleet Sign In



2. When a third-party gives it to us



We may collect your information when a third-party provides your information to our services. For example, your friend may provide us with your license plate number and pays to park your car using her ParkMobile account. If your employer has a ParkMobile account with ParkMobile, your employer may provide us information necessary to use your account.

3. We collect technical information when you use our Services

When you use a website, mobile application or other internet service, certain technical and electronic network activity information gets created and logged automatically. This information is true when you use ParkMobile. Here are some of the types of information we collect:

- **Internet or other electronic network activity information**, such as information about your interactions with our Services. This includes information about the content you view, the time you spend viewing the content, and the frequency of your access on the Services that we collect using cookies, pixels, and other tracking technologies;
- **Identifiers**, such as your Internet Protocol (IP) address, device identifier (including the manufacturer and model), and Media Access Control (MAC) address;
- **Geolocation data**, such as where you are located when you use our Services;
- **Standard server log data**, such as your application version number, operating system type (Windows or Macintosh), screen resolution, operating system version, and the date and time of your visit.

We may also aggregate or de-identify the information described above. If your information is aggregated or de-identified, it is not subject to this policy.

How we use your information

We collect and use your information so that we can operate effectively and provide you with the best experience when you use our app and/or web products. We also use your information for the following purposes:

- **Fulfillment of parking transactions and other purchases**, such as processing your parking transaction; supplying the purchased services; and collecting payment for your parking transaction.

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and addressing concerns raised by you; and monitoring and improving customer support responses;

- **Improving our services**, such as conducting data analysis and launching new products and services; enhancing our websites and mobile applications for our services; identifying usage trends and visiting patterns; conducting customer satisfaction, market research, and quality assurance surveys; determining the effectiveness of our promotions; meeting contractual obligations;
- **Marketing and promotions**, such as sending you emails and messages about new news and new promotions, features, products and services, and connecting you with relevant advertising on and off our services; and administering your participation in contests, sweepstakes and promotions; and
- **Legal proceedings and requirements**, such as investigating or resolving claims or disputes relating to your use of our services; or as otherwise required by applicable law; or as requested by regulators, government entities, or law enforcement inquiries.

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How and when we share your information

We may share the information we collect with:

1. Our wholly-owned subsidiaries and affiliates

We share information within the ParkMobile family of companies that help us provide our services or conduct data processing on our behalf. If we were to engage in an acquisition, bankruptcy, dissolution, reorganization, or similar transaction that involves the transfer of the information described in this policy, we would share your information with a party involved in such a process (for example, a potential acquirer).

2. Third-party companies, service providers or business partners

We rely on third parties to perform a few contractual services on our behalf. We may need to share your information with them. For example, we may rely on service providers to enable functionality on our Services, to provide you with relevant content (including advertisements), to process your payments, and for other business purposes.

3. Municipalities and private parking operators

We share your information with our municipality and other business partners that we have a contractual agreement in order to provide services to you. For example, a municipality will have access to your vehicle information for parking enforcement purposes.

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4. Parking enforcement companies



Our clients frequently contract with third-party companies to enforce parking at their parking facilities. We may share your license plate number with enforcement companies to confirm that you have paid to park at the facility.

5. Law enforcement agencies or government agencies

We may share information with law enforcement agencies and/or the judicial system to confirm or dispute a traffic citation issued to you. We may also disclose information if we believe that disclosure is reasonably necessary to comply with a law, regulation, or government request; to protect the safety, rights, or property of the public, any person, or any organization; to detect, prevent, or otherwise address fraud, security or technical issues; or to enforce our terms of service.

6. Your consent

We may share your information other than as described in this policy if we have your consent or you agree.

7. Other services

We may share your information with third parties to enable you to sign up for other services, or when you decide to link your ParkMobile account to those services.

Where we store your information

We process and store personal information inside and outside of the United States, including in countries that have privacy protections that may be less stringent than those in the United States jurisdiction.

How we secure your information

Although we take steps to safeguard personal information, no practice is perfect, and we do not guarantee the security of your information.

How we use cookies

We, along with our partners, use various technologies to collect and store information when you visit one of our services, and this may include using cookies or similar

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The technologies we use for this automatic data collection may include:



- **Cookies.** A cookie is a small file placed on the hard drive of your computer to store information, such as your login credentials and web preferences, so that we can remember certain choices you've made. Cookies can also be used to recognize your device so that you do not have to provide information more than once.
- **Web beacons.** Pages of our services or our e-mails may contain small files known as web beacons (also referred to as clear gifs, pixel tags, or pixel gifs) that permit us, for example, to count users who have visited our site or opened an e-mail and for other related website statistics (for example, the popularity of certain website content and verifying system and server status).
- **Mobile device identifiers and SDKs.** A mobile SDK is the mobile equivalent of a web beacon. The SDK is a bit of computer code that app developers use in their apps to enable ads to be shown, data to be collected, and related analytics to be performed.
- **Other technologies.** There are other local storage and Internet technologies such as local shared objects (also referred to as "Flash cookies") and HTML5 storage, that operate similarly to the technologies discussed above.

You may be able to refuse or disable cookies by adjusting your web browser settings. Most web browsers have options that allow the visitor to control whether the browser accepts cookies, rejects cookies, or notifies the visitor each time a cookie is sent. Because browser settings are different, please consult the instructions provided by your web browser (in the "help" section). Please note that you may need to take additional steps to refuse or disable local shared objects and similar technologies. For example, local shared objects can be controlled through the instructions on Adobe's [Setting Manager](#) page. If you refuse, disable, or delete these technologies, some of the functionality of our services may no longer be available to you, and any differences in service are related to the technologies that are disabled. If you change your mind, you may be able to opt-out of cookies, but cookies may, in some cases, cancel the opt-out selection in your browser.

Some of our third-party partners are members of the Network Advertising Initiative (NAI) and offer a single location to opt-out of ad targeting from member companies. To opt-out of NAI, please click [here](#) or [here](#). For additional information on how Google processes your information and what choices you may have, visit their site [here](#). Due to differences in our websites and mobile apps, you may need to take additional steps to opt-out of advertising for mobile applications. Please check your device settings for more information.

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cookie preferences for our website any time.



Do not track signals and similar mechanisms. Our website is not configured to respond to “do not track” settings or signals in your browser headings.

Your choices and rights

You have options relating to the information that we have about you. You can exercise your options, by completing our **privacy request form**.

- **Promotional emails and other marketing material.** You can unsubscribe from receiving marketing material from us at any time by clicking the unsubscribe link located at the bottom of our emails or by emailing us at **privacy@parkmobile.io**. Unsubscribing from promotional material will not prevent you from receiving transactional, relationship, or non-commercial content from us.
- **Cookies and third-party advertising.** You can update your **cookie preferences** for our website any time. For instructions on how to adjust cookie settings and opt out of third-party ad targeting in general, click **here**.

Depending on where you live, you may have certain additional rights to:

- Request access to your personal information; and
- Request deletion of your personal information

Your California Privacy Rights. If you are a California resident, you may request information regarding the disclosure of your personal information to third parties for direct marketing purposes. To make such a request, please send an email to **privacy@parkmobile.io** or write us at Parkmobile, LLC, Attn: Privacy Department, 100 Spring Street, NW, Suite 200, Atlanta GA 30309.

California residents

The California Consumer Privacy Act (CCPA) requires us to disclose categories of personal information we collect and how we use it, the categories of sources from which we collect personal information, and the third parties with whom we share it, which are listed above.

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Q We are also required to communicate information about rights California under California law. California residents may exercise the following right

- **Right to delete.** You may submit a verifiable request to close your account and we will delete personal information about you that we have collected;
- **Right to know and access.** You may submit a verifiable request for information regarding: (1) categories of personal information we have collected about you; (2) the sources from which we collect personal information; (3) our business and commercial purpose for collecting personal information; (4) categories of third parties with whom we share personal information; and (5) specific pieces of personal information it has collected about you.
- **Right to opt out.** You may submit a verifiable request that we not "sell" (as defined by CCPA) your personal information to third parties.
- **Right to equal service.** We will not discriminate against you for exercising your privacy rights.

Just to clarify - we do **not** sell your personal information to any third party for monetary consideration. However, like most companies, we do share information that may be considered a "sale," as defined by the CCPA. This includes sharing information with advertising, commercial information and internet or other electronic network activity providers, social media networks and website analytics companies. You can always opt out of this by [updating](#) your cookie preferences.

If you would like to exercise your rights, please contact us via one of the following methods:

- **Complete our online form**
- **Call us** toll-free at **(877) 727-5457**
- **Email us** at **privacy@parkmobile.io**
- **Write to us** at Parkmobile, LLC, Attn: Privacy Department, 1100 Spruce Street, Suite 200, Atlanta, GA 30309

To complete your request, you may be asked to provide additional information to verify your identity, such as the license plate number and/or last four digits of a credit card associated with your account. We will compare the information you provide to any information we have on file.

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receive it. The information collected through this process will be used for purposes only.

If you would like to use an agent registered with the California Secretary of State, your rights, we may request evidence that you have provided such agent with an attorney or that the agent otherwise has valid written authority to submit and exercise rights on your behalf.

Children's data

Children under 16 are not allowed to use our services. If we learn we have received personal information from a child under 16 without verification or consent, we will delete that information. If you believe we might have any information about a child under 16, please contact us at legal@parkmobile.io.

How we make changes to this policy

We may change this policy from time to time, and if we do, we'll post any changes on this page. If you continue to use ParkMobile after those changes are in effect, you agree to our new policy. If the changes are significant, we may provide a more prominent notice and your consent, as required by law.

Contact us

Questions, comments, and complaints about ParkMobile's data practices can be directed to our chief privacy officer by sending an email to privacy@parkmobile.io or writing to Parkmobile, LLC, Attn: Privacy Department, 1100 Spring Street, NW, Suite 30309. You can also call us toll-free at **(877) 727-5457**.

Last Updated

Our privacy policy was last updated on July 31, 2020.

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PRIVACY POLICY

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IPS companies and locations

- Headquarters: 7737 Kenamar Court, San Diego, CA 92121, U.S.A

- United Kingdom: International Parking Systems (UK) Ltd., Railway Court, Doncaster, DN4 5FB, United Kingdom
- IPS Europe SRL: Via P. Carnerini 1/A, 43123, Loc, Pilastrello (PR) Italy

Company Websites

<https://ipsgroupinc.com>

<https://ipsgroupinc.co.uk>

<https://ipsgroupsrl.eu>

Web & Mobile Apps

<https://www.myparkingreceipts.com>

<https://www.myparkingreceipts.co.uk>

<https://www.parksmarter.com>

<https://ipsenforcement.com>

<https://thepermitportal.com>

<https://ce.ipsenforcement.com>

<https://ipspermits.com>

<https://citationportal.com>

<https://civilcites.com>

When This Statement Applies

IPS is a group of affiliated design, engineering, and manufacturing companies focused on low-power wireless telecommunications, payment processing systems, parking technologies, parking enforcement and management SaaS software. IPS is headquartered in the United States and operates globally, with affiliate companies in other countries including Canada, United Kingdom, Ireland and Italy. This privacy statement applies to IPS, Inc. and its affiliates below indicated (“IPS,” “we” or “us”). IPS is responsible for the processing of personal information – information about you that can directly or indirectly identify you personally – that you provide when you interact with any IPS company on its web sites (“Sites and Services”), mobile applications, other technologies described in this Privacy statement and any other sites or services under our control where this Privacy Statement is displayed. The data controller of ipsgroupinc.com and data collected by IPS through its web sites and



business operations is IPS Group, Inc. This Privacy Notice describes how we collect, receive, use, store, share, transfer, and process your personal information, as well as your rights in determining what we do with this information.

Note that IPS also collects and uses personal information on behalf of its public and private organization customers as it provides them services. In these cases, IPS operates only on directions of these customers and the privacy statements of those organizations apply.

For example, we sell parking meters to cities, universities, and other public and private parking site operators. We also provide on-going services to assist these organizations in parking payment processing, payment refunds, and parking enforcement and tracking. In these cases, we are the service provider to these organizations and collect and use end user personal information at their direction for the limited purpose of providing the service for which our client has engaged IPS.

Personal Information We Collect and How We Use It

IPS may collect information from and about you when you visit our web sites, set up an account with IPS or use our mobile applications, or interact with us. The following are brief descriptions of the information we may collect and how we use it.

Mobile / Web Application Registration and Service Data

Many of IPS services are offered to business and governmental customers, in which case IPS is a service provider to those customers and this privacy statement does not apply. However, if you register for one of our mobile applications that we offer directly to end users like you, such as ParkSmarter and MyParkingReceipts, either through a web site or on your mobile device, IPS is the controller of the data and this privacy statement applies. Through your registration and our application(s) we may collect your name, email address, telephone number, username and password,



vehicle information such as: make, model, color, year, license plate number, and state, and for payment processing we collect payment and credit card information. As you use these services we may also log and maintain your usage and transaction data, and we collect and process your payment information. We use these data to fulfill and improve your service, respond to your requests, and with legitimate business interest, to understand and enhance our products and services. We may use your personal information to fulfill legal obligations and protect our legal interests. With your consent, we may also use your name and contact information to market to you.

If you request services that require geolocation, such as functionality to find available parking spots near you, we will ask for your explicit consent to turn on GPS geolocation for our application during the consent process provided by your device. We only use this information to provide your requested service, and you can withdraw your consent at any time through your mobile phone location service settings.

Product Improvement and Testing Data

In an effort to improve our products and services, and help ensure accuracy of sensors and equipment, from time to time in the United States we perform camera audits of our parking meter activities for our legitimate business interests. These camera audits involve taking photos of parking spots at regular intervals to validate parking meter accuracy involving parking spot vacancy status. These photos may capture vehicles and/or people when those vehicles or people occupy a parking spot being audited. We only use this information to validate accuracy of our equipment and do not log license plate numbers outside of the photo itself.

Web Site Data

We process personal information about you that we collect either directly, through forms or data entry fields on our website that you would voluntarily fill out, through log files that show us how you use our websites and applications, or through passive collection by cookies and

other data collection technologies. We use this information to fulfil your requests, provide service, improve our business and operations, and with your consent may market to you. For our legitimate business interests pertaining to security and fraud prevention, we may also collect and use information provided through cookies and other data collection technologies.

The types of personal data we process in each of these contexts is further explained in the following categories:

- **Contact us and registration forms:** We process your name, email address, company where you work, phone number, job function, job title, country, and any comments you provide. We use this information to fulfil your request, manage your service and our relationship, and with your consent send you messages about products and services that may interest you.
- **Cookies and other data collection technologies:** We and our service providers use technologies on our sites and services to collect information that helps us improve the quality of our sites and services and the online experience of our visitors and users. In this Privacy Notice, we refer to these technologies, which include cookies—small text files stored on your computer or mobile device to remember your actions or preferences over time, such as web beacons to help deliver cookies and gather usage and performance data, Local Storage, Javascript, eTags, and similar technologies from third party providers, collectively as “cookies.” Most web browsers support cookies, and users can control the use of cookies at the individual browser level. Please note that if you choose to disable cookies, it may limit your use of certain features or functions on our sites and services.

We (and service providers on our behalf) use cookies and similar technologies to:

- Maintain or analyze the functioning of the website or online services
- Authenticate users of, or personalize the content on, the website or online service
- Protect the security of integrity of the user, website, or online service
- In the US to conduct marketing



We use browser **session cookies**, which are temporary cookies that are erased from your device's memory when you close your Internet browser or turn your computer off, and **persistent cookies**, which are stored on your device until they expire, unless you delete them before that time. In some countries, such as countries in the European Union, we provide a mechanism through which you can manage your cookie preferences - our "**Cookie Preferences**" manager. If this Cookie Preferences manager is available in your geography, you can select your preferences by clicking on the Cookie Preferences link at the bottom of the browser web page. If it is not available in your geography, you can opt out of cookies through your browser privacy settings.

Generally, our cookies fall within one of three categories:

- *Required cookies:* These cookies are necessary to enable the basic features of this site to function, such as allowing images to load or allowing you to select your cookie preferences.
- *Functional cookies:* These cookies allow us to analyze your use of the site to evaluate and improve our performance. They may also be used to provide a better customer experience on this site. For example, remembering your log-in details or providing us information about how our site is used.
- *Advertising cookies:* *Third-party advertisers and other organizations may use their own cookies to collect information about your activities on our sites and services and/or the advertisements you have clicked on. This information may be used by them to serve advertisements that they believe are most likely to be of interest to you based on content you have viewed. Third-party advertisers may also use this information to measure the effectiveness of their advertisements. We do not control these cookies and to disable or reject third-party cookies, please refer to the relevant third party's website.*



Software development kits: Our mobile applications contain software development kits (SDKs) that may collect and transmit information back to us or third-party partners about your usage of that mobile application or other applications on your device.

Flash cookies: Videos and other features on our site use Flash cookies to collect and store your preferences, such as volume. Flash cookies are different from browser cookies because of the amount of, type of, and way that data is stored. Cookie management tools provided by your browser will not remove Flash cookies. To learn how to manage privacy and storage settings for Flash cookies click [here](#). Some cookies may be placed by third party service providers who perform some of these functions for us.

Server log files: We automatically gather server log file information when you visit our web sites. This includes IP address, browser type, referring and exit web pages, and your operating system. We use this information to manage security and prevent fraud and manage and improve our web sites and applications.

Cookie Preference Manager: As described in this Privacy Notice, IPS and third parties on our digital propert(ies) may use cookies and similar tracking technologies to collect information and infer your interests for interest-based advertising purposes. If you would prefer to not receive personalized ads based on your browser or device usage, you may generally express your opt-out preference to no longer receive tailored advertisements. Please note that you will continue to see advertisements, but they will no longer be tailored to your interests.

To opt-out of interest-based advertising by participating companies in the following consumer choice mechanisms, please visit:

- Digital Advertising Alliance (DAA)'s self-regulatory opt-out page <http://optout.aboutads.info/> and mobile application-based "AppChoices" download page <https://youradchoices.com/appchoices>
- European Interactive Digital Advertising Alliance (EDAA)'s consumer opt-out page <https://youronlinechoices.eu>

In the mobile environment, most mobile operating systems offer device-based opt-out choices that are transmitted to companies providing interest-based advertising. To set an opt-out preference for a mobile device identifier (such as Apple's IDFA or Android's GAID), visit the device manufacturer's current choice instructions pages, or read more about

sending signals to limit ad tracking for your operating system here:

<https://www.networkadvertising.org/mobile-choices>.

Please note that these settings must be performed on each device (including each web browser on each device) for which you wish to opt-out, and if you clear your cookies or if you use a different browser or device, you will need to renew your opt-out preferences.

Job Application and Hiring Data

If you apply to work at IPS, we process the resume and contact information you give us and information we may gather about you (reference and previous employer responses about your history, background checks) to review your suitability for the job to which you have applied. For our legitimate interests, we may retain your resume to determine your eligibility for future or other current positions. You can ask that we delete your resume at any time.

We collect information about you and your professional experience, education and training; such as your application/CV, your name (and any former names), postal address, email address, phone number, universities attended, academic degrees obtained, grades, professional certifications and licenses, employment history, and curriculum vitae or resume to evaluate your suitability to open positions.

Prior to making an offer of employment or a contractor position, we process personal information to conduct professional reference checks in accordance with applicable laws. If we extend an offer of employment or a contractor position at IPS to you, we will process personal information about the position to which you have been appointed, your job title at IPS, the compensation or project-based contractor rate we offer to you, your signed offer acceptance, and your starting compensation or project-based contractor rate, and your start date.

After you are hired but prior to commencement of your employment with us, we may engage service providers to conduct background checks that involve the necessary personal information processing as permitted by the laws in the location in which you reside and/or work. More details are

provided to you in the context of our request to you to complete these checks.

Marketing Data

We may use, for our legitimate interests, your name, email, telephone number, job title and basic information about you and where you work (name, address, and industry), as well as an interaction profile based on prior interactions with us to keep you up to date on the latest product announcements, updates, special offers, and other information about our services and events. This can be in the form of direct marketing email/phone calls and/or newsletters. We may also provide a hashed user ID to third party operated social networks or other web offerings (such as Twitter, LinkedIn, Facebook, Instagram or Google) where this information is then matched against the social networks' data or the web offerings' own databases in order to display to you more relevant information. If you no longer wish to receive marketing-related emails from us on a going-forward basis, you may opt-out of receiving these communications by clicking the unsubscribe button located in the footer of the email.

Information Related to Our Business Dealings Together

If you work for an organization that does business with us, we may use your business contact information (name, email address, phone number, and company postal mail address) to communicate about your organization's services and business relationship, assist with returns and maintenance authorizations (RMA), respond to your customer support requests, answer your questions, and otherwise manage our relationship and business together. For our legitimate interests, we may also communicate with you about products and services we believe may interest you.

If we meet you at a trade show or other event, or if you are a participant in such an event, with your consent we may use the business contact information you provide for marketing. If you have asked us to respond to



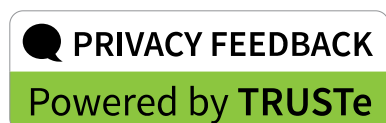
a question or request, we will use the contact information you provide to respond to your question or request.

If you visit our facilities, we may capture your image on security cameras and your contact information through our badging process for our legitimate business interests related to security.

Children

All IPS products and applications (services) are intended for adults. We do not intentionally or knowingly collect, personally-identifiable information from children under the age of 16 and we request that individuals under the age of 16 not submit any personally identifiable information to our services.

If you become aware that a child has provided us with personally identifiable information, please contact IPS at privacy@ipsgroupinc.com to allow us to remove any and all information relating to that child.



EU-U.S. Privacy Shield Program

Where We Store and Process Your Data

IPS is a global company and processes personal data in multiple locations around the world. Regardless of location, we provide a similar level of protection to personal data. For more information about the location of your data, contact us at privacy@ipsgroupinc.com. We are a participant in the EU-U.S. Privacy Shield program.

We may transfer, access, or store personal information about you outside of the European Economic Area (“EEA”), or another country that requires legal protections for international data transfer. When we do, we will ensure that an adequate level of protection is provided for the information by using one or more of the following approaches:

- Where personal information is transferred from International Parking Systems (UK) Ltd to IPS group Inc. headquarters in the USA, this transfer is subject to a contract between IPS UK and IPS Group that requires IPS Group to provide the same level of protection for the data as applies in the UK. In addition, IPS Group in the USA is fully certified as Privacy Shield compliant with the rules and requirements of that scheme.
- We may transfer personal information to countries that have privacy laws that have been recognized by the country from which the data are transferred as providing similar protections for the data.
- We may enter into written agreements with recipients that require them to provide the same level of protection for the data.
- We may rely on other transfer mechanisms approved by authorities in the country from which the data are transferred.

IPS Group, Inc. participates in and has certified its compliance with the [EU-U.S. Privacy Shield Framework](#).

IPS Group, Inc. is committed to subjecting all personal data received from European Economic Area and the United Kingdom in reliance on the Privacy Shield Framework, to the Framework's applicable Principles. To learn more about the Privacy Shield Framework, visit the U.S. Department of Commerce's [Privacy Shield List](#).

IPS Group, Inc. is responsible for the processing of personal data it receives, under the Privacy Shield Framework, and subsequently transfers to a third party acting as an agent on its behalf. IPS Group, Inc. complies with the Privacy Shield Principles for all onward transfers of personal data from the European Economic Area and the United Kingdom, including the onward transfer liability provisions.

With respect to personal data received or transferred pursuant to the Privacy Shield Framework, IPS Group, Inc. is subject to the regulatory enforcement powers of the U.S. Federal Trade Commission. In certain situations, IPS Group, Inc. may be required to disclose personal data in response to lawful requests by public authorities, including to meet national security or law enforcement requirements.



How We Retain and Share Your Information

We do not sell or rent personal information to third parties for their own purposes, and we do not share personal information with third parties that are not owned by us or under our control or direction except as described in this privacy statement. We may share your information within the IPS group of companies. We may share your information with service providers under contract to us, as required by law, to promote safety and security/prevent fraud/protect our rights, in the case of a potential merger/acquisition/divestiture/asset sale.

- **Within Our Corporate Family.** We disclose PI to affiliated companies related by common ownership or control within the IPS Group of Companies to carry out regular business activities, such as to provide, maintain and personalize our sites and services, to communicate with you, and to accomplish our legitimate business purposes, pursuant to contractual safeguards.
- **Service providers.** We share personal information with service providers that helps us with our business activities. They only are authorized to process that information as necessary and as directed by us, pursuant to written instructions. In such cases, these companies must abide by our data privacy and security requirements.
- **Required by law.** In certain situations, we may be required to disclose personal data in response to lawful requests by public authorities, including to meet national security or law enforcement requirements. We may also disclose your personal information as required by law, such as to comply with a subpoena or other legal process, when we believe in good faith that disclosure is necessary to protect our rights, protect your safety or the safety of others, investigate fraud, or respond to a government request.
- **Safety, fraud prevention, government requests and protection of our rights** are all reasons where we may share personal information where we believe in good faith it is necessary.
- **Corporate Transactions.** If IPS is involved in a merger, acquisition, dissolution, sale of all or a portion of its assets, or other fundamental corporate transaction, we reserve the right to sell or transfer your



information as part of the transaction. In such an event, you will be notified via email and/or a prominent notice on our website of any change in ownership, incompatible new uses of your personal information, and choices you may have regarding your personal information.



Security and Data Retention

We take appropriate security measures to protect personal information against loss, misuse, and unauthorized access, alteration, disclosure or destruction. We also have implemented commercially reasonable technical and organizational safeguards to maintain the ongoing confidentiality, integrity and availability of the systems and services that process personal information and will restore the availability and access to data in a timely manner in the event of a physical or technical incident. IPS Group understands the importance of good information security and data stewardship, illustrating compliance through its certification to the Payment Card Industry (PCI) Data Security Standard. IPS develops, implements and sustains a wide range of policies, processes, procedures, and technical controls to keep your data secure.

Transmissions over the Internet are never 100% secure or error-free. However, we take reasonable steps to protect your personal information from loss or misuse, and unauthorized access, disclosure, alteration, and destruction. It is your responsibility to safeguard any password and User ID you use to access the site and to notify us through helpdesk@ipsgroupinc.com if you ever suspect that this password or User ID has been compromised. You are solely responsible for any unauthorized use of the site conducted via your password and User ID.

We will retain your Personal Information for the period necessary to fulfill the purposes outlined in this Privacy Notice and according to our internal data retention policy, unless a longer retention period is required or

permitted by law. For more information about how long we retain your data and where, contact us at privacy@ipsgroupinc.com.

Your Rights

Depending on applicable laws and with some limitations, you may have rights to ask that we give you access to, correct or update if inaccurate or incomplete, or delete, provide you copies of, or ask that we limit our uses and sharing of your personal information. You can also ask to be informed which third parties have had access to your personal information and in some cases ask to opt out of that sharing. If you object to how we have used your personal information, you can contact us to resolve the issue, and you also have the right to complain to a regulator. We will never discriminate against you for requesting any of these rights. To contact us about any of these individual rights, opt out of marketing or to express a complaint, contact us through:

Online Form: [Click here to exercise your rights](#)

Postal Mail: "Data Protection and Privacy" at IPS Group Inc, 7737 Kenamar Court, San Diego, CA 92121

Phone: 877-630-6638

Please note that for personal information about you that we have obtained or received for processing on behalf of a customer of IPS which determined the means and purposes of processing, all such requests should be made to that entity directly. Any direct inquiries received will be forwarded to the respective IPS customer for response.

We will honor and support any instructions the customer provides to us with respect to your personal information.

At any time, you can ask us what personal information we process about you and with which third parties we have shared it. You can also request a correction or deletion of your personal information. Note that we may delete your personal information only if we have no statutory obligation or prevailing right to retain it. Also, if we delete data that is required to use our services, you may not be able to continue to use those services.



If we use your personal information based on your consent or to perform a contract with you, you may further request a copy of the information you have provided us. You may also ask that we forward your information to a third party on your behalf.

You can request that we limit or stop processing your personal information if you:

- Believe it is incorrect,
- There is no legal basis for us processing it, or you
- Object to us processing the data based on our legitimate interest.

If you do make one or more of these individual rights requests, we will do our best to fulfil the request in a timely manner (usually within 30 days) and in accordance to legal requirements and our internal policies.

Depending on the request, we are obligated to validate your identity before fulfilling that request.

If you believe that we are not processing your personal information in accordance with this privacy statement or your rights, contact us directly at privacy@ipsgroupinc.com to give us the opportunity to resolve the issue. You also can lodge a complaint with the data protection authority of the country in which you live or with the [data protection authority](#) of the country or state in which we have a registered seat.

Sale of Personal Information

Third Party Cookies

Third-party advertisers and other organizations may use their own cookies to collect information about your activities on our sites and services and/or the advertisements you have clicked on. This information may be used by them to serve advertisements that they believe are most likely to be of interest to you based on content you have viewed. Third-party advertisers may also use this information to measure the effectiveness of their advertisements.



These disclosures may be deemed as a 'sale' under the CCPA if such disclosure is for any valuable consideration, even if we do not receive any payment or discount. You can opt out of this sharing through third party cookies at the top of this page, or [here](#).

Other Third-Party Sharing

Do not worry - we do not otherwise sell your personal information for payment or discount. We do not and have not sold any personal information in the preceding twelve months. This fact notwithstanding, you may have the right to opt out of any sale of your personal information.

If you do not want us to sell, rent, release, disclose, disseminate, make available, transfer, or otherwise communicate orally, in writing, or by electronic or other means, your personal information to another business or a third party for monetary or other valuable consideration,

Please:

Submit a Do Not Sell My Personal Information request via the [IPS Online Form](#).

Effective Date, Amendments

This statement is effective as of June 11th, 2021. We reserve the right to change this statement from time to time and in our sole discretion. We reserve the right to change, modify, add or remove portions of this statement at any time, but updated if we propose to make any material changes, we will notify you by direct communication and, or highlighting the changes on our website prior to the change becoming effective. When you visit the site, you are accepting the current version of this statement as posted on the site at that time. We recommend that users revisit this statement on occasion to learn of any changes.

Questions or Complaints

In compliance with the Privacy Shield Principles, IPS commits to resolve complaints about our collection or use of your personal information. Individuals with inquiries or complaints regarding our Privacy Shield Policy

and practices should first contact us by sending an email to privacy@ipsgroupinc.com.

If you have an unresolved privacy or data use concern that we have not addressed satisfactorily, please contact our U.S.-based third party dispute resolution provider (free of charge) at <https://feedback-form.truste.com/watchdog/request>.

Binding Arbitration Under certain conditions, more fully described on the [Privacy Shield website](#), you may be entitled to invoke binding arbitration when other dispute resolution procedures have been exhausted.

If personal information about you is transferred by IPS Group Inc. the EEA to the U.S. pursuant to Privacy Shield, and you have an unresolved concern regarding personal information processing about you that we have not addressed to your satisfaction, please contact the EU authorities at http://ec.europa.eu/justice/article-29/structure/data-protection-authorities/index_en.html.

Contact

Please feel free to contact us with any comments, questions, complaints or suggestions you might have regarding the information practices described in this statement.

You may contact us electronically at privacy@ipsgroupinc.com.

You may contact us in writing by sending letters addressed to “Data Protection and Privacy” at:

IPS Group Inc, 7737 Kenamar Court, San Diego, CA 92121.

Updated June 11th, 2021.



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We are HONK MOBILE INC. (“**HonkMobile**”, “**we**” or “**us**” or “**our**”). The following is our Privacy Policy (“**Privacy Policy**”).

This Privacy Policy explains how we collect, use, disclose and safeguard the personal information that you or a third party provide. Providing information or authorizing a third party to disclose personal information to us signifies your consent to our collection, use and disclosure of your personal information in accordance with this Privacy Policy.

1. For the purposes of this Privacy Policy, “**personal information**” means information that can identify an individual directly or through other reasonably available means, including without limitation, name, image (which may be in photos or videos), postal or zip code, motor vehicle information, parking history and credit card information. We will use and disclose your personal information in order to provide our products and services (**collectively, the “Services”**), send you information about the Services and products and services offered by third parties, as well as to make advertising available to you both via our Services and elsewhere.

2. Consent to Terms of Privacy Policy

By providing personal information to us, you are consenting to the collection, use and disclosure of same pursuant to the terms of this Privacy Policy.

The choice to provide us with personal information is always yours. Upon request, we will explain your options of refusing or withdrawing consent to the collection, use and release of your information, and we will record and respect your written choices. However, your decision to withhold particular details may limit the services we are able to offer. **For example, if you do not allow us to collect your credit card information, name and birthdate, we may not be able to offer mobile payment processing.**

3. Electronic Communication

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Privacy Officer of HonkMobile at privacy@honkmobile.com. Any questions or concerns with respect to communications from HonkMobile may be addressed to Privacy Officer at privacy@honkmobile.com.

We comply with Canada's Anti-Spam Law, and so we ask each of our users to execute a consent by clicking "I agree" that confirms that we have our user's consent to send commercial electronic messages.

4. Our Privacy Principles

4.1 Identifying Purposes and Obtaining Your Consent

We identify the purposes for collecting your personal information at or before the time it is collected. We will not collect, use or disclose your personal information without your consent, unless required to perform the Services or permitted to do so by law.

At HonkMobile, we collect, use and disclose personal information about you as defined in paragraph 1 of this Privacy Policy. Should we require your information to fulfill a purpose that is not identified in this Privacy Policy, we will obtain your consent before proceeding.

We do not share personal information with companies, organizations and individuals outside of HonkMobile unless we have your consent. We will collect, use and/or disclose your information for the following reasons:

1. For external processing. We may provide personal information to our affiliates or other trusted businesses or persons to process it for us, based on our instructions and in compliance with this Privacy Policy and any other appropriate confidentiality and security measures. Your personal information may be stored and processed in Canada, the United States or another jurisdiction and may be subject to the laws of that country or jurisdiction. You expressly consent to such storage and processing.

2. Service-Related Purposes.

1. internal record keeping;
2. to provide you with Services by processing and fulfilling and/or refund your order;

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5. to administer and operate our contests, promotions and programs;
6. to improve our Services and to periodically send you promotional emails about new products, special offers or other information which we think you may find interesting using the email address which you have provided.

3. **For legal reasons.** We will share personal information with companies, organizations or individuals if we have a good-faith belief that access, use, preservation or disclosure of the information is reasonably necessary to:

1. meet any applicable law, regulation, legal process or enforceable governmental request.
2. enforce applicable terms of service, including investigation of potential violations.
3. detect, prevent, or otherwise address fraud, security or technical issues.
4. protect against harm to the rights, property or safety of HonkMobile, our users or the public as required or permitted by law.

5. Limiting the Collection, Use and Disclosure of Your Personal Information

5.1 The Information We Collect

We collect personal information by fair and lawful means and limit collection to that information which is necessary for the purposes identified in this Privacy Policy and as otherwise required by law. The type of personal information that we may ask for includes:

1. Your name;
2. Mobile telephone number, email address and postal or zip code;
3. Motor vehicle information, including license plate number(s);
4. Credit card or other payment information;
5. Information we obtain from your use of the Services. This information may include:

1. **Device information.** We may collect device-specific information (such as your hardware model, operating system version, unique device identifiers, and mobile network information including phone number).

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2. Internet protocol address.
3. device event information such as crashes, system activity, hardware settings, browser type, browser language, the date and time of your request and referral URL.
4. cookies that may uniquely identify your browser or your account.

3. **Location information.** When you use the Services, we may collect and process information about your actual location, like GPS signals sent by a mobile device. We may also use various technologies to determine location, such as sensor data from your device that may, for example, provide information on nearby Wi-Fi access points and cell towers.

4. **Unique application numbers.** This number and information about your installation (for example, the operating system type and application version number) may be sent to HonkMobile when you install or uninstall that service or when that service periodically contacts our servers, such as for automatic updates.

5. **Local storage.** We may collect and store information (including personal information) locally on your device using mechanisms such as browser web storage (including HTML 5) and application data caches.

6. **Cookies and anonymous identifiers.** We use various technologies to collect and store information, and this may include sending one or more cookies or anonymous identifiers to your device.

6. Any other information that we reasonably believe is necessary to allow us to provide the Services.

The choice to provide us with your personal information is always yours. However, your decision to withhold particular information may limit our ability to provide you with the Services.

On occasion, you will be asked to update your consent to ensure that our files remain accurate and in order to comply with our legal obligations. You are encouraged to advise HonkMobile of any changes to your personal information that may be relevant to the services provided to you.

5.2 How Your Information is Collected

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where a third party has inappropriately accessed your personal information to us, please contact that third party directly. If the third party does not sufficiently respond to your inquiries, please let us know immediately.

Web cookies are very small text files that are stored on your computer from our Services to keep track of information about your browsing history on our Services. Through the use of web cookies, we may monitor the ads you see and the number of times you view them. The use of cookies also allows us to capture standard web traffic information, such as the time and date you visited our Services, your IP address, and your browser information. In no circumstances do the cookies capture any information that can personally identify you.

5.3 Disclosure to Third Parties

Information you provide may be shared with the merchants or third party service providers with which HonkMobile has entered into a business relationship in order to provide the Services. In addition, HonkMobile may sell, disclose or otherwise use personal information to third parties on an aggregated basis.

We may also disclose your personal information to third parties if required or permitted by law.

We may be legally required to disclose personal information pursuant to government requests, government audits, criminal investigations or government tax reporting requirements. In some instances, such as a legal proceeding or court order, we may also be required to disclose your personal information to authorities. We take precautions to satisfy ourselves that the authorities that are making the disclosure request have legitimate grounds to do so.

Your personal information may be disclosed in situations where we are legally permitted to do so, such as in the course of employing reasonable and legal methods to enforce your or our rights or to investigate suspicion of unlawful activities. We may release certain personal information when we believe that such release is reasonably necessary to protect the rights, property and safety of ourselves and others.

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accurate, complete and up-to-date as necessary. If desired, you may verify the accuracy and completeness of your personal information in our records.

Despite our best efforts, errors sometimes do occur. Should you identify any incorrect or out-of-date information in your file, we will remedy any such errors on a timely basis. In the event that inaccurate information is mistakenly sent to a third party, we will communicate relevant changes to the third party where appropriate.

5.5 Data Retention

Your personal information will be deleted if you have not used the Services for thirty-six (36) consecutive months or upon such time as you notify HonkMobile, in writing, that you no longer wish to use the Services.

6. Protecting Your Personal Information

We endeavour to safeguard your information through the employment of reasonable physical, technological, and administrative security measures. However, as you know, no method is 100% secure. Our security practices are reviewed on a regular basis and we strive to use measures that we reasonably believe will keep your personal information safe.

7. Addressing Your Inquiries and Concerns

We are happy to provide you with a copy of this Privacy Policy and to discuss any of its content with you. Upon request, we will also inform you of: the type of personal information we have collected; how your personal information has been used; and any third parties to whom your personal information has been disclosed.

Please direct all questions or enquiries about this Privacy Policy to HonkMobile's Privacy Officer at: privacy@honkmobile.com.

8. Erasure

You have the right to obtain from us the erasure of your Personal Data.

At any time, you may delete your Account and uninstall the App. Deleting your account can be accessed in your account settings page.

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delete some of your Personal Data to the extent that it is still required for discharging our legal obligations. We may also retain, use, and share your Anonymized Data that we previously collected prior to your deletion of your Account.

9. Updating this Privacy Policy

Any changes to our privacy standards and information handling practices will be reflected in this Privacy Policy in a timely manner. HonkMobile reserves the right to change, modify, add, or remove portions of this Privacy Policy at any time. Please check our Services periodically for any modifications. To determine when this Privacy Policy was last updated, please refer to the modification date at the bottom of this Privacy Policy.

10. Services Governed by this Privacy Policy

Our Services are governed by the provisions and practices stated in this Privacy Policy. Our Services may contain links to third party sites that are not governed by this Privacy Policy. Although we endeavour to only link to sites that share our commitment to your privacy, please be aware that this Privacy Policy will no longer apply once you leave our Services and that we are not responsible for the privacy practices of third party sites. We therefore suggest that you closely examine the respective privacy policies of third party websites to learn how they collect, use and disclose your personal information.

11. Governing Law

This Privacy Policy and all related matters are governed solely by the laws of the Province of Ontario and the applicable Federal laws of Canada.

12. Personal Information Outside of Canada

HonkMobile may perform activities outside of Canada through third parties. You acknowledge and agree that, as a result, your personal information may be processed, used, stored or accessed in other countries and may be subject to the laws of those countries. For example, information may be disclosed in response to valid demands or requests from government authorities, courts, or law enforcement in other countries.

Appendix C

Providers' User Terms and Conditions

APPENDIX C

TERMS OF USE

In this Web Site Terms of Use (“TOU”), we, IPS Group Inc. set forth the terms by which you may use our site including www.ipsgroupinc.com and other web sites that we operate and on which we post a direct link to this statement (collectively the “Site”). By using the Site, you are agreeing to this TOU. If you do not agree to this TOU, you may not and should not use the Site.

- 1. Copyright Notice and Use of the Site.** The contents of the Site are protected by the copyright and other laws of the United States, its treaty countries and other jurisdictions. Except as may otherwise be provided in a written Agreement you have with IPS Group Inc, you may not modify, copy, reproduce, republish, upload, post, transmit, transfer, or distribute in any way any of the contents of this site. You may download content from this site solely for your personal, non-commercial use (except as may otherwise be provided in a written agreement you have with IPS), provided you keep intact all copyright and other proprietary notices. Any copies of the content must include IPS’s copyright notice: © Copyright 2005-2017 IPS Group Inc. All rights reserved.
- 2. Links.** This website may contain links to third party web sites which are controlled and operated by third parties. Your use of each third party web site is subject to the terms of use and other guidelines, if any, contained within the relevant web site. You agree to review and accept such terms of use prior to using such third party web sites. IPS makes no representations whatsoever about any third party web site which you may access through the website. When you access a third party web site, you agree that it is independent from IPS, and that IPS has no control over any content on that web site. In addition, a link to a third party web site does not mean that IPS accepts any responsibility for the content, or the use, of such web

site. It is up to you to take precautions to ensure that whatever you select for your use is free of such items as viruses, worms, trojans and other items of a destructive nature.

3. Additional Terms for Forums, Blogs, and Other Social Media. Our Site may provide one or more forums, blogs, or other interactive or social media features (“Forums”) for visitors to our Site to exchange information with each other and with IPS about IPS’s products and services (the “Purpose”). If you use the Forums, in addition to any other terms we may require when you register to use the Forums or otherwise posted at or on the Forums, you agree to the following:

1. Restrictions. You agree not to use the Forums for any reason other than the Purpose. The material on the Forums is protected by international copyright and trademark laws. Except as permitted through a “Share” function which we may provide on the Forums (or with our express written permission), you may not modify, copy, reproduce, republish, upload, post, transmit, or distribute in any way any material from the Forums including any code or software we may provide.

2. Postings Not Necessarily the Opinion of IPS. Some of the individuals posting to Forums may work for IPS; however, opinions expressed here and in any corresponding comments are the personal opinions of the original authors, and do not necessarily reflect the views of IPS.

3. Postings. Although we may attempt to keep objectionable messages off the Site, it is impossible for us to review all messages. All messages express the views of the author, and IPS will not be held responsible for any message or associated content. If you post any messages, uploading files, inputting data, or engage in any other form of communication through the Forums (a “Posting”), you represent and warrant the following: (a) you own all right, title, and interest in and to the Posting, or you have been granted sufficient rights in and to the Posting allowing you to post such Posting, (b) you will not post any messages or other materials that are obscene, vulgar, sexually-orientated, hateful, threatening, or otherwise violate any laws, (c) you must not breach obligations of confidentiality that you owe to another party either in posting or using a Posting, (d) any Postings you make to the Site do not infringe any third party copyright, trade

marks, any other intellectual property rights or any applicable law and (e) you will indemnify us and our affiliates, partners, licensors, service providers, content providers, and their and our directors, officers, employees and agents against all claims, losses, liabilities, costs, damages and expenses incurred by us or them due to any breach by you of this TOU or your use of the Forums. For the purposes of this section, references to “your use” of the Forums shall be deemed to include any use by a third party where such third party accesses the Forums using your computer. You take full responsibility for any and all messages and associated content you post to the Forums or exchange through the Forums. When using the Forums and viewing Postings, you need to be aware of the following issues:

1. The Forums may include contributions from various sources over which IPS has no control (including any content submitted by third party users).
2. IPS does not pre-screen or exercise editorial control over Postings, and takes no responsibility for such Postings.
3. IPS reserves the right to edit or remove Postings at any time and in its sole discretion, including those that are in breach of this TOU or in breach of any obligation of confidentiality you owe IPS infringe or are alleged to infringe the intellectual property rights of any third party, or are defamatory, or otherwise are not relevant to the Forums and IPS will not be liable in relation to the removal of, or failure to remove, any Postings.
4. **Messages to Registered Users.** Our Forums may allow you to send messages directly to other Forum users who have made their contact information available for receiving such messages. You agree to only send messages to other Forum users for the purpose of exchanging information about the Purpose and any other use of the ability to send messages to other Forum users is strictly prohibited. Moreover, you shall not use the contact information made available through the Forum for any of the following: (1) to send unsolicited commercial email (i.e., spam) or any other type of unsolicited commercial message, or (2) to send any message that is vulgar, sexually-orientated, hateful, threatening, or otherwise violates any laws.
5. **License.** By adding a Posting to the Forum, you are granting IPS a royalty-free, perpetual, non-exclusive, unrestricted, worldwide license

to: (a) post, use, copy, sublicense, adapt, transmit, publicly perform or display any such Posting, (b) use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform, play, host, communicate, make available and publish your Posting without restriction and (c) sublicense to third parties the unrestricted right to exercise any of the foregoing rights granted with respect to the Posting. The foregoing grants shall include the right to exploit any ideas, concepts, intellectual property, or proprietary rights in such Posting, including but not limited to rights under copyright, trademark, servicemark or patent laws under any relevant jurisdiction without IPS owing any monies to you whatsoever.

6. IPS Employees. If you are a IPS employee, you must also follow the IPS Social Media Policy in your Postings.

7. Posting Guidelines. Our Forums may contain additional rules or posting guidelines. In such case, you agree to conform your Postings to any such additional rules or posting guidelines.

4. Privacy. In order to operate and provide the Site, we collect certain information about you. Our practices with respect to the information we collect is described in our privacy policy which is available at <https://www.ipsgroupinc.com/privacy/> (“Privacy Policy”). By agreeing to this TOU you are agreeing to our Privacy Policy. Information, including but not limited to personal information, collected through the Site may be stored and processed in the United States or any other country in which IPS or its affiliates, subsidiaries or agents maintain facilities. By using the service, you consent to any such transfer of information outside of your country.

5. Disclaimer. The materials on the Site and on the Forums are provided “as is” and without warranties of any kind either express or implied. Commentary and other materials posted on the Site and Forums are not intended to amount to advice on which reliance should be placed and we therefore disclaim all liability and responsibility arising from any such reliance. To the fullest extent permissible pursuant to applicable law, IPS disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, title and non-infringement and any other conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity. IPS does not warrant that the Site or functions contained in

the materials will be uninterrupted or error-free, that defects will be corrected, or that the Site, or the server that makes it available, are free of viruses or other harmful components. IPS does not warrant or make any representations regarding the use or the results of the use of the materials on the Site in terms of correctness, accuracy, timeliness, reliability, or otherwise. You (and not IPS or its licensors) assume the entire cost of all necessary maintenance, repair, or correction.

6. Limitation of liability. Under no circumstances, including, but not limited to, negligence, shall IPS, its subsidiaries and parent companies and affiliates be liable for any direct, indirect, incidental, special or consequential damages that arise or result from or are related to the use of, or the inability to use, the Site or any of the Postings made available on or through the Site. Under no circumstances shall IPS's aggregate liability exceed \$5.00. You specifically acknowledge and agree that IPS, its subsidiaries and parent companies and affiliates are not liable for any defamatory, offensive or illegal conduct of any user of the Site or any posting to the Site. If you are dissatisfied with the Site or any materials made available by or through the Site, or with this TOU, your sole and exclusive remedy is to discontinue using the Site.

7. Notices of copyright infringement. Notifications of claimed copyright infringement should be sent to IPS's Designated Agent in writing at the following address:

IPS Group Inc

Attn. Corporate Legal, Copyright Agent

7737 Kenamar Court

San Diego, CA 92121

Telephone Number of Designated Agent: (858) 634-2083

Facsimile Number of Designated Agent: (858) 404-0603

Email Address of Designated Agent: legal@ipsgroupinc.com

To be effective, the Notification must include the following:

- A physical or electronic signature of the owner whose exclusive right is allegedly infringed or a person authorized to act on his or her behalf;
- Identification of the copyrighted work claimed to have been infringed, or if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or is the subject of infringing activity and that is to be removed or access to

which is to be disabled, and information reasonably sufficient to permit IPS to locate the material on the Site;

- Information reasonably sufficient to permit IPS to contact the copyright owner or his/her authorized agent including an address, telephone number, and if available, an electronic mail address;
- A statement that the copyright owner or authorized agent has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- A statement that the information in the notification is accurate, and if submitted by the owner's authorized agent a statement under penalty of perjury, that the agent is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. Within a commercially reasonable time after receipt of the written Notification containing the information as outlined in 1 through 6 above IPS shall remove or disable access to the material that is alleged to be infringing and forward the written notification to the alleged infringer and take reasonable steps to promptly notify the alleged infringer that IPS has removed or disabled access to the allegedly infringing material. Counter Notification: To be effective, a Counter Notification must be a written communication provided to IPS's Designated Agent at the above provided address that includes substantially the following:
 - A physical or electronic signature of the alleged infringer;
 - Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
 - A statement under penalty of perjury that the alleged infringer has a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled;
 - The alleged infringer's name, address, and telephone number, and a statement that the alleged infringer consents to the jurisdiction of Federal District Court for San Diego County, California, or if the Subscriber's address is outside of the United States, for any judicial district in which IPS may be found, and that the alleged infringer will accept service of process from the person who provided notification or an agent of such person.

After receipt of a Counter Notification containing the information as outlined in 1 through 4 above, IPS shall provide the Complaining Party with a copy of the Counter Notification within a commercially reasonable time and inform the copyright owner or designated agent that IPS will replace the removed material or cease disabling access to it within ten (10) business days. If IPS's designated agent has not received notice from the copyright owner or his/her designated agent within ten (10) business days that an action has been filed seeking a court order to restrain the alleged infringer from engaging in infringing activity in relation to the allegedly infringing material, IPS shall restore the allegedly infringing material.

EXPORT RESTRICTIONS.

ANY SOFTWARE OR OTHER MATERIALS WE MAKE AVAILABLE ON THE SITE ARE SUBJECT TO UNITED STATES EXPORT LAWS AND REGULATIONS. YOU MUST COMPLY WITH ALL DOMESTIC AND INTERNATIONAL EXPORT LAWS AND REGULATIONS THAT APPLY TO THE SOFTWARE OR OTHER MATERIALS YOU OBTAIN FROM OUR SITE. THESE LAWS INCLUDE RESTRICTIONS ON DESTINATIONS, END USERS AND END USE.

Export Compliance Assurances.

You acknowledge that all products, proprietary data, know-how, software or other data or information (herein referred to as "Products") obtained from IPS or any direct Product thereof are subject to the United States (U.S.) government export control laws accordingly their use, export and re-export, may be restricted or prohibited. You and your affiliates agree to obtain prior to export an authorization from the applicable U.S. government agency (either in writing or as provided by applicable regulation). These U.S. government restrictions are implemented principally through the Export Administration Regulations ("EAR", 15 C.F.R. §§ 730 et seq., available at <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>) administered by Department of Commerce, Bureau of Industry and Security and the Foreign Asset Control Regulations administered by the Department of Treasury, Office of Foreign Assets

Control (“OFAC”, 30 C.F.R. Part 500 et. Seq. available at <https://www.treasury.gov/resource-center/sanctions/CivPen/Pages/civpen-index2.aspx>. You, therefore, agree that neither you nor your subsidiaries or affiliates will directly or indirectly export, re-export, transfer, or release, or cause to be exported or re-exported (herein referred to as “export”), any such Products or any direct Product thereof to any destination or entity prohibited or restricted under U.S. law including but not limited to U.S. government embargoed or sanctioned countries or entities, or nationals unless you shall obtain prior to export an authorization from the applicable U.S. government agency (either in writing or as provided by applicable regulation). You further agree that no Products received from IPS will be directly or indirectly employed in missile technology, sensitive nuclear, or chemical biological weapons end uses or in any manner transferred to any party for any such end use. This requirement shall survive any termination or expiration of this Agreement.

Trademarks.

IPS Group Logo and Next Revolution in Parking is a trademark of IPS Group Inc. Certain other product names, brand names and company names mentioned in this site may be trademarks of their respective owners.

Modification & Termination.

This TOU is effective until modified or terminated by IPS. IPS may modify this TOU from time to time and the new TOU will be effective when posted. IPS may also terminate this TOU at any time without notice to you. In the event of termination, you are no longer authorized to access the Site and the restrictions imposed on you with respect to material downloaded from the Site, the disclaimers and limitations of liabilities, and export restrictions set forth in this agreement, shall survive.

General.

This TOU shall be governed by and construed in accordance with the laws of the State of California without giving effect to any principles or

conflicts of law. If any provision of this TOU shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this agreement and shall not affect the validity and enforceability of any remaining provisions.

Effective:

September 30, 2015

MADE IN THE USA.
TRUSTED EVERYWHERE.



ABOUT US

- Careers
 - PCI Certification & Compliance
 - Patents
 - Privacy Policy
 - Terms of Use
- RESOURCES

- Blog
- Contact Us
- Customer Login
- Customer Support
- Events

HEADQUARTERS

PRODUCTS

- Contactless Technology
- Multi-Space Pay Stations
- Single-Space Meters
- Enforcement Management
- Permit Management



Terms

Updated Dec 20, 2020

Acceptance of the Terms of Use

These terms of use are entered into by and between You and LFE, Inc. ("**Company**," "**we**," or "**us**"). The following terms and conditions (collectively, "**Terms of Use**") govern your access to and use of the Honk mobile application (the "**App**"), whether as a guest or a registered user.

Please read the Terms of Use carefully before you start to use the App. **By using the App or by clicking to accept or agree to the Terms of Use when this option is made available to you, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at honk.me/privacy, incorporated herein by reference.** If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the App.

This App is offered and available to users who are 13 years of age or older. By using this App, you represent and warrant that you meet all of the App's eligibility requirements. If you do not meet all of these requirements, you must not access or use the App.

Changes to the Terms of Use

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the App thereafter.

Your continued use of the App following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

Account Security

If you choose a user name, password, or any other piece of information as part of our security procedures, you must treat that information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this App or portions of it using your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security.

We have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

Intellectual Property Rights

The App and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by the Company and are protected by United States and international intellectual property or proprietary rights laws.

Prohibited Uses

You may use the App only for lawful purposes and in accordance with these Terms of Use. You agree not to use the App:

- In any way that violates any applicable federal, state, local, or international law or regulation.
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.

- To send, knowingly receive, upload, download, use, or re-use any material that does not comply with the Content Standards set out in these Terms of Use.
- To transmit, or procure the sending of, any advertising or promotional material, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user, or any other person or entity (including, without limitation, by using email addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the App, or which, as determined by us, may harm the Company or users of the App, or expose them to liability.

Additionally, you agree not to:

- Use the App in any manner that could disable, overburden, damage, or impair the App or interfere with any other party's use of the App, including their ability to engage in real time activities through the App.
- Use any robot, spider, or other automatic device, process, or means to access the App for any purpose, including monitoring or copying any of the material on the App.
- Use any manual process to monitor or copy any of the material on the App, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the App.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the App, the server on which the App is stored, or any server, computer, or database connected to the App.
- Attack the App via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the App.

User Contributions

The App contains interactive features ("**Interactive Services**") that allow users to post, submit, publish, display, or transmit to other users or other persons (hereinafter, "**post**")

content or materials (collectively, "**User Contributions**") on or through the App.

All User Contributions must comply with the Content Standards set out in these Terms of Use.

Any User Contribution you post while using the App will be considered non-confidential and non-proprietary.

You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and you, not the Company, have full responsibility for such content, including its legality, reliability, accuracy, and appropriateness.

We are not responsible or liable to any third party for the content or accuracy of any User Contributions posted by you or any other user of the App.

Monitoring and Enforcement; Termination

We have the right to:

- Remove or refuse to post any User Contributions for any or no reason in our sole discretion.
- Take any action with respect to any User Contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such User Contribution violates the Terms of Use, including the Content Standards, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the App or the public, or could create liability for the Company.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the App.
- Terminate or suspend your access to all or part of the App for any or no reason, including without limitation, any violation of these Terms of Use.

We will:

- Investigate reports submitted to us of objectionable content or user within 24 hours of receipt; and
- Remove the user who has been reported to us if we decide (at our sole discretion) that the user has breached the Terms of Use.

Without limiting the foregoing, we have the right to cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the App. YOU WAIVE AND HOLD HARMLESS THE COMPANY AND ITS AFFILIATES, LICENSEES, AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING, OR TAKEN AS A CONSEQUENCE OF, INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

However, we cannot review all material before it is posted on the App, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications, or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

Content Standards

These content standards apply to any and all User Contributions and use of Interactive Services. User Contributions must in their entirety comply with all applicable federal, state, local, and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable.
- Infringe any patent, trademark, trade secret, copyright, or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use and our Privacy Policy.
- Promote any illegal activity, or advocate, promote, or assist any unlawful act.
- Impersonate any person, or misrepresent your identity or affiliation with any person or organization.

- Give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

Copyright Infringement

If you believe that any User Contributions violate your copyright, please see our Copyright Policy below for instructions on sending us a notice of copyright infringement. It is the policy of the Company to terminate the user accounts of repeat infringers.

Changes to the App

We may update the content on this App from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the App may be out of date at any given time, and we are under no obligation to update such material.

Disclaimer of Warranties

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the App will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our App for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE APP OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE APP OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY APP LINKED TO IT.

YOUR USE OF THE APP, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE APP IS AT YOUR OWN RISK. THE APP, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE APP ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT

TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE APP. WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY NOR ANYONE ASSOCIATED WITH THE COMPANY REPRESENTS OR WARRANTS THAT THE APP, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE APP WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR APP OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE APP OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE APP WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Limitation on Liability

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COMPANY, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE APP, ANY APPS LINKED TO IT, ANY CONTENT ON THE APP OR SUCH OTHER APPS, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

The limitation of liability set out above does not apply to liability resulting from our gross negligence or willful misconduct.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Indemnification

You agree to defend, indemnify, and hold harmless the Company, its affiliates, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the App, including, but not limited to, your User Contributions, any use of the App's content, services, and products other than as expressly authorized in these Terms of Use, or your use of any information obtained from the App.

Governing Law and Jurisdiction

All matters relating to the App and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

Any legal suit, action, or proceeding arising out of, or related to, these Terms of Use or the App shall be instituted exclusively in the federal courts of the United States or the courts of the State of California, in each case located in the City of San Francisco, although we retain the right to bring any suit, action, or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

Limitation on Time to File Claims

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE APP MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

Waiver and Severability

No waiver by the Company of any term or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

Entire Agreement

The Terms of Use and our Privacy Policy constitute the sole and entire agreement between you and LFE, Inc. regarding the App and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the App.

Your Comments and Concerns

This App is operated by LFE, Inc. 1150 Foothill Blvd # D, La Cañada Flintridge, CA 91011.

All notices of copyright infringement claims should be sent to the copyright agent designated in our Copyright Policy in the manner and by the means set out therein.

All other feedback, comments, requests for technical support, and other communications relating to the App should be directed to: legal@honk.me

Copyright Policy

Reporting Claims of Copyright Infringement

We take claims of copyright infringement seriously. We will respond to notices of alleged copyright infringement that comply with applicable law. If you believe any

materials accessible on or from this App infringe your copyright, you may request removal of those materials (or access to them) from the App by submitting written notification to our copyright agent designated below. In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) ("**DMCA**"), the written notice (the "**DMCA Notice**") must include substantially the following:

- Your physical or electronic signature.
- Identification of the copyrighted work you believe to have been infringed or, if the claim involves multiple works on the App, a representative list of such works.
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow us to locate that material.
- Adequate information by which we can contact you (including your name, postal address, telephone number, and, if available, email address).
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the written notice is accurate.
- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.

Please be aware that if you knowingly materially misrepresent that material or activity on the App is infringing your copyright, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

Please send notifications of copyright infringement to LFE, Inc., Attn: Copyright Agent, 1150 Foothill Blvd # D, La Cañada Flintridge, CA 91011, legal@honk.me

Changer de langue

Français

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Terms and Conditions

PayByPhone offers Services which allow you to pay for parking in cities around the world. The following terms and conditions govern your Account and use of Services with PayByPhone.

Your contract and Account may be with PayByPhone Technologies Inc. or one of its subsidiaries. The applicable contract party depends on the country from which you open your Account and in which you conduct your Parking Sessions. The contract party is listed below for each of the countries in which the PayByPhone service is available:

Canada	PayByPhone Technologies Inc.
United States	PayByPhone US Inc.
United Kingdom	PayByPhone Limited
France, Monaco, Netherlands, Belgium	PayByPhone SAS
Germany	sunhill technologies GmbH
Switzerland	PayByPhone Suisse AG
Italy	PayByPhone Italia S.r.l.

Collectively, all of these entities are referred to here as “PayByPhone”.

If you use the Service in a country other than the one from which you opened your Account, you will also have a contract, with respect to your Parking Sessions in that country only, with the PayByPhone entity listed above for that country.

At some United States locations, the Service is offered by PayByPhone Technologies Inc. and Parking Sessions at those locations will be subject to your contract with that party.

At some Switzerland locations, the Service is offered by PayByPhone SAS and Parking Sessions at those locations will be subject to your contract with that party.

These Terms and Conditions explain our mutual rights and obligations with regards to the Services. Please read these terms and conditions carefully and keep a copy for future reference.

By creating your Account, accessing, browsing, viewing or otherwise using your Account or the Services, you agree to be legally bound by these Terms and Conditions, the [Privacy Policy](#), the [Cookies Policy](#), the [Legal Notice](#), as well as applicable laws and regulations.

If you do not agree with these Terms and Conditions or the Privacy Policy, please refrain from creating an Account or using the Services.

If you have any questions about the information below, please contact your Customer Support Center listed at the end of this page.

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1. Terms and conditions for PayByPhone's services

These Terms and Conditions govern your use of the Services (including the App and your Account) and are applicable to your use of the App and Services for every Transaction.

This is not an agreement between you and any Transaction Entity or Facilities Operator, this is an agreement between you and PayByPhone, even if you access certain parts of the Services through a third-party website or app.

Our Services are not intended for people under 16. If you become aware that a child is using our Services, please contact the relevant Data Protection Officer listed in Section 15 of the [Privacy Policy](#), and we will take steps to remove and terminate the account as necessary.

In this agreement, the following terms have the meanings indicated below:

- **Account** - The PayByPhone parking service account opened by you in the App, on the Site or by calling our Customer Support Centers.

- **ANPR** – The automatic number plate recognition feature which (1) identifies an opted-in vehicle, prior to payment, as authorized to park at the participating parking facilities and allows access to the parking facilities without having to perform any action normally required to remove a barrier to entry and (2) automatically records the time of entry and exit from the participating parking facility, calculates the length of stay and the cost of the Parking Session for the purposes of initiating payment.
- **App** - The PayByPhone mobile parking payment application and other applications that we may develop.
- **Autopass** – The service from PayByPhone that you opt your vehicle or vehicles in using the App, the Site or our Customer Support Center which allows you to automatically pay for parking at participating parking facility operators that support ANPR.
- **Facilities Operator** - The operator of a parking facility offering the option to pay for parking with the PayByPhone service.
- **Intellectual Property** - Marks, inventions, techniques, methods, works of authorship, know-how, publicity rights, trade secrets, proprietary rights, and all other intellectual property rights related thereto.
- **Payment Information** - Information of any type necessary to process payments by credit cards, debit cards, digital wallets, in-app and web purchases and any other payment method accepted by PayByPhone now or in the future in connection with any Transaction.
- **Parking Penalties** - Parking fines, violation notices, tickets, citations, or penalties; your vehicle being wheel booted, your car being towed, or impounded; and other enforcement of vehicle parking requirements, Forfait Post-Stationnement.
- **Parking Session** - The parking service you obtain from a Facilities Operator within the Transaction. Details of a parking session can include location, license plate, start parking session time, end parking session time and are usually linked to a payment.
- **Services** - All services offered by PayByPhone, including those that allow you to pay for a Parking Session at participating parking clients, including Autopass, pursuant to the terms and conditions of this agreement, such as using our App, Sites, Application Programming Interfaces, backend technologies, products, services, content, features, functions, applications, IVR System, PayByPhone Portal, PayByPhone Business Portal, and any future updates, changes or additions thereto.
- **Site** - All PayByPhone operated websites including <https://www.paybyphone.com>, <https://www.paybyphone.fr>, <https://www.paybyphone.co.uk>, <https://www.paybyphone.ch>, <https://paybyphone-parken.de/en> and <https://www.pbp.it/>, as well as any successors to such sites.
- **Terms and Conditions** - These Terms and Conditions which are accepted and agreed to by you when you open an Account or use the Services, and which govern your use of the App and Services.
- **Transactions** - Any time you start, pay for, complete, or make a Parking Session transaction using our App or Services.
- **Transaction Entity** - The various payment processing companies that help process your Transactions.

2. Account information

You can open your Account by downloading and installing the App; on the Site; or by contacting the appropriate Customer Support Center. You may change your Account profile at any time, but you agree to provide us with your valid registration information, including your contact details. You may not impersonate others or misrepresent your identity to us.

You are responsible for ensuring that your Account information is accurate and current at all times. You further agree to comply with all state or local restrictions that may be applicable to your registration with us. Your Account will be valid until you or PayByPhone cancel it in accordance with these Terms and Conditions, for example, if your Account contains any untruthful information.

You are solely responsible for use of your Account and you agree to notify us immediately in the event of any unauthorized use.

3. License and access to services

Solely for use in connection with the Services, PayByPhone grants you a limited, nontransferable, nonexclusive, revocable license to access the Services and make personal use of the Site and Service. This license does not include any resale or commercial use of PayByPhone's Service; any collection and use of any information, descriptions, or prices; any derivative use of the Site or its contents; any downloading or copying of account information for the benefit of others; or any use of data mining, robots, or similar data gathering and extraction tools. All materials and information related to PayByPhone may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose without the express written consent of PayByPhone. Any unauthorized use terminates the permission or license granted by PayByPhone.

You acknowledge and agree that the license to use the Services is conditioned on the following restrictions:

- You shall not share with or assign, copy (except as expressly set forth herein), sublicense, transfer, lease, rent, sell, distribute, or otherwise provide to any third party (i) your license; (ii) the App; (iii) any use of the Services; or (iv) your rights under these Terms and Conditions.
- You shall not (i) modify, adapt, translate, copy, duplicate, disassemble, decompile, reverse assemble, reverse compile, or reverse engineer, or take similar action with respect to the App or Services or any component thereof for any purpose, or (ii) attempt to discover the underlying source code or algorithms of the App or Services (unless enforcement of this restriction is prohibited by applicable law and then, only to the extent specifically permitted by applicable law, and then only upon providing us with reasonable advance written notice and opportunity to respond).
- You shall not engage in competitive analysis, benchmarking, use, evaluation or viewing of the Services or create any derivatives based upon the App or Services.
- You shall not permit any party, whether acting directly or on your behalf, to breach or violate any of these restrictions.
- You shall not breach any of these Terms and Conditions.

4. Using your account

Purpose

You can use the Account to pay for parking at any parking facility that offers the option to pay with the PayByPhone service and, if the option is available in your region, pay for parking permits and Parking Penalties. You can access your Transactions and review your recent account history on our Site, the App or by calling a Customer Support Center.

Use of Account, Password, and your Cell Phone

When you open an Account, you will be asked to enter a confidential password to securely access your Account. You will also provide us with the number of the phone you will use to access the Account. The Account and password are for your use and protection. You agree:

- Not to disclose the password and not to record it on your phone or otherwise make it available to anyone else.
- To use the Account, the password, and your phone as instructed.
- To promptly notify us of any loss, unauthorized use, or theft of your Account or password.
- To be liable for any transactions made by a person you authorize or permit to use your Account and/or password. If you permit someone else to use the Account, we and the Facilities Operator will treat this as if you have authorized this person to use the Account and you will be responsible for any transactions initiated by such person with the Account.

5. Pricing, payment and refunds

Pricing

You agree that the fees and service charges included in the Transaction are confirmed before you start parking apply to the Account and may be charged to the Account. You authorize us to initiate any such charges to the Account.

You are subject to any applicable terms, conditions, restrictions, and other requirements of any payment provider related to any Payment Method and we have no liability for any transaction fees, insufficient fund charges, or any other fee or charge that is assessed by a payment provider in connection with your use of such payment provider for Transactions.

You understand that parking rates vary as a result of parameters set by the Transaction Entity and Facilities Operator, such as parking location, time of day, day of the week, special events, and that these variances are beyond our control and may not be reflected in the App or Services in a timely manner. We pass all parking fees and charges through to you and we are not responsible for any parking rate variances, parking rate changes or for any differences between the parking rates reflected in the App or Service and the parking rates assessed by the Transaction Entity or Facilities Operator at the time of the Parking Session. You are solely responsible for Parking Penalties and for determining the parking rates applicable to your Parking Session before commencing a Transaction.

You are also solely responsible for all fees or charges you incur in connection with your use of your mobile device to access the App or Services, including but not limited to, data usage, texting, data overages, per-minute charges, roaming, and other telecom or access charges and you acknowledge that such fees or charges may apply and that you are solely responsible for such charges and fees.

A chargeback fee (\$15.00, €15.00 or a similar amount in another currency) may be assessed if an attempt to charge your Account is rejected for insufficient funds available on your selected Payment Method, for cancellation of your Payment Method or otherwise.

Payment

You agree to pay the parking fee together with all other fees, charges, or assessments related to Transactions. Payments shall be in the currency of the country where the parking facility is located and will be made to PayByPhone or the Facilities Operator, depending on the location of the parking facility. The amount of the Transaction includes the price specified by the Facilities Operator on the date of service (as posted at the parking facility or configured in the PayByPhone rates system), the service charge for the PayByPhone service, and any taxes that apply and will be charged to the Payment Method selected for the Account.

Refunds

We will make every attempt to deliver a high level of service at all times. If you think there has been a billing or accounting error, please contact the appropriate Customer Support Center listed at the end of this page. If the payment to which the error relates was made to the Facilities Operator, we will connect you to the Facilities Operator. If you are entitled to a refund for any reason for services obtained with the Account, you agree to accept credits to the Payment Method selected on the Account in place of cash. PayByPhone and the Facilities Operators will not provide cash refunds.

If you have any questions about a refund or other similar issue, please contact the appropriate Customer Support Center.

6. Verification of transactions

Details of your Transactions will be available in real time on your online statement in your Account, the App or on our Site. You agree that we may provide you periodic statements and any other notices related to our Services electronically via your Account, the App or our Site. Statements provided electronically will describe each Transaction during the statement period. Your statement will be available to you in electronic format for viewing and printing online on our App and Site. You may review your recent Transaction history in your Account at any time, currently set at one year's worth of Transactions.

7. Failure to complete transactions

You understand that using the Services does not guarantee you a parking space and you only activate the Services after you have found an available and valid parking space.

You understand that you are solely responsible for ensuring that you have properly started the Parking Session for the appropriate parking location before you leave your vehicle unattended.

You acknowledge and agree that you are solely responsible for correctly entering the relevant information in relation to your parking Transactions, including (i) parking location number for the relevant parking space, (ii) license plate number of the vehicle you are parking, and (iii) information about the Payment Method for the Transaction.

As part of the Services, PayByPhone may send you reminders, alerts, or critical notifications via push notification, text message or email. You acknowledge and agree that the reception of any such message is not 100% guaranteed and that you are responsible for the timely activation or deactivation of a Parking Session where permitted. You acknowledge that you may not receive these notifications due to the operation, coverage, and services of your mobile network provider and/or Internet service provider or for other reasons and agree that you remain responsible for timely activating, extending or deactivating a Parking Session. PayByPhone shall have no liability for any damages and costs you incur from not receiving notifications on time or at all.

We and the Facilities Operators accept no liability to complete any transaction which cannot be cleared by our payment processors, whether because there are insufficient funds available on your Payment Method or otherwise.

Neither we nor any of the Facilities Operators will be liable to you for any failure to accept or honor the Account.

8. PayByPhone is a mobility parking payment solution company

PayByPhone provides a service to enable your payment for parking at certain facilities. PayByPhone does not own, operate or maintain parking facilities and is NOT RESPONSIBLE FOR ANY SUCH FACILITIES OR EVENTS THAT OCCUR AT SUCH FACILITIES. Parking facilities are operated by companies or governmental bodies with which PayByPhone has contractual relationships, but PayByPhone is not responsible for actions taken by such companies.

You are responsible for complying with all advertised parking restrictions, including physical signs prohibiting parking in a certain area, which shall take precedence over any information that you receive from PayByPhone. PayByPhone will not be responsible for any incorrect or conflicting parking restrictions advertised on signage.

9. Permits and Autopass

We provide some consumers with the opportunity to purchase permits from Facilities Operators and partners (“Permit Issuers”). A permit serves as the official confirmation of your purchase of an item offered for sale by Permit Issuers.

Permit Issuers, not PayByPhone, determine the price and availability of those permits. The Permit Issuers have policies that sometimes prohibit us from issuing permits or performing exchanges or refunds after the purchase of a permit has been made. You understand that if you purchase a permit through PayByPhone, you are nevertheless subject to the rules, policies, and terms of the relevant Permit Issuer.

We provide some consumers with the optional Autopass service, which is available in some countries and provides an ability to automatically pay for parking at the participating parking facilities. You understand that the use of the Autopass service remains subject to the rules, policies, and terms of the relevant Facilities Operator.

10. Disclaimer of service level guarantees

Note that the Services are only available in selected locations and may not be available at all times at all locations. While we will endeavor to provide the best possible service, there are limitations to cellular and payment technologies which may cause interruptions in service. Please note that WE PROVIDE NO SERVICE LEVEL GUARANTEES WHATSOEVER concerning the Service.

Unless the law provides otherwise, you waive and release us from any obligations that could arise due to defenses, rights and claims you have or may have against any third party on account of the use of the Account.

11. Warranties, indemnifications and limits of liability

Disclaimer about Warranties

You understand that the Services are provided on “as is” and “as available” basis. PayByPhone makes no representations or warranties of any kind, express or implied, as to the operation of this Service or the information, content, materials, or products included on our App or Site. You expressly agree that your use of this Site and our Service is at your sole risk.

You also understand and agree that any data, content, or information downloaded or otherwise obtained through your use of the App, Site or Services, including viruses, are obtained at your own discretion and risk and that you will be solely responsible for any damage to your computer system or loss of data that may result from such download.

The “near me” locations service is provided to users as a reference only. Users should always check PayByPhone and Facilities Operator signage for actual location number prior to finalizing a Transaction. PayByPhone accepts no responsibility for Parking Sessions booked using an incorrect location number.

PayByPhone does not own, control or operate parking facilities and does not warrant anything with respect to such facilities. PayByPhone will not be liable for any damages of any kind arising from or related to any parking facility or its operation, including, but not limited to direct, indirect, incidental, punitive, and consequential damages arising from damage to your vehicle, loss of your vehicle, or loss of articles left in your vehicle or for any personal injury in any circumstances.

PayByPhone is also not responsible for any Parking Penalties you incur or receive, even if the Services were used in connection with a Transaction. You are solely responsible for resolving with the relevant authorities and Facilities Operators any issues that you may have regarding Parking Penalties. We do not enforce any parking restrictions and have no ability to control the actions of third parties who enforce parking restrictions or assess parking penalties.

Indemnification

You agree to indemnify, hold harmless and defend PayByPhone with respect to any claim, demand, cause of action, debt, liability, damages, costs or expenses, including reasonable attorney's fees and expenses of PayByPhone's selected attorneys, arising from any third party claim against PayByPhone relating to (i) your violation of law; (ii) your infringement of any Intellectual Property or similar proprietary rights of any person or entity; (iii) any noncompliance with or violation of your License; (iv) your improper or illegal use of the App or Services; (v) any act or omission or willful misconduct of yours; (vi) any breach of any of your representations, warranties, or covenants made herein; and (vii) any failure by you to comply with these Terms and Conditions.

Limitation of Liability

By using the App or Services, you hereby release, remise and forever discharge and give up any and all claims which you may have against PayByPhone, which now or hereafter arise from, relate to or are connected with the use of the App, Site or Services or any third party's use of the App, Site or Service. You further waive, release and give up any and all claims and defenses arising from or relating to any act, event or omission. This includes, without limitation, any claim which could be asserted now or in the future under (i) common or civil law; (ii) any PayByPhone policies, practices, or procedures; and/or (iii) any federal, state, provincial, and/or local statutes or regulations.

To the fullest extent permitted by applicable law, PayByPhone disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose. PayByPhone does not warrant that our App, Site, its servers, or e-mail, SMS sent from PayByPhone are free of viruses or other harmful components. PayByPhone will not be liable for any damages of any kind arising from the use of our Service, including, but not limited to direct, indirect, incidental, punitive, and consequential damages.

Certain laws do not allow limitations on implied warranties or the exclusion or limitation of certain damages. If these laws apply to you, some or all of the above disclaimers, exclusions, or limitations may not apply to you, and you may have additional rights.

12. Loss, theft or unauthorized use

You are responsible for all authorized uses of your Account. Applicable law may protect you from liability for unauthorized purchases. You understand that your Account is not a credit account and is not protected by laws covering credit accounts.

Tell us AT ONCE if you believe that your Account has been used by an unauthorized person. Telephoning us is the best way to KEEP YOUR POSSIBLE LOSSES DOWN. **If you believe that your phone has been stolen, or that someone has transferred or improperly charged the Account without your permission, contact the appropriate Customer Support Center listed at the end of this page. If you fail to notify us promptly and you are grossly negligent or fraudulent in the handling of the Account, you could incur additional charges.**

If your phone or Payment Method has been reported lost, stolen or otherwise tampered with, we may close the Account to keep your and our losses down.

13. Notice containing information about your right to dispute errors

In case of errors or questions about Transactions on your Account, contact the appropriate Customer Support Center listed at the end of these Terms and Conditions as soon as possible, including if you think the statement or receipt is wrong or if you need more information about a Transaction listed on the statement or receipt. Under most circumstances, we will connect you to the Facilities Operator whose charges resulted in the error or whose Transaction resulted in questions. Disputes involving Facilities Operators will be resolved pursuant to their procedures.

Where the disputed payment was charged by us (rather than a Facilities Operator), you must contact us no later than 30 days after the transaction in question has been made available to you on the online statement.

The following information must be contained in that notice:

- Your name, username and phone number or email address used for the Account.
- Description of the error or the transaction you are unsure about and an explanation as clearly as possible of why you believe it is an error or why you need more information.
- The amount in local currency of the suspected error.

If you tell us verbally, we may require that you send us your complaint or question in writing within 10 business days. Generally, we will tell you the results of our investigation within 10 business days after we hear from you and will promptly correct any error. If we need more time, however, we may take up to 45 calendar days to investigate your complaint or question.

If we decide there was no error, we will send you a written explanation within three business days after we finish our investigation. You may ask for copies of documents that we used in our investigation.

14. Dispute resolution and confidential arbitration

Any dispute relating in any way to the services offered by PayByPhone not resolved in accordance with the preceding Section 13 shall be submitted to confidential arbitration in Vancouver, British Columbia, except that, to the extent you have in any manner violated or threatened to violate PayByPhone's intellectual property rights, PayByPhone may seek injunctive

or other appropriate relief in any Provincial or Federal court in the Province of British Columbia, and you consent to exclusive jurisdiction and venue in such courts. Arbitration under this agreement shall be conducted under the rules then prevailing of the Canadian Arbitration Association conducted by a single arbitrator. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under this Agreement shall be joined to an arbitration involving any other party subject to this Agreement, whether through class arbitration proceedings or otherwise.

15. Disclosure of account information to third parties

From time to time, subject to any applicable privacy laws or other laws or regulations, we may provide information about you and the Account, notably:

- To our affiliates and to parking and payment companies with whom we have relationships.
- In response to any subpoena, summons, court or administrative order, or other legal process which we believe requires our compliance.
- In connection with collection of indebtedness or to report losses incurred by us.
- In compliance with any agreement between us and a professional, regulatory or disciplinary body.
- In connection with potential commercial transactions or reorganizations.
- To carefully selected service providers and merchant partners who help us meet your needs by providing or offering our services.
- Or as otherwise provided for in the present Terms and Conditions and [Privacy Policy](#).

For more on how your information is used, please read our [Privacy Policy](#).

16. Credit or information inquiries

You authorize us to make such credit, employment and investigative inquiries, as we deem appropriate, in connection with the issuance and use of the Account. We can furnish information concerning the Account or credit file to consumer reporting agencies and others who may properly receive that information.

17. Business days

Our business days are all days except Saturdays, Sundays, and statutory holidays.

18. Use of cell phones while driving can be dangerous

Please note that operating a cell phone or any other device while driving can be dangerous and we advise you not to use our Service while operating a vehicle. You agree to indemnify and hold PayByPhone harmless from any or all liability whatsoever for any harm, loss or injury related to use of this Service or the Account while operating any kind of vehicle.

19. Cancellation of your account

You may choose to cancel this agreement by closing your Account on our Site or App, by by contacting the appropriate Customer Support Centre listed at the end of these Terms and Conditions. The termination of this agreement will not affect any of our rights or your obligations arising under this agreement prior to termination and, in accordance with the [Privacy Policy](#), your Account will remain our property at all times.

We may cancel or limit your right to use your Account at any time in the event of the following:

- Reports of unauthorized or unusual credit card use associated with your Account including, but not limited to, notice by the card issuing bank.
- Reports of unauthorized or unusual parking use associated with your Account.
- Abuse by you of the chargeback process provided by your issuing bank.
- Excessive levels of disputes or chargebacks.
- Breach of any term of these Terms and Conditions.
- Where the cardholder name on the payment card associated with the Account does not match the name on the Account unless your Account is linked to a business payment method.
- We are unable to verify or authenticate any information that you provide.
- We believe that activity on your Account poses a significant credit or fraud risk to us.

Our ability to suspend, limit or close your Account does not limit or exclude other remedies we may have if you are otherwise in breach of this Agreement.

20. Applicable law

By opening the Account, you agree that the laws of the jurisdiction in which the PayByPhone with whom you have a contract and Account is domiciled excluding the application of any conflict of laws principles and/or rules. In the case of PayByPhone Technologies Inc. the relevant jurisdiction is the Province of British Columbia, Canada (subject to the provisions of the Consumer Protection Act applicable to residents of Quebec), in the case of PayByPhone US Inc. – the State of Delaware, United States, in the case of PayByPhone Limited – United Kingdom, in the case of PayByPhone SAS – France, in the case of PayByPhone Suisse AG – Switzerland, in the case of PayByPhone Italia S.r.l. – Italy, and in the case of sunhill technologies GmbH – Germany. Notwithstanding the above, you agree that it shall be nevertheless permissible for PayByPhone to apply for equitable relief in any jurisdiction. You also agree to comply with all local laws, rules and regulations, including but not limited to those applicable to online conduct and acceptable Internet content.

21. Intellectual property

All Intellectual Property in the App, the Site and Services is the sole property of PayByPhone and our affiliates or other representatives (as applicable) together with any goodwill, derivatives, new versions, enhancements, updates, changes, etc. of our Intellectual Property, even if wholly or partially based upon your ideas, comments, suggestion, questions, requests, and the like.

Other than as expressly set forth herein, PayByPhone does not grant to you any express or implied ownership or other rights to any Intellectual Property and all such rights are retained by PayByPhone. You are liable for any and all damages of every kind resulting from any infringement by you of our Intellectual Property rights.

Any communications, including, without limitation, e-mails, pictures, audio clips, videos, graphics and/or other material sent directly, or by carbon copy or otherwise from you to PayByPhone or any of our officers, managers, employees, representatives, attorneys, or agents and any postings to the Sites shall become PayByPhone's property upon the transmission of the same. You grant the perpetual and irrevocable right to us to both publicly or non-publicly utilize the same, including the identifying information contained therein, in any manner whatsoever, at no charge.

PayByPhone and other marks indicated on our App and Site are registered trademarks of PayByPhone Limited or our affiliates in Canada, the United States, and other countries. Other PayByPhone graphics, logos, page headers, button icons, scripts, and service names are trademarks or trade dress of PayByPhone Technologies Inc. or our affiliates. PayByPhone's trademarks and trade dress may not be used in connection with any product or service that is not PayByPhone's, in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits PayByPhone. All other trademarks not owned by PayByPhone or our affiliates that appear on our Site are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by PayByPhone or our affiliates.

22. Miscellaneous

You may not assign, transfer, or sublicense this agreement without PayByPhone's express written consent. We may transfer our rights under this agreement at any time.

Use of the Account is subject to all applicable rules and customs of any payment processor, clearinghouse, or other association involved in Transactions.

We do not give up our rights by delaying or failing to exercise them at any time.

If any term of this agreement is found by a court to be illegal or not enforceable, all other terms will still be in effect.

If we take legal action against you because of your breach of the terms of this agreement, you must pay reasonable attorney's fees and other costs of the proceedings. Your responsibility for fees and costs shall in no event exceed the maximum allowed by law.

When you download the App from your device, you may be subject to licenses and/or terms of use established by that mobile device, original equipment manufacturer (OEM), or vehicle manufacturer for your general use of that device and applications downloaded from it. These Terms and Conditions are in addition to the terms of those of the mobile device, OEM, or vehicle manufacturer, as the case may be.

You acknowledge and agree that these Terms, the [Privacy Policy](#), the [Legal Notice](#), and the [Cookies Policy](#), and, if applicable to you, any stored credential agreements and additional terms governing optional Services, constitute the entire agreement of the parties hereto relating to the subject matter hereof, and any prior agreements, understandings, representations and commitments concerning such subject matter, whether oral or written, are hereby superseded and terminated in their entirety and are of no further force or effect.

Some pages on our Sites include links to third party websites. These third party sites are governed by their own privacy statements, and we are not responsible for their operations, including but not limited to their information practices. You should review the privacy statement of those third party sites before providing them with any personally identifiable information.

We may at any time change or repeal these Terms and Conditions, the [Privacy Policy](#), [Legal Notice](#), [Cookies Policy](#) or any portion of the Services at any time. You will be notified of any change in the manner provided by applicable law prior to the effective date of the change, including either by email or by posting such update on our Sites or App. All such amendments, updates, modifications, replacements, versions, or revisions are effective immediately upon posting on our Site or App. You specifically agree to accept such notice of change by email sent to the last electronic mail address you have provided to us. However, if the change is made for security purposes, we can implement such change without prior notice. Should you decide that you no longer agree to accept changes or notices electronically, we may cancel or suspend this agreement, or any features or services of the Account described herein at any time. All references in these Terms and Conditions to the Privacy Policy, the Legal Notice, and any other Services matters are references to the same as they are amended, updated, modified, replaced, or revised.

If at any time you would like to contact us with your views about our privacy practices, or with any enquiry relating to your personal information, you can do so by contacting the relevant Data Protection Officer listed in Section 15 of the [Privacy Policy](#).

23. Customer Support Centers

The contact information for our Customer Support Centers is listed below. You can also visit our Customer Support page for any questions, concerns, and inquiries you may have at: https://support.paybyphone.com/hc/en-us/requests/new?ticket_form_id=399967

Location	Contact	Address
USA and Canada	support@paybyphone.com	Suite 403 1168 Hamilton Street Vancouver, BC V6B 2S2 Canada
UK	uksupport@paybyphone.com	Bishops Court 17A The Broadway Old Hatfield AL9 5HZ
The Netherlands	support-nl@paybyphone.com	Saturnus 1, 3824 ME Amersfoort Nederland
France, Monaco, and Switzerland	support@paybyphone.fr	62bis Avenue André Morizet 92100 Boulogne-Billancourt
Belgium	support@paybyphone.be	Saturnus 1, 3824 ME

		Amersfoort Nederland
Germany	+49 9131 – 625 99 25 https://paybyphone-parken.de/support	

PayByPhone is owned by Volkswagen Finance Overseas B.V.

Effective Date: 2022-01-01

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PayByPhone is owned by Volkswagen Financial Services AG

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- [Community Blog](#)
- [Contact us](#)
- [Leadership Team](#)

TERMS AND CONDITIONS

Last Updated: December 10, 2021

IMPORTANT NOTICE: THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION AND CLASS ACTION WAIVER. IT AFFECTS YOUR LEGAL RIGHTS AS DETAILED IN THE ARBITRATION AND CLASS ACTION WAIVER SECTION BELOW. PLEASE READ CAREFULLY.

These Terms and Conditions (“Terms”) set forth a legally binding agreement between you and Passport Labs, Inc. and its corporate affiliates, subsidiaries, and divisions as may change from time to time (collectively, “Passport,” “we,” “us,” and “our”). These Terms govern your access to and use of our websites, mobile applications (the “Apps” or each individually an “App”), and any other online services in which these Terms are displayed (collectively, the “Services”). Your access to and use of the Services are conditioned on your acceptance of and compliance with these Terms. By accessing or using the Services you, your heirs, assigns, and successors (collectively, “you” or “your”) are indicating that you have read, understand, and agree to be bound by these Terms. If you do not agree to these Terms, then you must stop accessing or using the Services. If you are using the Services on behalf of a Partner (as defined below), that separate agreement shall control in the event of any conflict with these Terms; all other non-conflicting provisions in these Terms shall apply to your use of the Services.

The Services provided by Passport include transportation management services. Passport works with transit agencies, local governments and interlocal agencies or partnerships, tolling agencies, colleges, universities, hospital systems, and other public and private operators (each a “Partner” and collectively “Partners”) to facilitate transportation management, such as parking and toll payment.

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18. [General](#)
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1 – Modifications

We may revise these Terms from time to time to reflect changes to the Services, our users' needs, the needs of our Partners, our business priorities, or changes in laws and regulations. The most current version will always be on this page. If the revision, in Passport's sole discretion, is material under applicable law, we will notify you via posting to our website or by other means in accordance with applicable legal requirements. Except as set forth in the "Arbitration and Class Action Waiver" Section below, or as otherwise provided by law, by continuing to access or use the Services after those revisions become effective, you agree to be bound by the revised Terms. The Terms were most recently updated on the last updated date listed at the top of this page.

2 – Additional Terms and Policies

Please review Passport's Privacy Policy, available at <https://www.passportinc.com/privacy-policy/> and incorporated herein by reference (the "Privacy Policy"), for information and notices concerning Passport's collection, use, and disclosure of information collected through the Services. As set forth in the Privacy Policy, you acknowledge, consent, and agree that Passport may access, preserve, and disclose your information if we believe that it is (1) reasonably necessary to comply with any applicable law, regulation, subpoena, legal process or enforceable governmental request; (2) necessary to enforce the provisions of the Privacy Policy; (3) required to enforce our Terms, including investigation of potential violations; or (4) necessary to investigate or protect against actual or threatened harm to the rights, property, or safety of Passport, our users, or the public as required or permitted by law.

Passport offers various products, each of which may be governed by other terms as listed below in the "Product-Specific Terms" Section and displayed in the product. If there is a direct conflict

between these Terms and the terms displayed in another product offered by Passport, the latter takes precedence with respect to your use of that product.

3 – Eligibility and Scope

You may use the Services only if you can form a binding contract with Passport, and only in compliance with these Terms and all applicable local, state, national, and international laws, rules, and regulations. Without limiting the foregoing, the Services are only available to those who are at least 18 years old. If you're agreeing to these Terms on behalf of an organization or entity, you represent and warrant that you are authorized to agree to these Terms on that organization or entity's behalf and bind them to these Terms (in which case, the references to "you" and "your" in these Terms except for in this sentence, refer to that organization or entity).

If Passport has previously prohibited you from accessing or using the Services, you are not permitted to access or use the Services except as may subsequently be permitted in Passport's sole discretion.

4 – Account Registration

You may be required to register for a password-protected account ("Account") to use parts of the Services. You must provide accurate, current, and complete information during registration and at all other times when you use the Services, and update information to keep it accurate, current, and complete. Among other things, you may be required to add vehicles to your Account. By adding a vehicle, you represent and warrant that you are authorized to add such a vehicle to your Account, that all vehicles are registered and insured per applicable law, and that all drivers of such vehicle are properly licensed to operate such vehicle. We reserve the right to prohibit certain vehicles from being added to an Account. We may request additional information from you to authenticate your Account.

You are solely responsible for safeguarding your Account credentials and authentication measures, including your password or personal identification number ("PIN"). We encourage you to use a strong Account password or PIN. You are solely responsible for all activity that occurs on your Account, and we may assume that any activity under your Account has been initiated by you. You must notify Passport immediately of any breach of security or unauthorized use of your Account. Passport will not be liable, and you may be liable for losses, damages, liability, expenses, and lawyers' fees incurred by Passport or a third party arising from someone else using your Account

due to your conduct regardless of whether you have notified us of such unauthorized use. You understand and agree that we may require you to provide information that may be used to confirm your identity and help ensure the security of your Account.

5 – Rules and Prohibitions

The following requirements apply to your use of the Services:

- You will not use any feature of the Services, including chat features, for any purpose that is unlawful, tortious, abusive, intrusive on another’s privacy, harassing, libelous, defamatory, embarrassing, obscene, threatening, or hateful.
- You will not use the Services for any commercial purpose not expressly approved by Passport in writing.
- You will not upload or otherwise transmit any material that contains viruses or any other computer code, files, or programs which might interrupt, limit, or interfere with the functionality of any computer software or hardware or telecommunications equipment.
- You will not rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Services or any features or functionality of the Services, to any third party for any reason.
- You will not remove, delete, alter, or obscure any trademarks or any copyright, patent or other intellectual property or proprietary rights notices from the Services, including any copy thereof.
- You will not use the Services in a way that violates any law or promotes any illegal activities, including, but not limited to the submission of inappropriate or unlawful content to or through the Services.
- You will not obtain or attempt to obtain unauthorized access to the Services or to Passport’s servers, systems, network, or data; scrape, access in violation of these Terms, monitor, index, frame, link, copy, or search (or attempt to do so) the Services by any means (automated or non-automated) other than through currently available, published interfaces that are provided by Passport (and only pursuant to these Terms) (crawling the Services is permissible in accordance with these Terms, but scraping the Services without the prior written consent of Passport is expressly prohibited).
- You will not use another person’s Account, impersonate any person or entity; or forge or manipulate headers or identifiers to disguise the origin of any content transmitted through the Services.
- You will not violate any rights of any third party, including trade secrets, privacy, or publicity rights.
- You will not undertake any activity or engage in any conduct that is inconsistent with the business or purpose of the Services or that would be intentionally deceitful or fraudulent.
- You will not probe, scan, or test the vulnerability of any system or network or breach or circumvent any security or authentication measures we may use to prevent or restrict access to the Services or use of the Services or the content therein.
- You will not attempt to indirectly undertake any of the prohibitions herein.

6 – Passport’s License to You

Subject to your compliance with these Terms, Passport grants you a limited, non-exclusive, non-assignable, non-sublicensable, revocable, license to use the Services as it is provided to you by Passport. Except where Passport has explicitly agreed otherwise, the license granted herein is solely for your personal, noncommercial use. The license extends only in connection with your access to and participation in the Services and only in a manner that complies with all legal requirements that apply to you or your use of the Services.

Passport may revoke this license at any time, in its sole discretion. Upon revocation, you may not access or use the Services, and you must delete all copies of our App or other software from your devices. Neither title nor any intellectual property rights are transferred to you, but rather remain with Passport or its licensors, who own full and complete title, and Passport and respective licensors reserve all rights not expressly granted to you. You will not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast, or otherwise exploit the Services, except as expressly permitted in these Terms.

Passport further reserves the right to modify, suspend, or terminate the Services at any time in its sole discretion.

7 – Account Suspension or Termination

We may, in our discretion, with or without cause, with or without prior notice and at any time, decide to limit, block, suspend, deactivate, or cancel your Account in whole or in part. We may also temporarily or permanently prohibit you or any other user from adding a particular vehicle to an account. Without limiting the foregoing, we may terminate your Account if we suspect fraud, such as if you engage in excessive use of chargebacks on your payment method. If we exercise our discretion under these Terms to do so, any or all of the following can occur with or without prior notice or explanation to you: (a) your Account will be deactivated or suspended, your password or PIN will be disabled, and/or you will not be able to access the Services or receive assistance from Passport support teams; and (b) if appropriate in our sole discretion, we may communicate to third parties that your Account has been terminated, blocked, suspended, deactivated, or cancelled, and why this action has been taken. You may cancel your use of the Services and/or terminate your Account at any time by emailing support@passportinc.com. Please note that if your Account is cancelled, we do not have an obligation to delete or return to you any Account records or activity, unless otherwise required, and to the extent required, under applicable law.

8 – Proprietary Rights and Feedback

All right, title, and interest in and to the Services are and will remain the exclusive property of Passport and its licensors. All materials therein, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, music, and all intellectual property rights related thereto, are the exclusive property of Passport and its licensors. The Services are protected by copyright, trademark, and other laws of both the United States and foreign countries. You acknowledge that the Services have been developed, compiled, prepared, revised, selected, and arranged by Passport and others through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort, and money and constitute valuable intellectual property of Passport and such others. Except as explicitly provided herein, nothing in these Terms gives you a right to use the Passport name or any of the Passport trademarks, logos, domain names and other distinctive brand features. Any other trademarks, service marks, logos, trade names and any other proprietary designations are the trademarks or registered trademarks of their respective owners.

Any feedback, comments, questions, or suggestions (collectively, “Feedback”) you may provide regarding the Services is entirely voluntary, and we will be free to use such feedback, comments or suggestions without any obligation to you. By sending us any Feedback, which may include via “app store” channels, such as the Apple App Store and Google Play Store, you further (i) agree that we are under no obligation of confidentiality, express or implied, with respect to the Feedback; (ii) acknowledge that we may have something similar to the Feedback already under consideration or in development; (iii) grant us an irrevocable, non-exclusive, royalty-free, perpetual, worldwide license to use, modify, prepare derivative works, publish, distribute, and sublicense the Feedback; and (iv) irrevocably waive, and cause to be waived, against Passport any claims and assertions of any moral rights contained in such Feedback. These provisions regarding Feedback shall survive any termination of your Account or the Services.

9 – Payments

Our Services may require payments from you, such as when you use the Services to pay for parking, tolls, or transportation fares, or where we offer you the ability to pay citations or purchase permits through the Services. The payment required shall be displayed to you through the Services. You understand that only certain forms of payment may be accepted, and these acceptable forms of payment are subject to change at any time. You may provide us with a method of payment, and by doing so, you represent and warrant that you are authorized to use that method of payment.

You are responsible for all activity in your Account, including payment transactions. When a payment transaction is initiated in your Account, you authorize us to process the applicable fees by charging any payment method you provide us or deducting the fees from any funds you have stored with us (see Section 10 below on Passport Wallet). You may also be given the option to prioritize the order in which your payment methods are charged. If you do not have a valid form of payment transaction, you will not have access to all Services. We also reserve the right to suspend or terminate your Account if your payment method is declined or if we suspect any fraud on your Account. If you have stored payment information with us, you agree to keep such payment information accurate, current, and complete. We are not responsible if your access to the Services is limited based on inaccurate payment information.

We use a third-party payment provider for processing payment transactions. The third-party payment provider may impose insufficient funds, charges or other fees. We are not responsible for your interactions with third-party payment providers or for any charges or fees they may impose. When you use any of the Services that require payment, a temporary pre-authorization hold may be placed on your designated payment method to verify that the card is valid and has funds available for your intended purchase. The amount of this pre-authorization hold may be greater or less than the order total for your transaction. Your payment will be captured up to 24 hours after your order is completed or cancelled. In the event that the pre-authorization is greater than the final amount, the difference will be released after your order is completed or cancelled; depending on your bank, it may take up to 5 Business Days to receive access to these released funds. If your payment details change, your card provider may provide us with updated card details. We may use these new details in order to help prevent any interruption to your use of the Services. If you would like to use a different payment method or if there is a change in payment method, please visit your account settings to update your billing information.

10 – Passport Wallet

a. How it Works

We may offer you an option to store funds with us for use in our Services (“Passport Wallet”). Passport Wallet may be offered on an auto-reloading basis. If you register for an auto-reloading Passport Wallet (“Auto-Reload Wallet”), you acknowledge and agree that when the available funds in your Passport Wallet equal or drop below a designated balance (“Designated Reload Balance”), we may automatically add funds to your Passport Wallet (“Preset Wallet Reload Amount”) by charging the payment method you have provided us. We will send you an email confirming each

Auto-Reload Wallet transaction or otherwise make your transaction history available within the Services. The automatic charges will stop when: (a) your Account terminates; (b) you or Passport cancel the Auto-Reload Wallet feature (provided, however, that canceling the Auto-Reload Wallet may make use of the Services impractical or impossible); or (c) these Terms are otherwise properly terminated as expressly permitted herein.

Depending on the types of Services you use, you may be able to change the Designated Reload Balance or Preset Wallet Reload Amount or cancel the Auto-Reload Wallet feature by accessing the settings in your Account. Note that changes may take up to 24 hours to take effect. Please be advised that we may be required by our Partners to impose a minimum and/or maximum amount of the Designated Reload Balance or Preset Wallet Reload Amount, and we may designate different minimum/maximum amounts depending on your payment history and payment method, our contractual obligations with our Partners, or for any other reason in our sole discretion. For example, we may require that you maintain at least \$20 in your Passport Wallet. We may also designate required denominations of the Designated Reload Balance. If you do not agree, you may not use the Auto-Reload Wallet feature. We will notify you if the Designated Reload Balance or Preset Wallet Reload Amount you previously designated is no longer accepted. You will not receive interest or other earning on the funds in your Passport Wallet.

You authorize us and/or our third-party payment providers to store your payment method for the purpose of the Auto-Reload Wallet feature, where applicable, and you authorize us (without notice to you, unless required by law), to charge fees against that payment method to replenish funds in your Passport Wallet. For example, fees may be charged when your Passport Wallet falls below a certain threshold, as designated when you register for the Auto-Reload Wallet. Please be advised that some services may require your participation in the Auto-Reload Wallet feature.

If we are unable to complete your Auto-Reload Wallet charge with the payment method you previously selected, you authorize us to add funds to your Passport Wallet by charging another payment method associated with your account, where available. If the funds in your Passport Wallet equal or drop below the Designated Reload Balance and we are unable to complete the Auto-Reload Wallet charge, we may disable your Passport Wallet and/or otherwise limit your use of the Services. Additionally, if you have a negative balance in your Passport Wallet (i.e., you owe money), and your Preset Wallet Reload Amount does not suffice to bring your Passport Wallet out of a negative balance, we reserve the right to adjust the Preset Wallet Reload Amount to recover funds you owe or to charge the Preset Wallet Reload Amount twice or more as necessary to cure the negative balance.

If you maintain a Passport Wallet, you may also have access to promotional codes or other benefits such as a discounted parking session. We may also offer promotions that effectively provide a discount to you when you load funds into your Passport Wallet. Additional terms and fees may apply as indicated within the Services.

If you dispute any of the payments made through our Services, we may direct you to the applicable Partner if such Partner is responsible for front-line support. In that case, please be advised that we provide only a platform for connecting you to our Partners who provide transportation-related services.

b. Lost Access Credentials and Unauthorized Activity

You agree to notify us immediately at (704) 837-8066 or support@passportinc.com if you believe the access credentials used to access your Account (“Access Credentials”) have been compromised, or if you believe that a transfer has been made without your permission using information about your Account. Calling us is the best way of keeping your possible losses down. You could lose all the money in your Account. If you fail to notify us within 2 Business Days, you may face greater losses. “Business Days” means Monday through Friday, not including any legal holidays.

You agree to notify us immediately at (704) 837-8066 or support@passportinc.com if your Account shows transfers you did not authorize. Notifications must include the information identified below to be effective. Without limiting your duty to notify us immediately, such notification must be made no later than 60 days after the date after the date of the unauthorized transfer. You may not recover the unauthorized amounts transferred if you fail to notify us within 60 days after the date of the unauthorized transfer, and we can prove that we could have stopped someone from taking the money if you had notified us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we may extend the time periods.

To notify us of unauthorized transfers or to otherwise request more information about a transfer listed on the statement or receipt, call us at (704) 837-8066, email us at support@passportinc.com, or write to us at 128 S. Tryon St., Suite 2200, Charlotte, NC 28202 (or such other contact information as might be listed on the statement or receipt).

We will need:

- Your name and Account identifier;

- A description of the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information; and
- The dollar amount of the suspected error.

If you notify us via a phone call to (704) 837-8066, you agree to send your complaint or question in writing to us within 10 Business Days if we request it. Failure to do so may result in us being unable to process your request, and we may not credit your Account. Except as provided herein, we will determine whether an error occurred, and correct any such error, promptly and within any applicable time period required by law. If we need more time to conduct our investigation, however, we will notify you of our need for an extension to investigate your complaint or question which may be up to the maximum period allowed under applicable law. If we decide to do this, we will credit your Account to the extent required by applicable law for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation.

For errors involving new accounts or point-of-sale transactions we may take a longer period, up to the maximum period allowed under applicable law, to investigate your complaint or question and to credit your account for any amount you think is in error. We will tell you the results promptly after completing our investigation and within any time periods required by applicable law. If we decide that there was no error, we will send you an explanation. You may ask for copies of the documents that we used in the investigation.

c. Transfer Types and Limitations

You may use the Services to fund your Account and to pay for transit services at participating locations for the vehicle(s) associated with your Account. We will not limit the number of purchases of Services you may make, but for security reasons we may limit the amount of funds you may load into your Account.

d. Account Statements

We will send you statements for your Account by electronic mail or by posting through the Services. You may contact the number listed on the statement for your Account or in the Services for any inquiries relating to your Account history.

e. Fees

Fees will be made available within the Apps.

f. Our Liability

If we do not complete a transfer to or from your Account on time or in the correct amount according to our agreement with you, our liability to you will be as provided by applicable law and subject to our agreement with you. However, we will not be liable, for instance:

- If not required by law;
- If, through no fault of ours, you do not have enough money in your Account to make the transfer;
- If the Services were not working properly and you knew about such issue(s) when you started the transfer;
- If circumstances beyond our control prevent the transfer, despite reasonable precautions that we have taken;
- Any other exception permitted in our agreements with you.

g. Closed Accounts and Refunds

If you close your Account, unless you owe fees, we will provide you with a refund of any amounts remaining in your Passport Wallet. We may, for example, request your mailing address so we can send you a refund check by mail. We are not responsible for failed deliveries of any refund check, e.g. if you provide us with the wrong mailing address or do not update your mailing address with us. Please allow up to 6 weeks for a refund. We will refund the money to the payment method you designated, by check, or as otherwise deemed reasonable in our discretion. Except as provided herein, Passport Wallet funds are not refundable.

11 – Text Messaging

Some of the services we provide, such as when you use our Services to pay for parking, may offer you the ability to manage transactions through text messages. For example, if you initiate a parking transaction by calling or sending us a text message to the phone number associated with that parking location, you expressly consent to receive text messages relating to that transaction at the phone number from which you communicated with us. You understand that message and data rates may apply, and we are not responsible for payment of such fees. If you do not want to receive text messages, please do not initiate a parking transaction by calling or sending us a text message. For example, you may initiate a parking transaction through the App instead. We are not responsible for any text messages that fail to be delivered to you, including where your device is on a network not supported by us or our vendors. To stop receiving these parking transaction text messages, you must reply “STOP” to one of our text messages. We may send you a text message

confirming your opt-out. To opt back into receiving text messages, you can initiate another parking transaction by calling or sending us a text message to the phone number associated with that parking location.

12 – Third-Party Links and Resources

The Services may contain information and content provided by third parties and may contain links to third-party websites, mobile applications, software, and other resources that are not owned or controlled by Passport, including those maintained by governmental entities (“Third-Party Resources”). Passport is not responsible for the availability, accuracy, content, products, or services of such Third-Party Resources and does not endorse and is not responsible or liable for such Third-Party Resources. These links and resources do not imply any endorsement by Passport, and Passport does not endorse or assume any responsibility for any such Third-Party Resources. If you access a Third-Party Resource from the Services, including websites, mobile applications, or resources maintained by governmental entities, you do so at your own risk, and you understand that these Terms and the Privacy Policy do not apply to your use of such Third-Party Resources. You understand that your use of Third-Party Resources may be subject to terms and conditions imposed by third parties. You expressly relieve Passport from any and all liability arising from your use of any Third-Party Resources. You acknowledge and agree that Passport is not responsible or liable for: (i) the availability or accuracy of such Third-Party Resources; or (ii) the content, products, or services on or available from such Third-Party Resources.

13 – Warranties and Disclaimers

Your access to and use of the Services is at your own risk. You understand and agree that the Services are provided to you on an “AS IS” and “AS AVAILABLE” basis. Without limiting the foregoing, PASSPORT AND ITS AFFILIATES AND SUBSIDIARIES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ANY WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, OR NON-INFRINGEMENT. We make no warranty and disclaim all responsibility and liability for the completeness, accuracy, availability, timeliness, security, or reliability of the Services or any content thereon. Passport will not be responsible or liable for any harm to your computer system, loss of data, or other harm that results from your access to or use of the Services. You also agree that Passport has no responsibility or liability for its deletion of, or the failure to store, retain, or transmit, any records related to your Account. We make no warranty that the Services will meet your requirements or be available on an uninterrupted, secure, or error-free basis. No advice or

information, whether oral or written, obtained from Passport or through the Services, will create any warranty not expressly made herein.

The Services are controlled and operated from Passport's facilities in the United States. Passport makes no representations that the Services are appropriate or available for use in locations other than the United States, Canada, or the United Kingdom. Those who access or use the Services from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Services if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government. Unless otherwise explicitly stated, all materials found on the Services are solely directed to individuals, companies, or other entities located in the United States, Canada, and the United Kingdom.

14 – Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PASSPORT AND ITS AFFILIATES AND SUBSIDIARIES, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, DATA, USE, GOOD-WILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (i) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICES; (ii) ANY CONDUCT OR CONTENT OF ANY THIRD-PARTY RESOURCES; (iii) ANY CONTENT OBTAINED FROM THE SERVICES; AND (iv) UNAUTHORIZED ACCESS, USE OR ALTERATION OF YOUR TRANSMISSIONS, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, WHETHER OR NOT PASSPORT HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

THE LIMITATION OF LIABILITY DESCRIBED ABOVE SHALL APPLY FULLY TO RESIDENTS OF NEW JERSEY.

Some jurisdictions do not allow the exclusion of certain warranties or the exclusion or limitation of liability for consequential or incidental damages, so the limitations above may not apply to you.

15 – Indemnification

TO THE FULL EXTENT PERMITTED BY LAW, YOU AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD PASSPORT AND ITS AFFILIATES AND SUBSIDIARIES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS FROM AND AGAINST ANY CLAIMS, LIABILITIES, DAMAGES, LOSSES, AND EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE LEGAL AND ACCOUNTING FEES, ARISING OUT OF OR IN ANY WAY CONNECTED WITH (A) YOUR VIOLATION OF THESE TERMS; (B) YOUR VIOLATION OF ANY LOCAL, STATE, FEDERAL, OR INTERNATIONAL LAW, RULE, OR REGULATION; (C) ANY MISREPRESENTATION MADE BY YOU; OR (D) YOUR AUTHORIZATION OF ANYONE ELSE TO USE YOUR PASSWORD OR ACCOUNT.

If you are a California resident, you hereby waive California Civil Code § 1542, which says: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." This release includes the criminal acts of others. If you are not a California resident, you waive your rights under any statute or common law principle similar to Section 1542 that governs your rights in the jurisdiction of your residence.

16 – Product-Specific Terms

Passport provides a number of different products and services. The following additional terms and conditions govern your use of these products.

a. Cashless Parking Services

The Cashless Parking Services enables you to pay for certain parking through our Services. You can activate the Cashless Parking Services for a particular parking transaction by either (1) using the App; (2) calling a phone number provided at the parking site (where available); (3) initiating a transaction via text messaging (where available), or (4) accessing our mobile website.

You are solely responsible for correctly entering the relevant parking zone number and space number, which will be displayed at the parking site; and license plate number where required. The parking zone number informs us of the rate to charge you for your parking at that parking site. It also informs us of any restrictions on the amount of time you are permitted to park your vehicle in that zone. You are responsible for checking the parking site to determine if there are other parking restrictions ("On-Site Parking Restrictions"). On-Site Parking Restrictions may include notices, signs, or directions posted by relevant Partners. We do not and cannot guarantee that the charges

displayed in our Services adequately account for On-Site Parking Restrictions. Any violations of On-Site Parking Restrictions are solely your responsibility.

Use of the Cashless Parking Services does not guarantee you a parking space, and you may only initiate the Cashless Parking Services after you have parked in an available space at that parking site. Before leaving your vehicle unattended, please confirm that we have accepted your parking transaction request. Confirmation shall be sent to you by text message (where you initiate a transaction by calling or sending us a text message) or through your App. You are responsible for any fine, ticket, or penalty charge issued between the time you park your vehicle and when you receive confirmation that we have accepted your parking transaction request.

You are solely responsible for resolving with the relevant authorities any issues that you may have regarding the issuance of fines, parking tickets, penalty notices or your vehicle being impounded.

b. Citations Services

The Citations Services enable you to pay for certain citations issued by government municipalities and, where available, appeal them.

To access your citation, you will be required to enter certain information, such as your license plate number or citation number. Please be advised that we provide only a platform for you to view and/or pay citations. We are not responsible for the issuance of citations, the validity or legality of such citations, the due date for payment of the citation, or the amount of any fees in citations. To the extent you have questions about your citation, you must do so via the contact information supplied on the citation. You are solely responsible for resolving with the relevant authorities any issues that you may have regarding the issuance of citations.

c. Parking Permitting Services

The Permitting Services enable you to obtain and manage certain parking-related permits issued by our applicable Partners. You will be required to provide us with certain information to obtain a permit, such as the license plate number of your vehicle. Permits issued through the Permitting Services are not transferable.

You understand that permits obtained through the Services may be subject to additional restrictions set by the applicable Partner. For example, permits may be issued specific to a single

vehicle. Likewise, applicable third parties may also impose policies that prohibit Passport from issuing refunds or exchanges of permits. You must keep the information in your Account and/or with that permit current and accurate, or you may be subject to penalties or fines imposed by regulatory authorities or third parties. You are responsible for any fine, ticket, or penalty charge issued for failure to comply with any permit terms, including terms imposed by government municipalities or other third parties.

d. Mobile Ticketing Services

The Mobile Ticketing Services enable you to pay certain fares associated with transportation services, such as bus and rail system fares. You must use our mobile ticketing Apps to access the Mobile Ticketing Services. Payment for Mobile Ticketing Services may be on a pay-per-use basis, in which case we would charge your payment method separately for each fare, or you may purchase and manage passes through the Services; the available fare and pass options will depend on the applicable Partner. Depending on the setup with our mobile ticketing Partners, you may be permitted to purchase multiple tickets, store them in your account, and redeem them as they are used. Some Partners may offer discounted fares, such as student or senior fares. By purchasing or redeeming tickets on these discounted fares, you represent and warrant that you qualify for such fares, and you may have to verify eligibility pursuant to our Partners' requirements. The Mobile Ticketing Services you utilize may contain additional rules and prohibitions. You are responsible for any fine, ticket, or penalty charge issued for failure to comply with such rules and prohibitions.

17 – Arbitration and Class Action Waiver

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.

You and Passport agree that these Terms affect interstate commerce and that the Federal Arbitration Act governs the interpretation and enforcement of these arbitration provisions.

This Section is intended to be interpreted broadly and governs any and all disputes between us, including but not limited to claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; claims that arose before these Terms or any prior agreement (including, but not limited to, claims related to your use of the Services, including payments initiated through the Services or your use of Passport Wallet); and claims that may arise after the termination of these Terms or

agreement to arbitrate. The only disputes excluded from this broad prohibition are the litigation of certain intellectual property and small court claims, as provided below.

By agreeing to these Terms, you agree to resolve any and all disputes with Passport as follows:

Initial Dispute Resolution: Most disputes can be resolved without resort to litigation. You can reach Passport's support department at support@passportinc.com. Except for intellectual property and small claims court claims, the parties agree to use their best efforts to settle any dispute, claim, question, or disagreement directly through consultation with the Passport support department, and good faith negotiations shall be a condition to either party initiating a lawsuit or arbitration.

Binding Arbitration: If the parties do not reach an agreed-upon solution within a period of 30 days from the time informal dispute resolution is initiated under the Initial Dispute Resolution provision above, then either party may initiate binding arbitration as the sole means to resolve claims, subject to the terms set forth below. Specifically, all claims arising out of or relating to these Terms (including the Terms' or the Privacy Policy's formation, performance, and breach), the parties' relationship with each other, and/or your use of the Services shall be finally settled by binding arbitration administered by JAMS in accordance with the JAMS Streamlined Arbitration Procedure Rules for claims that do not exceed \$250,000 and the JAMS Comprehensive Arbitration Rules and Procedures for claims exceeding \$250,000 in effect at the time the arbitration is initiated, excluding any rules or procedures governing or permitting class actions. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of these Terms or the Privacy Policy, including but not limited to any claim that all or any part of these Terms or the Privacy Policy is void or voidable, whether a claim is subject to arbitration, or the question of waiver by litigation conduct. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be written and shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. To start an arbitration, you must do the following: (a) write a Demand for Arbitration that includes a description of the claim and the amount of damages you seek to recover (you may find a copy of a Demand for Arbitration at www.jamsadr.com); (b) send three copies of the Demand for Arbitration, plus the appropriate filing fee, to JAMS at 1155 F Street, NW, Suite 1150, Washington, DC 20004; and (c) send one copy of the Demand for Arbitration to the attention of Passport Legal Department at 128 S. Tryon St., Suite 2200, Charlotte, NC 28202.

You will be required to pay \$250 to JAMS to initiate an arbitration against us. If the arbitrator finds the arbitration to be non-frivolous, Passport will pay all other fees invoiced by JAMS, including filing fees and arbitrator and hearing expenses. You are responsible for your own attorneys' fees unless the arbitration rules and/or applicable law provide otherwise.

The parties understand that, absent this mandatory arbitration provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

If you are a resident of the United States, arbitration may take place in the county where you reside at the time of filing. For individuals residing outside the United States, arbitration shall be initiated in the State of North Carolina, United States of America. You and Passport further agree to submit to the personal jurisdiction of any federal or state court in Mecklenburg County, North Carolina in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

Class Action Waiver: The parties further agree that the arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. **YOU AND PASSPORT AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions set forth above shall be deemed null and void in their entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

Exception: Litigation of Intellectual Property and Small Claims Court Claims: Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring enforcement actions, validity determinations or claims arising from or relating to theft, piracy or unauthorized use of intellectual property in state or federal court or in the U.S. Patent and Trademark Office to protect its intellectual property rights ("intellectual property rights" means patents, copyrights, moral rights, trademarks, and trade secrets, but not privacy or publicity rights). Either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

30-Day Right to Opt Out: You have the right to opt out and not be bound by the arbitration and class action waiver provisions set forth above by sending (from the email address you used to register for your Account) written notice of your decision to opt out to classactionoptout@passportinc.com with the subject line, "ARBITRATION AND CLASS ACTION WAIVER OPT-OUT." The notice must be sent 30 days of your first use of the Services or the effective date of the first set of Terms containing an Arbitration and Class Action Waiver section, whichever is later; otherwise, you shall be bound to arbitrate disputes in accordance with the terms of these paragraphs. If you opt out of these arbitration provisions, Passport also will not be bound by them.

Changes to This Section: Passport will provide 30 days' notice of any changes affecting the substance of this section by posting on the Services, sending you a message, or otherwise notifying you when you are logged into your Account. Amendments will become effective 30 days after they are posted on the Services or sent to you.

Changes to this Section will otherwise apply prospectively only to claims arising after the 30th day. If a court or arbitrator decides that this subsection on "Changes to This Section" is not enforceable or valid, then this subsection shall be severed from the section entitled "Arbitration and Class Action Waiver," and the court or arbitrator shall apply the first Arbitration and Class Action Waiver section in existence after you began using the Services.

Survival: This "Arbitration and Class Action Waiver" Section shall survive any termination of your Account or the Services.

18 – General

Governing Law. You agree that: (i) the Services shall be deemed solely based in North Carolina; and (ii) the Services shall be deemed a passive one that does not give rise to personal jurisdiction over Passport, either specific or general, in jurisdictions other than North Carolina. These Terms shall be governed in all respects by the internal substantive laws of Delaware, without regard to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Except for claims that must be arbitrated pursuant to the "Arbitration and Class Action Waiver" Section, any claim or dispute arising in connection with the Services shall be decided exclusively by a court of competent jurisdiction located in Mecklenburg County, North Carolina, and you consent to the personal jurisdiction of and venue in such courts and waive any and all jurisdictional and venue defenses or objections otherwise available.

Entire Agreement. These Terms, together with the Privacy Policy and any other legal notices, amendments, and additional agreements or policies published by Passport on the Services, shall constitute the entire agreement between you and us concerning the Services. Except as set forth in the "Arbitration and Class Action Waiver" Section, if any provision of these Terms is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms, which shall remain in full force and effect. These Terms supersede and replace any prior agreements between Passport and you regarding the Services.

Section Headings. The Section headings in these Terms are for convenience only and have no legal or contractual effect.

Waiver. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and Passport's failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision.

Statute of Limitations. Except where prohibited by applicable law in your state or country of residence, such as New Jersey, you agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or these Terms must be filed within one year after such claim or cause of action arose or be forever barred.

Force Majeure. Neither Passport nor you shall be liable to the other for any delay or failure in performance under the Terms arising out of a cause beyond its control and without its fault or negligence. Such causes may include but are not limited to fires, floods, earthquakes, strikes, unavailability of necessary utilities, blackouts, acts of God, acts of declared or undeclared war, acts of regulatory agencies, or national disasters.

No Third-Party Beneficiaries. You agree that, except as otherwise expressly provided in these Terms, there shall be no third-party beneficiaries to these Terms.

Transferability and Assignability. These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Passport without restriction. Any attempted transfer or assignment in violation hereof shall be null and void. These Terms bind and inure to the benefit of each party and the party's successors and permitted assigns.

Notices. We may deliver notice to you by email, posting a notice on the Services, or any other method we choose, and such notice will be effective on dispatch. You agree to keep your email

address information current. You agree that all notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. If you give notice to us, it will be effective when received by mail at 128 S. Tryon St., Suite 2200, Charlotte, NC 28202.

Contact us. Please contact us in writing at support@passportinc.com or 128 S. Tryon St., Suite 2200, Charlotte, NC 28202 with any questions regarding these Terms.

19 – Apple Terms

If the Services that you use include a mobile application that you download, access and/or use and that runs on Apple’s iOS operating system (an “iOS App”), you acknowledge and agree that:

- the iOS App may only be accessed and used on a device owned or controlled by you and using Apple’s iOS operating system and subject to Apple’s usage rules and requirements;
- these Terms are between you and Passport, and not with Apple;
- Apple is not responsible for the Services and the content therein;
- Apple has no obligation at all to provide any support or maintenance services in relation to the iOS App, and if you have any maintenance or support questions in relation to the iOS App, please contact Passport, not Apple;
- except as otherwise expressly set forth in these Terms, any claims relating to the possession or use of the iOS App are between you and Passport (and not between you, or anyone else, and Apple);
- in the event of any claim by a third party that your possession or use (in accordance with these Terms) of the iOS App infringes any intellectual property rights, Apple will not be responsible or liable to you in relation to that claim; and
- although these Terms and Conditions are entered into between you and Passport (and not Apple), Apple, as a third-party beneficiary under these Terms and Conditions, will have the right to enforce them against you.

In addition, you represent and warrant that:

- you are not, and will not be, located in any country that is the subject of a United States Government embargo or that has been designated by the United States Government as a “terrorist supporting” country; and
- you are not listed on any United States Government list of prohibited or restricted parties; and
- if the iOS App does not conform to any warranty applying to it, you may notify Apple, which will then refund the purchase price of the iOS App (if any) to you. Subject to that, and to the maximum extent permitted by law, Apple does not give or enter into any warranty, condition or other term in relation to the iOS App and will not be liable to you for any claims, losses, costs or expenses of whatever nature in relation to the iOS App or as a result of you or anyone else using the iOS App or relying on any of its content.

20 – Google Terms

If the Services that you use include a mobile application that you download, access, and/or use from the Google Play Store (“Google-Sourced Software”): (i) you acknowledge that these Terms are between you and Passport only, and not with Google, Inc. (“Google”); (ii) your use of Google-Sourced Software must comply with Google’s then-current Google Play Store Terms of Service; (iii) Google is only a provider of the Google Play Store where you obtained the Google-Sourced Software; (iv) Passport, and not Google, is solely responsible for its Google-Sourced Software; (v) Google has no obligation or liability to you with respect to Google-Sourced Software or the Terms; and (vi) you acknowledge and agree that Google is a third party beneficiary to the Terms as it relates to Passport’s Google-Sourced Software.

21 – DISCLOSURE AND CONSENT TO THE USE OF ELECTRONIC COMMUNICATIONS

As part of your relationship with us, we are required by law to give you certain information “in writing.” We may also need to obtain your signature to perform certain functions. You can choose to both receive information and to provide necessary signatures related to your relationship with us electronically, instead. In order to do this, we first need your consent to use electronic records and signatures.

By providing your consent to us, you are consenting to the use of electronic records and signatures in connection with your relationship with us, and also confirming that:

- **You have reviewed this Disclosure and Consent,**
- **You agree to receive your account statements from us electronically,**
- **You have the hardware and software described below,**
- **You are able to receive and review electronic records, and**
- **You have an active email account and have provided the correct address to us.**

In this consent, the words “Passport,” “we,” “us,” and “our” means Passport Labs, Inc., its successors, affiliates and assigns. The words “you” and “your” means the person giving consent.

“Communications” means each disclosure, notice, record, document or other information we provide to you, or that you sign or submit or agree to at our request, in connection with your relationship with us and any Service we provide.

“Service” means each and every product or service we offer, provide to you, or that you apply for, own, use, administer or access, either now or in the future.

1. **Scope of your consent.** Your consent applies to Communications related to all Services we may make accessible or available, or offer to you, whether through a website, software application, email, messaging services (including text messages), or otherwise. Your consent includes, but is not limited to, all Communications related to parking and transit payment services, your registration and account with us, and the use of the Passport website (“Website”) and mobile application (“Mobile App”).
2. **Delivery of Communications.** In our sole discretion, the Communications we provide to you, or that you sign or agree to at our request, may be in electronic form (“Electronic Records”). We may also use **electronic** signatures and obtain them from you as part of our transactions with you. Electronic Records may be delivered to you by (i) posting on the Website, (ii) email to you at the email address you provide to us, (iii) through a mobile application, (iv) accessing an online location that we designate in an e-mail, text message or other electronic notice we send to you at the time the Communication is available, or (v) via text message at the phone number you provide to us, if you agree to do so.

We may always, in our sole discretion, provide you with any Communication in writing or send it to you via the U.S. mail or other means of delivery, even if you have chosen to receive it electronically. We may require any information you provide to us, or any document you sign, to be delivered to us in writing. You should print or download a copy of any Electronic Records for your own records, including this Disclosure and Consent.

1. **Your option to receive paper copies.** If we provide an Electronic Record to you, and you want a paper copy, you may call our End User Support team at (704) 837-8066 or email support@passportinc.com and request a paper version. You may have to pay a fee for the paper copy unless charging a fee is prohibited by applicable law.
2. **You may withdraw your consent at any time; Consequences of withdrawing consent; How to give notice of withdrawal.** You have the right to withdraw your consent at any time. Please be aware, however, that withdrawal of consent may result in the termination of your use of or access to certain Services. To withdraw your consent, contact our End User Support team at (704) 837-8066 or via email at support@passportinc.com. Your withdrawal of consent will become effective after we have had a reasonable opportunity to act upon it.
3. **You must keep your contact information current with us.** You must notify us immediately of any change to the email, telephone, or mailing addresses you provide to us (“Contact Information”). You can make changes to your Contact Information by changing your profile information, calling our End User Support team at (704) 837-8066, or emailing support@passportinc.com.
4. **System Requirements:** In order to view and retain your electronic Communications, you will need:
 - Internet access, a Current Version of an internet browser we support;
 - A mobile device running a Current Version of the Mobile App;
 - A printer or other storage device; and
 - An active email address.

You must have a computer or handheld device using a Current Version of an operating system capable of supporting all of the requirements described above. By “Current Version”, we mean a version of the software currently supported by its publisher. We reserve the right to discontinue support of a Current Version of software if, in our sole opinion, it suffers from a security flaw or other flaw that makes it unsuitable for our use of electronic Communications. In some cases, you may also need a specific brand or type of device that can support a particular software application, including an application intended for particular mobile or handheld devices. To receive text messages you will need an active telephone number and a device capable of receiving text messages sent to that number.

If we change these hardware or software requirements, and that change creates a material risk that you would not be able to access or retain your electronic Communications, we will notify you of the revised hardware or software requirements, but you will continue to receive electronic Communications until you withdraw your consent.

In the event of a complaint or concern regarding this Agreement or the Platform, or for more information, please contact Company at 704-837-8066 or info@gopassport.com.



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Solutions for Parking Providers

Terms of Use



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Thanks for using our products and services ("Services")! The Services are provided by Parkmobile, LLC ("ParkMobile"), located at 1100 Spring Street, NW, Suite 30309, United States.

By using our Services, you are agreeing to these terms and our [privacy policy](#). Please read them carefully.

We offer a variety of Services so sometimes additional terms may apply. Additional terms will be available with the relevant Services, and those additional terms will be a part of your agreement with us, if you use those Services.

Changes to the Terms

We may modify these terms or any additional terms that apply to a Service. Changes will reflect changes to the law or changes to our Services. You should look at these terms regularly. We'll post notice of modifications to these terms on this page. We'll post modified additional terms in the applicable Service. Changes will not apply until they become effective no sooner than fourteen days after they are posted, except for changes addressing new functions for a Service or changes made for legal or regulatory purposes, which will become effective immediately. If you do not agree to the modified terms for a Service, you may discontinue your use of that Service.

Using our Services

You may use our Services only if you can legally form a binding contract with us in accordance with these terms and all applicable laws. You can't use our Services if you are prohibited by U.S. sanctions. Any use or access by anyone under the age of 18 is not allowed. Using ParkMobile may include downloading software to your ph

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we are a technology company. We do not own, operate, or maintain any parking facilities. We do not provide parking enforcement services. Parking facilities are operated by third parties. Parking restrictions (i.e. no parking signs) take precedence over any information you receive from us. All applicable parking rules and regulations apply to you. The use of the Services does not excuse you from following the rules.

Your ParkMobile Account

You may need a ParkMobile account in order to use some of our Services. You can create your own ParkMobile account, or your ParkMobile account may be assigned to you by an administrator, such as your employer. When you create your ParkMobile account, you must provide us with accurate and complete information. If you are using a ParkMobile account assigned to you by an administrator, different or additional terms may apply. An administrator may be able to access or disable your account.

Limited License to Use Our Services

Subject to your compliance with these terms, ParkMobile grants you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license to: (i) use the Services and applications on your personal device solely in connection with your use of the Services; and (ii) access and use any content, information and related materials that may be made available through the Services, in each case solely for your personal, non-commercial use. Any rights not expressly granted herein are reserved by ParkMobile and its licensors.

Text Messaging

Text2Park (Shortcode: 77223)

You can cancel the SMS service at any time. Just text "STOP" to 77223. We will send you a text message to confirm that you have been unsubscribed from the Text2Park program. After this, you will no longer receive text messages from the Text2Park program. If you have opted into our other SMS services (i.e. parking reminders), you may continue to receive text messages originating from those programs.

If you experience issues with our Text2Park service, just text "HELP" to 77223 or contact our customer care center [online](#) or by calling us at **(877) 727-5444**.

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us from you. Message frequency varies. If you have any questions about your data plan, it is best to contact your wireless provider.

If you have any questions regarding privacy, please visit our [privacy policy](#).

SMS Parking Notifications

By providing your phone number to opt-in to receive parking notifications, you will receive a text message when your parking session is about to expire, and after your parking session has ended. Message and data rates may apply. You can change your notification preferences at any time through your account settings. For more information, contact our customer care center [online](#) or by calling us at [\(877\) 727-5444](#).

Network Access and Devices

You are responsible for obtaining the data network access necessary to use the Services. Your mobile network's data and messaging rates and fees may apply if you use the Services from your device. You are responsible for acquiring and updating the hardware or devices necessary to access and use the Services and any software updates. We do not guarantee that the Services will function on any particular hardware or device. The Services may be subject to malfunctions and delays inherent in the use of wireless and electronic communications.

Payment

You understand that use of the Services may result in charges to you for services received ("Charges"). We will receive and/or enable your payment of the amount of the Charges for services obtained through your use of the Services. Charges will be in addition to any applicable taxes where required by law. Charges may include other applicable processing fees.

All Charges and payments will be enabled by ParkMobile using the preferred payment method designated by you in your account, after which you will receive a notification. If your primary account payment method is determined to be expired, invalid, or unable to be charged, you agree that we may use a secondary payment method from your account, if available. Charges paid by you are final and non-refundable, unless otherwise determined by ParkMobile.

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provided that you will be responsible for Charges incurred under your account. Your awareness of such Charges or the amounts thereof. We may from time to time offer certain users with promotional offers and discounts that may result in different Charges being charged for the same or similar services or goods obtained through the Services, and you agree that such promotional offers and discounts, unless also made available to you, shall have no bearing on your use of the Services or the Charges applicable to you.

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In certain cases, with respect to third party providers, Charges you incur are paid directly to third party providers, and ParkMobile will collect payment of those Charges from you, on the third party provider's behalf as their limited payment collection agent. Payment of the Charges shall be considered the same as payment made directly to the third party provider.

Sweepstakes and Other Promotions

In addition to these terms, sweepstakes, contests or other promotions (collectively "Promotions") made available through the Services may have specific rules that differ from these terms. By participating in a Promotion, you will become subject to those rules. We urge you to review the rules before you participate in a Promotion. ParkMobile has no control over any conflict with these terms.

Intellectual Property

We reserve all of our intellectual property rights in the Services. Trademarks and service marks in connection with the Services are the trademarks of their respective owners. The "P" logos and other ParkMobile trademarks, service marks, graphics and logos used in our Services are trademarks or registered trademarks of ParkMobile, LLC.

Security

We care about the security of our users. While we work to protect the security of your content and account, we can't guarantee that unauthorized third parties won't be able to defeat our security measures. We ask that you keep your password secure and notify us immediately of any unauthorized use of your account.

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Modifying and Terminating our Services



You can stop using our Services at any time, although we'll be sorry to see you go. You can terminate or suspend your right to access or use our Services for any reason at any time without notice. ParkMobile may also stop providing Services to you or add or create new Services at any time.

Third-party Links

Our Services may contain links to other websites and resources provided by third parties that are not owned or controlled by us. We have no control over the content or availability of these websites or resources. If you access any third-party content from our Services, you do so at your own risk and subject to the terms and conditions of use for such third party.

Disclaimer of Warranties

Our Services are provided on an "as is" basis without warranty of any kind, whether express or implied, statutory or otherwise. We specifically disclaim any and all warranties, including but not limited to, merchantability, non-infringement, and fitness for a particular purpose.

Limitation of Liability

TO THE MAXIMUM EXTENT ALLOWED BY LAW, IN NO EVENT WILL THE LIABILITY OF PARKMOBILE AND ITS SUBSIDIARIES AND AFFILIATES, INCLUDING THEIR RESPECTIVE LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, PARTNERS, MEMBERS, MANAGERS AND DIRECTORS, TO ANY PARTY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE) BE LIMITED TO THE AMOUNT YOU HAVE PAID TO PARKMOBILE TO USE THE SERVICES.

Business Uses of Our Services

If you want to use ParkMobile for commercial purposes, you must create a Business account and agree to our Business Terms of Service. If you do open an account on behalf of a company, organization, or other entity, then "you" includes you and that entity. You promise that you are authorized to grant all permissions and licenses provided in these terms and bind the entity to these terms, and that you agree to these terms on behalf of the entity.

General Terms

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These terms control the relationship between ParkMobile and you. They third-party beneficiary rights.

If you do not comply with these terms, and we don't take action right away that we are giving up any rights that we may have (such as taking action in

If it turns out that a particular term is not enforceable, this will not affect ar

The laws of the State of Georgia, U.S.A., excluding Georgia's conflict of la to any disputes arising out of or relating to these terms or the Services. A of or relating to these terms or the Services will be litigated exclusively in courts of Fulton County, Georgia, USA, and you and ParkMobile consent jurisdiction in those courts.

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Appendix D

Existing Professional Services Agreement Language

CITY OF OAKLAND PROFESSIONAL SERVICE AGREEMENT

Whereas, the City Council has authorized the City Administrator to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met.

Now therefore the parties to this Agreement covenant as follows:

1. Parties

This Agreement is made and entered into as of (insert date) (*Contract Date*) by and between the CITY OF OAKLAND, a municipal corporation, (hereinafter referred to as “City”) and (CONSULTANT NAME IN ALL CAPS) (hereinafter referred to as “Consultant”) for (Project No. and Name, or of RFP/RFO eg. On-Call Transportation Planning 2019).

2. Period of Performance

The Agreement will become effective upon the date of the last signature or on [date] (*Effective Date*), whichever is later, and will expire on [date] (*Expiration Date*), unless terminated earlier or extended by amendment. The period from the Effective Date to the Expiration Date is the period of performance for the Agreement. The City’s Project Manager shall issue an Authorization to Proceed to formally commence Consultant’s work.

3. Scope of Services

Consultant intends to perform (eg. Tree Inventory, On-Call Community Engagement, etc.) services for the City. Consultant agrees to perform the services specified in **Exhibit A - Scope of Services**, attached to this Agreement and incorporated herein by reference. Consultant shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement.

4. Compensation and Method of Payment

Consultant will be paid for performance of the entire scope of services an amount that will be based upon actual costs but that will be “Capped” so as not to exceed (Enter dollar amount and 00/100 dollars (\$0.00)), based upon Exhibit A and the budget by deliverable task and billing rates in **Exhibit B – Billing Rates**. The maximum that will be charged for the entire scope of services will not exceed the Capped amount, even if the Consultant’s actual costs exceed the Capped amount. Invoices shall state a description of the deliverables

completed and the amount due. Payment shall be due upon completion and acceptance of the deliverables.

OR

Consultant will be paid for performance of the entire scope of services set forth in **Exhibit A** an amount not to exceed **(Enter dollar amount and 00/100 dollars (\$0.00))**, based upon the **fee(s) or lump sum(s)** for each of the **deliverables** stated in Exhibit A. Invoices shall state a description of the deliverables completed and the amount due. Payment shall be due upon completion and acceptance of each of the deliverables.

OR

Consultant will be paid for performance of the entire scope of services set forth in **Exhibit A** an amount not to exceed **(Enter dollar amount and 00/100 dollars (\$0.00))**, based upon the **rates** stated in **Exhibit B – Billing Rates**. Invoices shall state a description of the **services** completed and the amount due. Payment shall be due upon completion and acceptance of the services.

Keep this next paragraph:

Progress, or other payments, will be based on at least equivalent services rendered, and will not be made in advance of services rendered. In computing the amount of any progress payment (this includes any partial payment of the contract price during the progress of the work, even though the work is broken down into clearly identifiable stages, or separate tasks), the City will determine the amount that the consultant has earned during the period for which payment is being made based on the contract terms.

5. Oakland Business License

Consultant shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement. Consultant shall insert in each of its subcontract agreements a provision which requires its subconsultants to present proof that the subconsultant has obtained a current Oakland Business License during the term of this contract.

6. Time of the Essence

Time is of the essence in the performance of this Agreement.

7. Commencement, Completion and Close out

It shall be the responsibility of the Consultant to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Consultant to enable Consultant to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement.

Should the Consultant not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Consultant shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Consultant to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Consultant.

8. Conflict of Interest

a. Consultant

The following protections against conflict of interest will be upheld:

- i. Consultant certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Consultant certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- iii. Consultant shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Consultant.
- iv. Consultant warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Consultant shall exercise due diligence to ensure that no such official will receive such an interest.

- v. Consultant further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Consultant to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Consultant or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Consultant agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Consultant's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).
- vi. Consultant understands that in some cases Consultant or persons associated with Consultant may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Consultant further understands that, as a public officer or official, Consultant or persons associated with Consultant may be disqualified from future City contracts to the extent that Consultant is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- vii. Consultant shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.
- b. No Waiver
Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation
- c. Remedies and Sanctions
In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Consultant understands and agrees that, if the City reasonably determines that Consultant has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2)

terminate this Agreement, (3) require reimbursement by Consultant to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Consultant is responsible for the conflict of interest situation.

9. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Consultant must provide the insurance listed in **Schedule Q, Insurance Requirements**. Schedule Q is attached in Exhibit C and incorporated herein.

10. Indemnification

- a. Notwithstanding any other provision of this Agreement, Consultant shall indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:
- (i) Breach of Consultant's obligations, representations or warranties under this Agreement;
 - (ii) Act or failure to act in the course of performance by Consultant under this Agreement;
 - (iii) Negligent or willful acts or omissions in the course of performance by Consultant under this Agreement;
 - (iv) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Consultant;
 - (v) Unauthorized use or disclosure by Consultant of Confidential Information as provided in Section 15 Proprietary or Confidential Information of the City below; and
 - (vi) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.
- b. For purposes of the preceding Subsections (i) through (vi), the term "Consultant" includes Consultant, its officers, directors, employees, representatives, agents, servants, sub-consultants and subcontractors.

- c. City shall give Consultant prompt written notice of any such claim of loss or damage and shall cooperate with Consultant, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.
- d. Notwithstanding the foregoing, City shall have the right if Consultant fails or refuses to defend City with Counsel acceptable to City to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold any payments due Consultant in the amount of anticipated defense costs plus additional reasonable amounts as security for Consultant's obligations under this Section 10. In no event shall Consultant agree to the settlement of any claim described herein without the prior written consent of City.
- e. Consultant acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any action or claim which potentially falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Consultant by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Consultant's liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence or willful misconduct of an Indemnitee.
- f. All of Consultant's obligations under this Section are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
- g. The indemnity set forth in this Section shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. City's liability under this Agreement shall be limited to payment of Consultant in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

11. Right to Offset Claims for Money

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Consultant by reason of any claim or counterclaim arising out of: i) this Agreement, or ii) any purchase order, or iii) any other transaction with Consultant.

12. Prompt Payment Ordinance

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S, passed January 15, 2008 and effective February 1, 2008). The Ordinance requires that, unless specific exemptions apply, the Consultant and its subconsultants shall pay undisputed invoices of their subconsultants for goods and/or services within twenty (20) business days of submission of invoices unless the Consultant or its subconsultants notify the City of Oakland Liaison, Office of

the City Administrator, Contracts and Compliance Unit, in writing within five (5) business days that there is a bona fide dispute between the Consultant or its subconsultant and claimant, in which case the Consultant or its subconsultant may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Liaison upon the filing of a complaint. Consultant or its subconsultants opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Consultant or its subconsultant fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Consultant progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Consultant and its subconsultants shall not be allowed to retain monies from subconsultant payments for goods as project retention, and are required to release subconsultant project retention in proportion to the subconsultant services rendered, for which payment is due and undisputed, within five (5) business days of payment. Consultant and its subconsultants shall be required to pass on to and pay subconsultants mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Consultant and its subconsultants, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Consultant is required to file an affidavit, under penalty of perjury, that he or she has paid all subconsultants, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subconsultants and the amount paid to each.

If any amount due by a prime consultant or subconsultant to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Consultant or subconsultant shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime consultant or subconsultant from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity.

Consultant and its subconsultants shall include the same or similar provisions as those set forth above in this section in any contract with another consultant or subconsultant that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and complaint forms are available from the City of Oakland's website: <https://www.oaklandca.gov/documents/contracting-policies-and-legislation>. Invoice and complaint inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandca.gov.

13. Audit

Consultant shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Consultant shall (a) permit the City to have access to those records for the purpose of making an audit, examination or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Consultant under this Agreement.

In addition to the above, Consultant agrees to comply with all audit, inspection, record-keeping and fiscal reporting requirements incorporated by reference.

14. Agents/Brokers

Consultant warrants that Consultant has not employed or retained any subconsultant, agent, company or person other than bona fide, full-time employees of Consultant working solely for Consultant, to solicit or secure this Agreement, and that Consultant has not paid or agreed to pay any subconsultant, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

15. Proprietary or Confidential Information of the City

Consultant understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Consultant agrees that all information disclosed by the City to Consultant shall be held in confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information, as a reasonably prudent consultant would use to protect its own proprietary data.

16. Ownership of Results

Any interest of Consultant or its Subconsultants, in specifications, studies, reports, memoranda, computation documents prepared by Consultant or its Subconsultants in drawings, plans, sheets or other connection with services to be performed under this Agreement shall be assigned and transmitted to the City. However, Consultant may retain and use copies for reference and as documentation of its experience and capabilities.

17. Copyright

Consultant shall execute appropriate documents to assign to the City the copyright to works created pursuant to this Agreement.

18. Publicity

Any publicity generated by Consultant for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words “City of Oakland” will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Consultant to assist Consultant in generating publicity for the project funded pursuant to this Agreement. Consultant further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

19. Title of Property

Title to all property, real and personal, acquired by the Consultant from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Consultant acknowledges it is responsible for the protection, maintenance and preservation of all such property held in custody for the City during the term of the Agreement. The Consultant shall, upon expiration of termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Consultant shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with “Notice” section of this Agreement.

Consultant shall provide to the City Auditor all property-related audit and other reports required in Schedule S and under this Agreement. In the case of lost or stolen items or equipment, the Consultant shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with the “Notice” section of this Agreement.

Prior to the disposition or sale of any real or personal property acquired with City funds, Consultant shall obtain approval by the City Council and City Administrator in accord with the requirements for disposal or sale of real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2.04, Chapter 2.04.120, Surplus supplies and equipment – Disposal or Destruction.

20. Arizona and Arizona-Based Businesses (Schedule B-1)

In accordance with Resolution No. 82727 C.M.S. neither this business entity nor any of its subsidiaries, affiliates or agents are headquarters in the State of Arizona or anticipates relocating to the State of Arizona duration for the life of its contract(s) with the City of Oakland or until Arizona rescinds SB 1070.

Consultant acknowledges its duty to notify the Office of the City Administrator, Contracts and Compliance Unit if it's Business Entity or any of its subsidiaries, affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

21. Non-Discrimination/Equal Employment Practices (Schedule C-1)

Consultant shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Consultant agrees as follows:

- a. Consultant and Consultant's subconsultants, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Consultant and Consultant's Subconsultants shall state in all solicitations or advertisements for employees placed by or on behalf of Consultant that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Consultant shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.
- d. If applicable, Consultant will send to each labor union or representative of workers with whom Consultant has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Consultant's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

22. Sanctuary City Contracting and Investment Ordinance (Schedule I)

Ordinance N.O. 13540 CMS was adopted by the Oakland City Council on June 4th, 2019 and prohibits the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE) services or goods for data collection or with the United States Customs and Border Protection (CBP) Customs and Border Protection (CBP), or the Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) to support immigration detention facilities. These contractors are not to be used unless the City Council makes a specific determination that no reasonable alternative exists. The ordinance also prohibits the City from investing in any

of these companies and requires the City to include notice of these prohibitions in any Requests for Proposals (RFPs), Requests for Qualifications (RFQs), and any construction or other contracting bids. The ordinance also requires that the City provide an annual report to the Privacy Advisory Commission on its enforcement.

23. Dispute Disclosure (Schedule K)

Consultants are required to disclose pending disputes with the City of Oakland when they submit bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Consultant agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Consultant's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

24. Independent Contractor (Schedule M, Part A)

a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Consultant shall be, and is, an independent contractor, and is not an employee of the City. Consultant has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Consultant in the performance of Consultant's services hereunder. Consultant shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Consultant's own acts and those of Consultant's subordinates and employees. Consultant will determine the method, details and means of performing the services described in **Exhibit A**.

b. Consultant's Qualifications

Consultant represents that Consultant has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of The City. Consultant's services will be performed in accordance with the generally accepted principles and practices applicable to Consultant's trade or profession. The Consultant warrants that the Consultant, and the Consultant's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Consultant's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Consultant will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Consultant is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Consultant has complete and sole discretion

for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Consultant shall complete **Schedule M, Part A, Independent Contractor Questionnaire, Part A**, attached hereto.

- c. Payment of Income Taxes
Consultant is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Consultant for services under this Agreement. On request, Consultant will provide the City with proof of timely payment. Consultant agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Consultant's failure to comply with this provision.
- d. Non-Exclusive Relationship
Consultant may perform services for, and contract with, as many additional clients, persons or companies as Consultant, in his or her sole discretion, sees fit.
- e. Tools, Materials and Equipment
Consultant will supply all tools, materials and equipment required to perform the services under this Agreement.
- f. Cooperation of the City
The City agrees to comply with all reasonable requests of Consultant necessary to the performance of Consultant's duties under this Agreement.
- g. Extra Work
Consultant will do no extra work under this Agreement without first receiving prior written authorization from the City.

25. Minimum Wage Ordinance

Oakland employers are subject to Oakland's Minimum Wage Law whereby Oakland employees must be paid the current minimum wage. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services. For further information, please refer to:

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/MinimumWage/OAK051451>

26. Living Wage Ordinance (Schedule N) *n/a if under \$25,000 annually*

This Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service consultants (Consultants) of the City and employees of City Financial Assistance Recipients (Ord. 12050 § 1, 1998). The Ordinance also requires submission of the attached **Schedule N, Living Wage - Declaration of Compliance**, incorporated herein as part of this Agreement, and unless specific exemptions apply or a waiver is granted, the Consultant must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation - Effective July 1, 2021 through June 30, 2022, the minimum compensation for Consultant's employees who perform services under or related to this amendment is the hourly wage rate of \$15.30 with health benefits or \$17.56 without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, Consultant shall pay adjusted wage rates.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$2.26 per hour. Consultant shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) – To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you, including but not limited to: <http://www.irs.gov>.
- e. Consultant shall provide to all employees and to the Division of Contracts and Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Consultant shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Consultant shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees.

Consultant shall provide a copy of said list to Contracts and Compliance Unit, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Consultant shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.

- h. Consultant shall require subconsultants that provide services under or related to this Agreement to comply with the above Living Wage provisions. Consultant shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to Contracts and Compliance.

27. Equal Benefits Ordinance (Schedule N-1) *n/a if under \$25,000*

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.232.010 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City consultants (Consultants) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001).

The following consultants are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a consultant's operations that occur (1) within the city; (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subconsultants of any contract or consultant

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1**, Equal Benefits-Declaration of Nondiscrimination.

28. City of Oakland Campaign Contribution Limits (Schedule O)

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits consultants that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Consultant must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**, Campaign Contributions.

29. Nuclear Free Zone Disclosure (Schedule P)

Consultant represents that it is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Consultant shall complete **Schedule P**, Nuclear Free Zone Disclosure Form, attached hereto.

30. Local and Small Local Business Enterprise Program (L/SLBE) (Schedules D, E, U) *Schedule U and the L/SLBE Program n/a if under \$50,000*

The City of Oakland has adopted a Local and Small Local Business Enterprise Program (L/SLBE). The City's current L/SLBE Program guidelines may be accessed via the following link:

https://cao-94612.s3.amazonaws.com/documents/LSLBE-Program-Guidelines_Revised.5.4.21.pdf

Contractor understands and agrees to the following:

- a. Preference Points – Preference points are awarded based on the level of local, small local and very small local business participation that is proposed by contractors during the competitive solicitation process.
- b. Maintaining Participation – As a condition of award of this Contract, Contractor must achieve and maintain the levels of local, small local or very small local business participation for which preference points were earned during the competitive solicitation process or the levels of participation agreed upon by the Parties during negotiation of this Agreement. Failure to achieve and maintain the proposed levels of participation may result in the imposition of penalties as set forth in the above-reference Local and Small Local Business Enterprise Program guidelines.
- c. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing Schedule D, Ownership, Ethnicity, and Gender Questionnaire, and Schedule E, Project Consultant Team, which shall be attached hereto and incorporated herein.

31. Border Wall Prohibition (Schedule W)

This contract is subject to the Border Wall Ordinance of Oakland Municipal Code Ordinance 13459 C.M.S. The ordinance mandates and directs the City Administrator, when there is no significant additional cost (to be defined in regulations) or conflict with law, to refrain from entering into new or amended contracts to purchase professional, technical, scientific or financial services, goods, construction labor and materials or other services, or supplies from businesses that enter into contracts to provide such services, goods, materials or supplies to build the U.S. - Mexico border wall.

The City of Oakland shall be prohibited from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" individual, firm, or financial institution who provides any services, goods, equipment, or information technology or cloud-based technology or services, to construct any part of the U.S. - Mexico border wall.

32. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

33. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

34. Termination on Notice

The City may terminate this Agreement immediately for cause or without cause upon giving (30) calendar days' written notice to Consultant.

35. Abandonment of Project

The City may abandon or indefinitely postpone the project or the services for any or all or the project at any time. In such event, the City shall give thirty- (30)-days written notice of such abandonment. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Consultant shall have the right to expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Consultant shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty-(30) days following submission of a final statement by Consultant.

Should the project or any portion thereof be abandoned, the City shall pay the Consultant for all services performed thereto in accordance with the terms of this Agreement.

36. Assignment

Consultant shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

37. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Consultant for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

38. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

39. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

40. Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

CITY OF OAKLAND INFORMATION

(Name of Project Manager)

(select)

(address)

Oakland, CA

CONSULTANT INFORMATION

(Name of Consultant Project Manager)

(Name of Company)

(address)

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties' ten- (10) business days before the change is effective.

41. Governing Law

This Agreement shall be governed by the laws of the State of California.

42. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is: i) approved by resolution of the City Council as required by the Oakland City Charter, Oakland Municipal Code Title 2.04 and Oakland City Council Rules of Procedure, ii) approved for form and legality by the Office of the City Attorney, and iii) signed by the City Administrator or his or her designee.

43. Inconsistency

If there is any inconsistency between the main agreement and the exhibits, the text of the main agreement shall prevail.

[CONSULTANT NAME in all CAPS]

DEPARTMENT DIRECTOR

[person's name] Date
[person's title]

[select] Date

Approved as to form and legality:

CITY OF OAKLAND
(a municipal corporation)

Office of the City Attorney Date

Office of the City Administrator Date

City Council Resolution No. _____
Oakland Business Tax Certificate No. _____
Contract Purchase Order No. _____
DIR Project ID No. _____

EXHIBIT A – Scope of Services

(Attach Consultant's proposal. Proposal must clearly articulate Consultant's responsibilities, deliverables, schedule.)

SAMPLE

EXHIBIT B – Billing Rates

(City project manager must first define which Compensation Method will apply. If Time & Materials, attach Billing Rates.)

SAMPLE

EXHIBIT C – Insurance Requirements

(Insert Schedule Q from RFP or RFQ)

SAMPLE



CITY OF OAKLAND

TO: Privacy Advisory Commission

FROM: Alexa Jeffress
Director, Economic and
Workforce Development

SUBJECT: Small Business Security Camera
Equipment Grant

DATE: June 30, 2022

[Resolution No. 88717 C.M.S.¹](#), as amended and adopted on June 24, 2021, appropriated \$150,000 to fund cameras in business corridors in Council District 6 and Council District 7. This memo provides an update on the progress made to implement this directive.

Economic and Workforce Development Department (EWDD) staff, as directed by the City Council, outlined a proposed Security Camera Grant Program (Program) in which funds could be granted to an Intermediary organization (Intermediary) to grant security cameras to businesses (Recipients) to place on their private property along identified commercial corridors. EWD staff shared this program outline and associated materials with the Privacy Advisory Commission (PAC) at their [May 5th, 2022 meeting²](#) and received feedback at that time, and again at a subsequent meeting with the PAC ad-hoc committee on June 17th, 2022.

Staff concurrently requested review by the City Attorney's Office of the program and associated documents to advise on any legal concerns as well as compliance with navigating the Surveillance Technology Ordinance (Oakland Municipal Code Chapter 9.64) rules and process. The City Attorney's Office has advised that the Surveillance Technology Ordinance applies to the City's departments and City staff's acquisition and use of surveillance technology and that those rules do not apply in the scenario contemplated, where the City would be: (1) awarding grants for private entities to acquire security cameras and (2) those private entity grantees will not be providing the City with ongoing access to the camera footage.

Notwithstanding that this proposal is not subject to the rules set forth the Surveillance Technology Ordinance, feedback provided by the PAC ad-hoc committee has been informative and staff are working to develop a grant agreement that defines the terms by which the City would enter into an agreement with the third-party administrator Intermediary to voluntarily include and enforce grant terms that reflect key applicable provisions of the Surveillance Technology Ordinance.

The City's grant agreements can include terms with many of the same policy provisions that the ordinance would otherwise require, including specifying who is authorized to use the footage, what information is collected, who can access it, how long it is retained, whether it can be shared with third parties, and auditing, as well as default and remedy provisions about how the

¹ <https://oakland.legistar.com/LegislationDetail.aspx?ID=4959103&GUID=0CB865F7-F29B-48E9-B5DA-67AF141A06B0>

² <https://www.oaklandca.gov/meeting/privacy-advisory-commission-meeting-6>

City will hold grantees accountable to enforce these requirements, noting that enforcement will need to be feasible and within the scope of the grant term.

The City would enter into an agreement with a third-party administrator to provide technical assistance to the grantees and to administer and oversee the program. The scope of work for such administration and oversight could include provisions such as requiring auditing or reporting out from grantees on their use of the cameras. The third party administrator could then report out to the City regarding grantees' compliance with grant terms so the City could hold grantees accountable to the grant terms, including those governing grantee's use of the surveillance technology.

If authorized to issue such grants, staff will continue to work with City Attorney to draft the final grant agreement and implement the Council directed program. Staff will report back to City Council on this priority initiative, and upon receipt of program outcome reports, staff will prepare an informational memo to include an annual report on program results including use and access of data collected. The program results could also be provided to the PAC upon request. Please note that this program is anticipated over a two-year grant term and reporting (both to the City Council as well as any reporting/compliance terms within the third-party administrator's scope of work) would occur over the grant term, unless the program and associated funding is extended by Council.

Listed below is the general program framework:

SMALL BUSINESS CAMERA EQUIPMENT GRANT

Overview: Equipment Grant for purchasing security cameras at fixed locations on private businesses.

Third Party Administration: A Third party through Council directed grant would purchase and install security cameras for participating small businesses.

Third Party Administrator would:

- Enter into grant agreement with City.
- Provide grant program reporting in coordination with EWDD, including auditing of small business grantees, and preparation of required use and data access reports to the City.
- Select small business participants for the equipment grant program, established from a priority zone based on Councilmember consultation in District 6 and District 7 and commercial crime statistics.
- Contract for Camera equipment installation at participating businesses.
- Contract for Camera equipment removal for non-compliant business participants.

Business Participant would:

- Monitor and have access to video surveillance data.
- Comply with program terms, including those governing use of the surveillance technology

Video is for business use and only shared with City on a voluntary basis in conjunction with a reported crime. That is, the City would only receive video footage on a case-by-case basis if

requested by City staff such as Oakland Police Department personnel for a particular crime investigation. The City would not have continuous access to video footage. Businesses will be encouraged to register the Camera with the City's Camera registration program.
<https://www.oaklandca.gov/services/register-your-security-camera>.

Please note: a private party's participation in the City's Camera registration program does not grant or provide the City (i.e. OPD) with access to data footage. It lets the OPD know that there is a camera in a location and that the OPD can request access to the camera data for a specific incident if the business agrees to release the information.

For questions, please contact Juno Thomas, Urban Economic Analyst III (East Oakland), Economic & Workforce Development Department at jthomas@oaklandca.gov or (510) 238-4727.

Respectfully submitted,



for

ALEXA JEFFRESS
Director, Economic & Workforce Development
Department