



City of Doral
Professional Services Agreement

THIS CONTRACT made and entered into on the ¹³ day of February 2019 by and between:

City of Doral
8401 NW 53rd Terrace
Doral, FL 33166
(Hereinafter referred to as "the City")

AND

Tracking Solutions Corporation
7791 NW 46th Street Suite 306
Doral, FL 33166
(Hereinafter referred to as "TSO Mobile")

WITNESSETH:

In consideration of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

ARTICLE I

I. **FEES FOR SERVICES**

- I.1 The documents, attached hereto and made part hereto as Exhibit "A", includes the monthly services and equipment including installation costs together with the monthly fee plan.

ARTICLE 2

2. SCOPE OF SERVICES

2.1 TSO Mobile will supply all personnel, equipment and resources necessary to supply, install, configure, update and train Doral employees on the use of the systems utilized by the City in its Trolleys which include but are not limited to:

Equipment and Installation

- Automatic Vehicle Location System (AVLS)/Global Positioning Device (GPS)
- Automatic Passenger Counters (APC)
- Mobile Digital Video Recorder (MDVR)
- Audio Visual Annunciator System (AVAS)
- Wi-Fi
- Estimated Time of Arrival (ETA) Solar Signs
- Driver Tablets

Monthly Service

- Automatic Vehicle Location System (AVLS)/Global Positioning Device (GPS)
- Automatic Voice Information System (AVIS)
- Automatic Text Information System (ATIS)
- Mobile App
- Automatic Passenger Counters (APC)
- Mobile Digital Video Recorder (MDVR)
- Audio Visual Annunciator System (AVAS)
- Wi-Fi
- Estimated Time of Arrival (ETA) Solar Signs
- Driver Tablets

ARTICLE 3

3. TERM

The term of this Contract is for a period of two (2) years with the option by the City to renew for three (3) additional one (1) year terms.

ARTICLE 4

4. INVOICING AND PAYMENT

4.1 Upon satisfactory completion of specified and authorized work as determined by the sole discretion of the City, TSO Mobile shall invoice the City the fees associated with the work in accordance with the fees specified in Exhibit "A". Any services or equipment not specified in Exhibit "A" shall be treated as a change order and must be approved in writing by the City prior to commencement of the work.

4.2 TSO Mobile shall invoice the City once a month for work that has been completed. If the City Manager in his/her sole discretion determines that the work has been performed according to the job specifications, the City shall pay such invoice within thirty (30) days.

4.3 TSO Mobile's invoice shall include a complete breakdown of the project components, the quantities completed and the amount due and other supporting documentation as may be required by the Contract documents or the City for approval.

4.4 TSO Mobile agrees to charge the City a monthly fee reflected under Exhibit "A" for the City's use of the AVIS Automatic Voice Information System

ARTICLE 5

5. INDEMNIFICATION

5.1 TSO Mobile shall protect, defend, indemnify, save and hold harmless the City, the City Council, employees and agents (collectively, jointly and severally, the "Indemnified Parties"), against and from any and all claims, liabilities, demands, fines, actions, proceedings, orders, decrees and judgments of any kind by, or in favor of, anyone whomsoever, and costs, damages and expenses, including attorneys' fees, resulting from, or in connection with, loss of life, personal injury or property damage arising, directly or indirectly, out of, or on account of any accident or other occurrence arising from or associated with the work and services provided under this Agreement.

5.2 The provisions of this section shall survive termination of this Agreement.

ARTICLE 6

6. INSURANCE

TSO Mobile shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the City Manager. The underwriter of such insurance shall be qualified to do business in the State of Florida. If requested by the City Manager the insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and volunteers. The insurance cover shall include a minimum of:

6.1 Commercial General Liability Insurance naming the City as an additional Insured with not less than the following limits

6.1.1 General Aggregate - \$1,000,000.

6.1.2 Products-Comp/Op Aggregate - \$1,000,000.

6.1.3 Personal and Advertising Injury - \$1,000,000.

6.2 Worker's Compensation and Employer's Liability Insurance for all TSO Mobile's employees at minimum statutory limited as required by Florida Law.

6.3 Comprehensive Automobile and Vehicle Liability Insurance. Motor vehicles insurance, including applicable no-fault coverage, with limits of liability of not less than \$500,000 per occurrence, combined single limit for Bodily Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

6.4 Professional Liability: TSO Mobile shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$1,000,000.

6.5 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall endorse with a provision that not less than thirty (30) calendar day's written notice shall be provided to the City before any policy or coverage is cancelled or restricted.

6.6 TSO Mobile shall require all subcontractors to comply with the insurance requirements of this Article 6.

ARTICLE 7

7. ASSIGNMENT

7.1 This Agreement shall not be assignable by TSO Mobile. It is understood that a sale of the majority of the stock or partnership shares of TSO Mobile, a merger or bulk sale, an assignment for the benefit of creditors shall each be deemed transactions that would constitute an assignment or sale hereunder requiring prior City approval. The City is relying upon the apparent qualifications and personal expertise of TSO Mobile, and such firm's familiarity with the City's area, circumstances and desires. Accordingly, TSO Mobile's services are unique in

nature and any transference without the prior written approval of the City shall be cause for the City to terminate this Agreement. TSO Mobile shall have no recourse from such cancellation.

ARTICLE 8

8. PROHIBITION AGAINST CONTINGENT FEES

8.1 TSO Mobile warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for TSO Mobile to solicit or secure this Contract, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for TSO Mobile any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract unless approved by the City Manager of the City of Doral.

ARTICLE 9

9. TERMINATION

9.1 This Contract may be terminated by the City upon ten days' written notice with or without cause and TSO Mobile upon 30 days' written notice with or without cause. If this Contract is terminated, the TSO Mobile shall be paid in accordance with the provisions of Article 4 of this Contract for all acceptable work performed up to the date of termination.

ARTICLE 10

10. NONEXCLUSIVE AGREEMENT

10.1 The services to be provided by TSO Mobile pursuant to this Contract shall be nonexclusive and nothing herein shall preclude the City from engaging other firms to perform the same or similar services for the benefit of the City within the City's sole and absolute discretion.

ARTICLE 11

11. ENTIRE AGREEMENT

11.1 This Contract, together with all pertinent documentation shall constitute the entire agreement which may only be amended or modified upon written agreement between the parties. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

ARTICLE 12

12. ATTORNEY'S FEES

12.1 In connection with any litigation arising out of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. This provision shall exclude all litigation resolved by agreement of the parties.

ARTICLE 13

13. NONDISCRIMINATION

13.1 During the term of this Agreement, TSO Mobile shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, national origin, sexual orientation, gender identity or gender expression and agrees to abide by all Federal and State laws regarding nondiscrimination.

ARTICLE 14

14. OWNERSHIP AND ACCESS TO RECORDS AND AUDITS

14.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the TSO Mobile providing services to the City under this Agreement shall be the property of the City.

14.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of TSO Mobile involving transactions related to this Agreement.

14.3 The City may cancel this Agreement for refusal by TSO Mobile to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

ARTICLE 15

15. INDEPENDENT CONTRACTOR

15.1 TSO Mobile and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

ARTICLE 16

16. SEVERABILITY.

16.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

ARTICLE 17

17. COMPLIANCE WITH LAWS

17.1 TSO Mobile shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to services provided hereunder.

ARTICLE 18

18. NOTICES

18.1 All notices and communications to the City shall be in writing and shall be deemed to have been properly given if transmitted by registered or certified mail or hand delivery. All notices and communications shall be effective upon receipt. Notices shall be addressed as follows:

City: Albert P. Childress
Acting City Manager
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

With a copy to: Mr. Luis Figueredo
City Attorney

City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

Connie Diaz
City Clerk
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

TSO Mobile:

Keith Schneider CEO
Tracking Solutions Corporation
7791 NW 46th Street
Suite 306
Doral, Florida 33166

ARTICLE 19

19. GOVERNING LAW

19.1 This Contract shall be construed in accordance with the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida, or the Southern District of Florida.

ARTICLE 20

20. WAIVER

20.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

ARTICLE 21

21. SURVIVAL OF PROVISIONS

21.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

ARTICLE 22

22. FORCE MAJURE

22.1 It is understood that performance of any act by the City or TSO Mobile hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City forces as may be necessary to meet City needs, and, in such event, the City shall withhold payment due Contractor for such period of time, if any. If the condition of force majeure exceeds a period of fourteen (14) days, the City may, at its option and discretion, cancel or renegotiate the Agreement.

ARTICLE 23

23. COUNTERPARTS

23.1 This Agreement may be executed in counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

ARTICLE 24

24. INTERPRETATION

24.1 The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

24.2 Preparation of this Agreement has been a joint effort of the City and TSO Mobile and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

ARTICLE 25

25. DISCRETION OF CITY MANAGER

25.1 Any matter not expressly provided for herein dealing with the City or decisions of the City shall be within the exercise of the reasonable professional discretion of the City Manager.

ARTICLE 26

26. THIRD PARTY BENEFICIARY

26.1 TSO Mobile and the City agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

ARTICLE 27

27. NO ESTOPPEL

27.1 Neither the City's review, approval and/or acceptance of, or payment for services performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and the TSO Mobile shall be and remain liable to the City in accordance with applicable laws for all damages to the City caused by the TSO Mobile's negligent performance of any of the services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

ARTICLE 28

28. LIQUIDATED DAMAGES

28.1 THE City and TSO Mobile recognize and agree that timely and quality performance of the Services identified in Exhibit "A" is critical to the City. TSO Mobile recognizes the difficulties involved in proving the actual losses suffered by the City if TSO fails to meet minimum performance standards, instead of requiring such proof TSO Mobile and the City agree to that TSO Mobile shall pay the City the amounts identified in Exhibit "B" as liquidated damages for each calendar day that TSO fails to perform after receiving written notice.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Contract upon the terms and conditions above stated on the day and year first above written.

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

Tracking Solutions Corporation


City of Doral:

By:

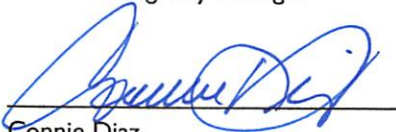


Tom Gawronski
Chief Marketing Officer

By:




Albert P. Childress
Acting City Manager



Connie Diaz
City Clerk

Approved As To Form and Legal Sufficiency for the Use
And Reliance of the City of Doral Only:



Luis Figueredo
City Attorney

EXHIBIT "A"

PRICE LIST

Description	Price	Service	Notes
AVL GPS Unit	\$ 450.00	\$ 69.99	
GPS SIM Activation	\$ 35.00		
GPS Installation	\$ 130.00		
AVIS - Automatic Voice Information System		\$ 14.95	Add Minute Plan
ATIS - Automatic Text Information System		\$ 14.95	Add Text Plan
Mobile APP		\$ 29.99	
APC (One door)	\$ 3,500.00		
APC (Overhead Sensor - One door)	\$ 3,900.00	\$ 29.99	
APC Installation	\$ 650.00		
APC (Second door)	\$ 1,500.00		
Installation (Second door)	\$ 150.00		
MDVR 4Ch with 4 Cameras 500GB HHD (Cp4 and Cables included)	\$ 2,600.00	\$ 19.99	
MDVR - 500GB (Swappable Hard Drive)	\$ 150.00		
MDVR Installation	\$ 400.00		
Extra Camera	\$ 85.00		
Extra Camera Installation	\$ 50.00		
AVAS (Inner LED + 2 Speakers)	\$ 1,900.00	\$ 19.99	
AVAS (2 outside LED signs)	\$ 1,500.00		
AVAS Installation	\$ 450.00		
Wi-Fi (Hot Spot)	\$ 850.00	\$ 9.99	
Wi-Fi (Installation)	\$ 450.00		
ETA Solar Sign	\$ 7,000.00	\$ 39.99	
Ruggedizes MDT1010 (Driver's Tablet) Including PT Driver App	\$ 850.00	\$ 29.99	

AVIS DATA PLAN

AVIS - Automatic Voice Information System	Minutes Included	Plan Cost	Extra Minutes
Out of Plan Minute fee	0	\$0.00	\$0.15
AVIS - 500 Minutes Plan	500	\$55.00	\$0.12
AVIS - 1,500 Minutes Plan	1,500	\$148.00	\$0.11
AVIS - 3,000 Minutes Plan	3,000	\$268.00	\$0.10
AVIS - 6,000 Minutes Plan	6,000	\$485.00	\$0.09
AVIS - 12,000 Minutes Plan	12,000	\$860.00	\$0.08
AVIS - 25,000 Minutes Plan	25,000	\$1,565.00	\$0.07
AVIS - 45,000 Minutes Plan	45,000	\$2,250.00	\$0.06
100,000+ Minutes, rate at \$0.04 per minute	1	\$0.04	\$0.04

EXHIBIT "B"

LIQUIDATED DAMAGES

1. **GPS Malfunction or Omission.** Any case in excess of two days without tracking services per month, unless due to a major natural disaster/emergency. TSO can request up to two additional days to correct the malfunction. The request for additional time will not be unreasonably denied.

\$70.00 per unit

2. **Wi-Fi Malfunction or Omission.** Any case in excess of three days without providing Wi-Fi services per month, unless due to a major natural disaster/emergency.

\$9.99 per unit

3. **Surveillance Cameras Malfunction.** Any case in excess of one day without video surveillance or failure to provide video feedback within 36 hours of request per month, unless due to a major natural disaster/emergency. TSO can request up to twelve additional hours to correct the default. The request for additional time will not be granted if the video requested is related to an accident or an incident that requires that the City have immediate access.

\$75.00 per event

4. **IVR Malfunction or Omission.** In the event there is an IVR Malfunction or Omission that exceeds two days TSO shall abate the monthly charge for the service.

5. **Automated Passenger Counter Malfunction or Omission.** Any case in excess of three days without providing boarding and alighting data, unless due to a major natural disaster/emergency.

\$50.00 per unit

RESOLUTION No. 19-21

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH TSO MOBILE FOR THE INSTALLATION AND MAINTENANCE OF SAFETY AND SECURITY DEVICES ON THE DORAL TRANSIT SYSTEM FOR AN INITIAL TWO (2) YEAR PERIOD WITH THREE (3) ADDITIONAL ONE (1) YEAR EXTENSION OPTIONS IN AN AMOUNT NOT TO EXCEED THE DEPARTMENTAL BUDGET FOR THIS ITEM; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY WITH RESPECT TO THE AGREEMENT APPROVED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in August of 2010, the City of Doral entered into a five (5) year contract with two (2) one-year (1) extension options with Tracking Solutions Corp. (TSO Mobile) for the installation and maintenance of safety and security devices on the Doral Transit System (DTS); and

WHEREAS, on July 12, 2016, the City of Doral executed the final option-to-extend which expired on August 30, 2017; and

WHEREAS, at the June 2017 City Council Meeting, the City Council authorized City Staff to extend the Contract Agreement with TSO Mobile on a month-to-month basis under the same terms and conditions of the original Contract, while City Staff negotiated a new five (5) year Contract Agreement with TSO Mobile that will include competitive unit prices for equipment, installation, and maintenance fees; and

WHEREAS, during the contract period, TSO Mobile has provided exceptional service to the Doral Transit System (DTS), and often times has gone beyond their contractual obligations by providing additional technology and upgrades to the DTS at no additional cost to the City; and

WHEREAS, due to their local presence and lack of a local competitor, TSO Mobile remains the only viable vendor in order to ensure quick response when Trolley technology hardware requires service; and

WHEREAS, the PWD worked with the Procurement Division to get the most favorable unit prices for equipment and installation based on the lowest cost paid by local cities they currently have under contract.; and

WHEREAS, PWD respectfully requests authorization for the City Manager to execute the Professional Services Agreement with TSO Mobile for an initial two (2) year period with three (3) additional one (1) year extension options in an amount not to exceed the departmental budget for this item.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

Section 2. Approval. The Professional Service Agreement between the City of Doral and TSO Mobile for the installation and maintenance of safety and security devices for an initial two (2) year period with three (3) additional one (1) year extension options in an amount not to exceed the departmental budget for this item is hereby approved.

Section 3. Authorization. The City Manager is authorized to execute the Professional Service Agreement with TSO Mobile for an initial two (2) year period with three (3) additional one (1) year extension options in an amount not to exceed the departmental budget for this item on behalf of the City.

Section 4. Implementation. The City Manager and City Attorney are hereby authorized to take such action as may be necessary to implement the purpose and the provisions of this resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Mariaca who moved its adoption. The motion was seconded by Councilmember Cabral and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Claudia Mariaca	Yes
Councilwoman Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes

PASSED AND ADOPTED this 9 day of January, 2019.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY