

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: September 12, 2023

PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Steve Alvarado (915) 212-6026, Lilia Worrell (915) 212-5822

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2 – Set the Standard for a Safe and Secure City

SUBGOAL: 2.8 – Implement effective code enforcement strategies to reduce nuisances, enhance visual appearance, and improve overall health and safety

SUBJECT:

A resolution authorizing the Mayor to sign an updated Interlocal Agreement between the City and the Texas Department of Motor Vehicles for access to registered owner information by the El Paso Municipal Courts, Police Department, and Environmental Services Department.

BACKGROUND / DISCUSSION:

The access to the Texas Department of Motor Vehicles' database will be used by the Municipal Court to transmit vehicle license plates that have outstanding parking tickets so as to send parking ticket reminder notices, and to allow PD and ESD to determine ownership of junk vehicles as well as obtain ownership information when a vehicle's license plate is known for other ordinance violations such as litter and dumping.

The Municipal Court's cost will be \$23 per file transmission plus 12 cents for each plate on the file, approximately \$300 per month.

PRIOR COUNCIL ACTION:

Yes, this was approved in 2019 to allow access to the Texas Department of Motor Vehicles' database and will be renewed every 5 years.

AMOUNT AND SOURCE OF FUNDING:

Funds are budgeted in account:

Fund: 1000 – General Fund
Dept ID: 111 – Municipal Court
Division: 11010 – Admin Services
Account: 522170 – Interlocals


HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Police Department

SECONDARY DEPARTMENT: Municipal Court and Environmental Services

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Steve Alvarado, Police Department Code Enforcement Bureau



Lilia Worrell, Municipal Court

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Interlocal Agreement by and between the City of El Paso, Texas and the State of Texas, acting by and through the Texas Department of Motor Vehicles, described as the "Texas Motor Vehicle Records Data Contract," to allow the Municipal Court, Code Enforcement, and the Department of Environmental Services to access register vehicle ownership information at the rates set by 43 Texas Administrative Code Section 217.123.4 for purposes of parking citation reminders, ownership information regarding junked vehicles, illegal dumping, and other investigative work.

CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM



Eric Gutierrez
Senior Assistant City Attorney

APPROVED AS TO CONTENT



Arthur S. Alvarado, Director
Code Enforcement



Texas Department of Motor Vehicles

Texas Motor Vehicle Records Data Contract Data Use Agreement

This Agreement is in accordance with the fully executed Texas Motor Vehicle Records Data Contract ("**Contract**") between the Texas Department of Motor Vehicles ("**TxDMV**") and _____ ("**Recipient**"), and it is applicable to _____ ("**Authorized User**"), an external user employed by the Recipient who is given access to the data product(s) named in the Contract ("**Account**") for the certified permissible purpose(s).

As an Authorized User, I understand and agree that:

1. TxDMV is the Texas state agency responsible for administering and retaining personal information contained in Texas motor vehicle records (the "**Data**"), both of which are defined in Texas Transportation Code § 730.003; and
2. I am responsible for protecting and maintaining the confidentiality of information provided by the department, and for upholding the TxDMV standards of security and confidentiality while accessing the Data; and
3. I am accountable for the security and well-being of all data and systems I am authorized to access; and
4. Any actions performed by the Authorized User that are deemed negligent or may compromise the security and operation of the Account or the Data will result in the immediate suspension of the Account until the compromising condition is resolved to the satisfaction of the TxDMV; and
5. Any actions by the Authorized User resulting in damages/loss of information resources may result in termination of the Contract and may also result in legal action; and
6. I will not attempt to circumvent information system security devices or procedures by using or attempting to use any transaction, software, files, or other resources that I am not authorized to use. I understand that intentionally failing to observe these requirements or intentionally bypassing them may constitute a breach of information systems security as defined in the Texas Penal Code §33.02 and may result in termination of the contract and may also result in legal action; and
7. The procedure(s) and password(s) for accessing the Account(s) shared with the Authorized User are confidential and shall not be shared with anyone; and
8. I will not disclose, share, or post my username, password(s), or the procedures for accessing the Account(s), where unauthorized persons may view them; and
9. Any attempts to access and utilize the Account(s) for uses other than their intended purposes may result in prosecution under the Computer Fraud and Abuse Act of 1986 as well as any other applicable statutes and regulations.

By signing below, I acknowledge receipt of this agreement, understand its contents, and agree to abide by the terms set forth herein. Furthermore, as an Authorized User, I affirm the Recipient has informed me of, and I agree to abide by, sections **4. Data Restrictions, 5. Data Redisclosure, 6. Data Security, Confidentiality and Breaches, and 7. Recipient's User Identification**, of the executed Contract.

Signature of Authorized User

Date

TEXAS MOTOR VEHICLE RECORDS DATA CONTRACT

The Texas Department of Motor Vehicles (“**TxDMV**”), an agency within the executive branch of the state of Texas, and (“**Recipient**”), each a “**Party**” and collectively the “**Parties**,” enter into the following contract for accessing Texas motor vehicle records (the “**Contract**”) in accordance with 43 Texas Administrative Code §§ 217.121 through 217.133 (“**TxDMV Rules**”) (found at Title 43 of the Texas Administrative Code, Part 10, Chapter 217, Subchapter F).

RECITALS

Whereas, the Recipient, also known in the TxDMV Rules as the “**Requestor**,” is either a private entity, a Texas governmental entity, as defined in Texas Government Code § 2252.001, or a toll project entity, as defined in Texas Transportation Code § 372.001 desires to have access to or electronically receive “**Personal Information**” contained in Texas “**Motor Vehicle Records**” (the “**Data**”), as defined in Texas Transportation Code § 730.003, from the data product(s) designated below, which are defined in the TxDMV Rules;

- | | | | |
|------------------------------------|--|---|---|
| <input type="checkbox"/> MVI.net | <input type="checkbox"/> Batch Inquiry | <input type="checkbox"/> Master File | <input type="checkbox"/> Weekly Updates |
| <input type="checkbox"/> eTAG File | <input type="checkbox"/> Special Plates File | <input type="checkbox"/> Dealer Supplemental File | |

Whereas, Texas Transportation Code Chapters 501, 502, 504, and 520 designates TxDMV as the Texas state agency responsible for administering and retaining the Data;

Whereas, the Federal Driver’s Privacy Protection Act (18 U.S.C. § 2721 et seq.) and Texas Motor Vehicle Records Disclosure Act (Texas Transportation Code Chapter 730) (the “**Acts**”) authorizes TxDMV to disclose Personal Information contained within the Data in accordance with the Acts;

Whereas, Texas Transportation Code § 730.014 and 43 Texas Administrative Code § 217.123 authorizes TxDMV to enter into written service agreements or bulk contracts, also referred to herein as the “**Contract**,” with the Recipient to provide electronic access to or electronic delivery of the Data;

Whereas, a Texas governmental entity or toll project entity, may enter into agreements with public or private entities (“**Public Purpose Contractor**”) to facilitate the performance of its public purpose; and

Whereas, Texas Transportation Code § 730.011, Texas Government Code Chapter 552, and 43 Texas Administrative Code § 217.124 authorizes TxDMV to charge the Recipient reasonable fees for the Data; and

Whereas, TxDMV has approved the Recipient’s application and agrees to provide electronic access to or will electronically deliver the Data to the Recipient subject to the terms and conditions of this Contract.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, the Parties agree to enter into this Contract.

AGREEMENT

The TxDMV will provide electronic access to or will electronically deliver the Data to the Recipient, under the following conditions:

1. Recipient's Certification of Use

The Recipient by signing this Contract, certifies its compliance with all provisions of the Acts, the TxDMV Rules, and with all other federal and state laws applicable to this Contract. Additionally, the Recipient acknowledges and confirms that its use of the Data obtained under this Contract is for the permissible purpose(s) referenced below as defined in Texas Transportation Code § 730.007(a)(2) and cannot be used for any other purpose. The permissible purpose(s) that the Recipient is certifying under this Contract are as follows:

- (i) Section 730.007(a)(2)(A) - Use by: (i) a government agency, including any court or law enforcement agency, in carrying out its functions; or (ii) private person or entity acting on behalf of a government agency in carrying out the functions of the agency.
- (i) Section 730.007(a)(2)(B) - Use in connection with a matter of: (i) motor vehicle or motor vehicle operator safety; (ii) motor vehicle theft; (iii) motor vehicle product alterations, recalls, or advisories; (iv) performance monitoring of motor vehicles, motor vehicle parts, or motor vehicle dealers; or (v) removal of nonowner records from the original owner records of motor vehicle manufacturers.
- Section 730.007(a)(2)(C) - Use in the normal course of business by a legitimate business or an authorized agent of the business, but only to verify the accuracy of personal information submitted by the individual to the business or the agent of the business; and if the information is not correct, to obtain the correct information, for the sole purpose of preventing fraud by, pursuing a legal remedy against, or recovering on a debt or security interest against the individual.
- Section 730.007(a)(2)(D) - Use in conjunction with a civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, execution or enforcement of a judgment or order, or under an order of any court.
- Section 730.007(a)(2)(E) - Use in research or in producing statistical reports, but only if the personal information is not published, redisclosed, or used to contact any individual.
- Section 730.007(a)(2)(F) - Use by an insurer, insurance support organization, or self-insured entity, or an authorized agent of an insurer, insurance support organization, or self-insured entity, in connection with claims processing or investigation activities, antifraud activities, rating, or underwriting.

- Section 730.007(a)(2)(G) - Use in providing notice to an owner of a vehicle that was towed or impounded and is in the possession of a vehicle storage facility.
- Section 730.007(a)(2)(H) - Use by a licensed private investigator agency or licensed security service for a purpose permitted under this section.
- Section 730.007(a)(2)(J) - Use in connection with the operation of a toll transportation facility or another type of transportation project described by Section 370.003.
- Section 730.007(a)(2)(K) - Use by a consumer reporting agency, defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), for a purpose permitted under that Act.
- Section 730.007(a)(2)(L) - Use by a motor vehicle manufacturer, dealership, or distributor, or an agent of or provider of services to a motor vehicle manufacturer, dealership, or distributor, for motor vehicle market research activities, including survey research.
- (i) Section 730.007(a)(2)(M) - Use in the ordinary course of business by a person or authorized agent of a person who:
- (ii) holds a salvage vehicle dealer license issued under Chapter 2302, Occupations Code; (ii) holds an independent motor vehicle dealer or wholesale motor vehicle auction general distinguishing number; (iii) holds a used automotive parts recycler license; or (iv) is licensed by, registered with, or subject to regulatory oversight by the Texas Department of Motor Vehicles, the Texas Department of Banking, the Department of Savings and Mortgage Lending, the Credit Union Department, the Office of Consumer Credit Commissioner, Texas Department of Insurance, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Consumer Financial Protection Bureau, or the National Credit Union Administration.

2. Data Fees and Locations

- 2.1. TxDMV will provide the Recipient with the Data at the applicable fee(s) set forth in TxDMV Rules. This Contract does not cover additional services beyond providing the Data, such as resending, researching, or programming related to the Data. The Data is provided to the Recipient as-is.
- 2.2. This Contract may be used for multiple business locations under the control of the Recipient, if applicable, and using the same tax identification number.

3. Bulk File Requirements

- 3.1. The Recipient entering into this Contract for bulk Data, also known as a “**bulk file**” as defined in TxDMV Rules, has represented that it has secured, and warrants that it shall maintain, during the life of this Contract, a performance bond in the amount of \$1 million, payable to the State of Texas pursuant to Texas Transportation Code § 730.014.

- 3.2. The Recipient entering into this Contract for bulk Data has represented that it has secured, and warrants that it shall maintain, general liability and cyber-threat insurance coverage that is reasonably related to the risks associated with unauthorized access and use of the Data in the amount of at least \$3 million pursuant to Texas Transportation Code § 730.014.
- 3.3. The Recipient entering into this Contract for bulk Data is prohibited from selling or redisclosing the Data for the purpose of marketing extended vehicle warranties by telephone pursuant to Texas Transportation Code § 730.014.
- 3.4. The Recipient entering into this Contract for bulk Data acknowledges and agrees that if it experiences a “breach of system security,” as defined by Texas Business & Commerce Code § 521.053, that includes Data obtained under this Contract, the Recipient must notify the designated TxDMV Representative identified in **Subsection 10.5** of this Contract of the breach not later than 48 hours after the discovery pursuant to Texas Transportation Code § 730.014.
- 3.5. The Recipient entering into this Contract for bulk Data acknowledges and agrees that it shall include in each contract or agreement it enters into with a third party to receive the Data from the Recipient that the third party must comply with federal and state laws regarding the Data pursuant to Texas Transportation Code § 730.014
- 3.6. The Recipient entering into this Contract for bulk Data, and any third party receiving the Data from the Recipient, shall protect the Data with appropriate and accepted industry standard security measures for the type of data and the known risks from unauthorized access and use of the Data pursuant to Texas Transportation Code § 730.014.
- 3.7. The Recipient entering into this Contract for bulk Data agrees to electronically submit an annual report, on a form prescribed by TxDMV, on or before October 1st of each year for the 12-month period beginning September 1st of the preceding year. The annual report submitted must comply with the annual report requirements as set forth in TxDMV Rules pursuant to Texas Transportation Code § 730.014.
- 3.8. For the avoidance of doubt, the Recipient or its authorized individual entering into this Contract for bulk Data affirms with their initials below, that the Recipient understands and will fully comply with all the provisions listed in this **Section 3** of this Contract.

Initials

4. Data Restrictions

- 4.1. The Recipient may redisclose the Data, including redisclosure for compensation, only as permitted in accordance with **Subsection 5.1** of this Contract.
- 4.2. A Public Purpose Contractor may only use the Data to carry out the functions of the entity named in **Attachment A, Public Purpose Contractor Certification of Use**, if applicable to this Contract. If the Recipient is a Texas governmental entity or toll project entity, who has

employed a Public Purpose Contractor, then **Attachment A** is attached hereto and incorporated by reference and made part of this Contract for all purposes.

- 4.3. A Recipient who certifies a permissible purpose(s) as identified in **Section 1** of this Contract, that requires an active license or registration as set forth in TxDMV Rules, may access the Data, only while the license or registration is active and in good standing. If the license or registration expires, becomes inactive, or is revoked, and if the Recipient does not qualify for Personal Information under another permissible purpose(s), this Contract shall terminate in accordance with **Subsection 4.4** of this Contract. For the avoidance of doubt, this Subsection does not apply to a Recipient who would otherwise be exempt from the requirements pursuant to 43 Texas Administrative Code § 217.125.
- 4.4. The Recipient required to have an active license or registration must provide TxDMV proof of its renewed license or registration, as set forth in TxDMV Rules, no later than 30 days following the expiration date. If the Recipient does not provide proof within 30 days, the Recipient's access to the Data will be suspended until such proof is provided. If the Recipient has not provided proof within 90 days following the expiration date, this Contract shall immediately terminate without notice being required.
- 4.5. For the avoidance of doubt, the Recipient or its authorized individual entering into this Contract affirms with their initials below, that the Recipient understands and will fully comply with **Section 4** of this Contract.

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5. Data Redisclosure

- 5.1. In accordance with Texas Transportation Code § 730.013, the Recipient may redisclose the Data, including redisclosure for compensation, only to a **"Person"**, as defined in Texas Transportation Code § 730.003, who has a permissible purpose(s) under the Acts and, in accordance with TxDMV Rules. Though, the Recipient is strictly prohibited from redisclosing the Data, including redisclosure for compensation, in the identical or substantially identical format as disclosed by TxDMV. Additionally, the Recipient acknowledges and understands, that the Recipient is subject to a criminal offense if found to have redisclosed the Data provided under this Contract in violation of Texas Transportation Code § 730.013.
- 5.2. The Recipient who rediscloses the Data, including redisclosure for compensation, shall maintain redisclosure records containing the following information for a minimum of 5 years:
 - A. the individual's name and the organization or entity with which the individual is associated, when known;
 - B. the permissible purpose(s) for obtaining information;
 - C. the quantity of Texas motor vehicle records redisclosed to the Person under each permissible purpose(s);
 - D. any documented agreement between the Recipient and the Person to which the Recipient redisclosed information; and

E. a statement specifying what data was redisclosed and in what format.

- 5.3. If TxDMV requests the redisclosure records in writing, the Recipient shall provide copies of the redisclosure records not later than 30 days after the date of TxDMV's request. If the Recipient does not fully respond within 30 days, TxDMV, in its sole discretion, may prevent access or delivery of the Data under Texas Transportation Code § 730.014(g) and may terminate this Contract.
- 5.4. The Recipient shall inform all Persons to whom it rediscloses the Data, including redisclosure for compensation, of each Person's legal obligations under the Acts and the TxDMV Rules.
- 5.5. Any violation of the Acts or TxDMV Rules by a Person that obtained the Data from the Recipient, directly or indirectly, will be considered a breach of this Contract by the Recipient, and may subject the Recipient to termination or liability under the terms of the Acts and this Contract. Additionally, the Recipient must provide written or electronic notification to the Person obtaining the Data from the Recipient that the Person is also subject to the redisclosure provisions and a criminal offense in accordance with Texas Transportation Code § 730.013.
- 5.6. For the avoidance of doubt, the Recipient or its authorized individual entering into this Contract affirms with their initials below, that the Recipient understands and will fully comply with **Section 5** of this Contract.

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6. Data Security, Confidentiality and Breaches.

- 6.1. TxDMV provides access to or delivery of the Data in an electronic format through TxDMV-maintained systems. TxDMV operates and controls its electronic systems, including real-time web-based applications.
- 6.2. TxDMV is responsible for processing submitted requests and delivering the Data in a secure, electronic format, utilizing TxDMV-maintained systems. TxDMV is obligated to achieve specific performance level requirements. As such, TxDMV has the authority to suspend any account or to suspend access to TxDMV-maintained systems when such access compromises the security and operation of the systems. Suspension of a Recipient's account or access the TxDMV-maintained systems shall continue until the compromising condition is resolved to the satisfaction of the TxDMV.
- 6.3. To the extent the Recipient has access to, stores, rediscloses, or otherwise deals with the Data, the Recipient represents and warrants that it has implemented and it shall use appropriate legal, organizational, physical, administrative and technical measures, and security procedures designed to: (i) ensure the security and confidentiality of the Data; (ii) protect the Data from unauthorized access, use, hacking, redisclosure (including redisclosure for compensation), duplication, theft, modification and/or loss; and (iii) implement physical security and access controls at any of its facilities (including any data

centers) that house the Data. This obligation applies whether the disclosure was intentional or unintentional by the Recipient, or by a Person that obtained the data from the Recipient, directly or indirectly.

- 6.4. Recipient who uses a website to process, transmit, or store the Data shall be accessible through a secure connection (HTTPS-only, with HTTP Strict Transport Security (HSTS)), utilizing Transport Layer Security (TLS) version 1.2 or higher.
- 6.5. Each individual who, by virtue of this Contract, is granted access to TxDMV-maintained systems for permissible purpose(s) to the Data shall review and execute the **Texas Motor Vehicle Records Data Contract Data Use Agreement** before accessing any TxDMV-maintained systems.
- 6.6. Notwithstanding the provisions specified in **Subsection 3.4** of this Contract, if the Recipient experiences a breach of its system security or determines there has been unauthorized access and/or use of the Data or any TxDMV-maintained systems, the Recipient shall notify the designated TxDMV Representative identified in **Subsection 10.5** of this Contract of the breach or unauthorized activity, no later than 48 hours after the breach of security or data is discovered.
- 6.7. For the avoidance of doubt, the Recipient or its authorized individual entering into this Contract affirms with their initials below, that the Recipient understands and will fully comply with **Section 6** of this Contract.

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7. Recipient's User Identification

- 7.1. The Recipient shall submit all requests for access to TxDMV-maintained systems using only the forms required by the TxDMV.
- 7.2. Each person who, by virtue of this Contract, is granted access to TxDMV-maintained systems for permissible purpose(s) to the Data from an eligible business location will be assigned a unique user ID to be used only by that person (the "User"). User IDs shall not be shared.
- 7.3. Any User ID assigned by TxDMV to the Recipient's account that is no longer needed for any reason including, but not limited to, termination, death, or separation from the Recipient's operations, the Recipient shall, within 3 business days of the event, request cancellation of the User ID on the form required by TxDMV. The TxDMV will cancel the User ID upon receipt of the properly completed form.

8. Termination

- 8.1. Termination for Convenience. TxDMV or the Recipient may terminate this Contract for convenience at any time for any reason by giving the other Party 30 days written notice. If either Party elects to terminate this Contract for convenience, all unfilled obligations shall

remain in full force. In no event will termination for convenience by TxDMV give rise to any liability whatsoever on the part of TxDMV.

- 8.2. Termination for Cause. TxDMV may immediately terminate this Contract for cause for any violation of the terms of this Contract or for any violation of any federal or state law or regulation relating to the subject matter of this Contract. TxDMV shall provide the Recipient with written notice to terminate this Contract. Termination shall be effective immediately upon the Recipient's receipt of the notice. If this Contract is terminated for cause, TxDMV may refuse to provide the Data to the Recipient in any format. A Recipient whose Contract has been terminated for cause but who is requesting renewed access to the Data must comply with the provisions of 43 Texas Administrative Code § 217.130.
- 8.3. Mutual Termination. This Contract may further be terminated by mutual consent, in writing, by both Parties. The termination shall be effective upon the date specified in the written termination agreement.
- 8.4. User IDs and Refunds on Termination. If this Contract is terminated for any reason, TXDMV will deactivate the Recipient's account and all user IDs associated with that account upon the termination date, and will issue a refund for outstanding fee credits, if any, to the Recipient within 60 days of the termination.

9. Change of Status

- 9.1. This Contract shall automatically terminate if the Recipient ceases to exist, substantially changes the nature of its business, or ceases to qualify for the Data under the permissible purpose(s) certified in **Section 1** of this Contract. The Recipient shall notify the designated TxDMV Representative identified in **Subsection 10.5** of this Contract in writing of any change in its status that may implicate this Section no later than 2 business days after the change. The Recipient may re-apply for access to or delivery of the Data under its new status.
- 9.2. This Contract is made exclusively between the TxDMV and the Recipient. If for any reason, the Recipient undergoes a change in business name that no longer matches the Recipient's business name in this Contract, this Contract is automatically terminated.
- 9.3. If the Recipient's change in business name does not alter the nature of the Recipient's business, or if the Recipient's qualifications for the Data under the permissible purpose(s) certified in **Section 1** of this Contract do not change, a new Contract may be executed without re-applying, at the sole discretion of TxDMV.
- 9.4. The Recipient shall notify the designated TxDMV Representative identified in **Subsection 10.5** of this Contract in writing of any changes to the information provided on the approved application, including, but not limited to, changes in physical or mailing address, business phone number, or listed account contact. Any notice required under this Subsection, must be provided within 5 business days of the change.

10. Additional Terms and Conditions

- 10.1. Amendments. This Contract may be amended only by a written amendment executed by both Parties.
- 10.2. Assignment. The Recipient shall not assign its rights or delegate its obligations under this Contract without prior written approval from TxDMV. Any attempted assignment in violation of this Subsection is void and without effect.
- 10.3. Compliance with Laws and Change in Laws. The Recipient shall comply with all applicable federal and state laws, rules, regulations, and guidelines that currently exist and as amended throughout the term of this Contract, and with the orders and decrees of any court, or administrative bodies, or tribunals in any matter affecting the performance of this Contract. Notwithstanding anything to the contrary in this Contract, TxDMV reserves the right, in its sole discretion, to unilaterally amend this Contract to incorporate any modifications necessary for the Parties compliance with changes in federal and state laws, regulations, requirements, and guidelines.
- 10.4. Contract Execution. Each Party represents and warrants that the individual executing this Contract on its behalf has full power and authority to enter into this Contract. Additionally, each Party agrees that this Contract, as well as any amendments thereto, may be executed by written or electronic signature and may be delivered in multiple counterparts by facsimile or other electronic transfer of an originally signed document, each of which will be as binding on the Party or Parties as an original document. The Parties each agree that this transaction and Contract may be conducted under the Texas Uniform Electronic Transactions Act (“**UETA**”) (Texas Business and Commerce Code Chapter 322), and in particular, the Parties each consent to an electronic signature (as defined in UETA) as an enforceable signature for this Contract and any amendment thereto. The Parties further agree that any objections that electronic signatures and electronically transmitted documents do not constitute the “best evidence” of the documents, or that they do not comply with the “Statute of Frauds,” as well as any other similar objections to the validity or admissibility of the document, are hereby expressly waived by the Parties.
- 10.5. Designated Representatives. The following will act as the designated Representatives authorized to administer activities including, but not limited to, non-legal notices, consents, approvals, requests, or other general communications, that are provided for or permitted to be given under this Contract. Communications to the Representatives may be given by written or electronic transmission. The designated Representatives on behalf of their respective Party are as follows:

TxDMV

Recipient

Texas Department of Motor Vehicles
Vehicle Titles and Registration Division
4000 Jackson Avenue
Austin, Texas 78731

The Recipient may change its designated Representative by providing written notice to TxDMV at least 10 business days after to the change. TxDMV will issue notification to the Recipient of any change to its designated Representative within a reasonable time period of said change or upon receipt of a communication from the Recipient to the above referenced email box.

- 10.6. Entire Agreement. This Contract contains all the terms and conditions between TxDMV and the Recipient relating to the matters set forth herein and no prior or contemporaneous agreement or understanding pertaining to the same, including, without limitation, any electronic mail correspondence between the Parties in connection with this Contract, shall be of any force or effect.
- 10.7. Excluded Parties. Recipient certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control.
- 10.8. Executive Head of a State Agency Affirmation. In accordance with Texas Government Code § 669.003, relating to contracting with the executive head of a state agency, Recipient certifies that it is not (1) the executive head of TxDMV, (2) a person who at any time during the four years before the date of the contract was the executive head of TxDMV, or (3) a person who employs a current or former executive head of TxDMV.
- 10.9. Governing Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless mandated otherwise by statute.
- 10.10. Inability to Provide Data. If TxDMV is delayed in or unable to provide the Data as set forth in this Contract, TxDMV will attempt to notify the Recipient, but shall not be liable to the Recipient for any delay or not being able to provide the Data.
- ~~10.11. **INDEMNIFICATION. TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, THE RECIPIENT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND TxDMV, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF THE RECIPIENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, OR ANY PERSON OR ENTITY RECEIVING INFORMATION OR DATA GOVERNED BY THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY THE RECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TxDMV IS A NAMED DEFENDANTS IN ANY LAWSUIT AND THE RECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. THE RECIPIENT AND TxDMV AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE THE**~~

~~RECIPIENT TO INDEMNIFY OR HOLD HARMLESS THE STATE OF TEXAS OR TXDMV FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE STATE, TXDMV, OR ITS EMPLOYEES.~~

Request to strike Section 10.11 by City of El Paso APPROVED - See file for documentation.



Manager, Contract Unit 08/10/2023

10.12. Legal Notice. Any legal notice required under this Contract shall be deemed delivered when deposited by a Party in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required; or hand delivered, to the appropriate address below:

TxDMV

Texas Department of Motor Vehicles
Attn: Office of General Counsel
4000 Jackson Avenue
Austin, Texas 78731

Recipient

Attn:

Legal notices given in any other manner not set forth within this Subsection shall be deemed effective only if and when received by the Party to be notified. Additionally, a copy of any legal notice must be provided at the same time to the receiving Party's designated Representative identified in **Subsection 10.5** of this Contract when said notice is given. Either Party may change its address for legal notices by providing written notice to the other Party at least 30 days prior to the change.

10.13. **LIMITATION OF LIABILITY**. TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, THE RECIPIENT SHALL HOLD HARMLESS TXDMV FROM ANY LIABILITY THAT MAY ARISE FROM THE RECIPIENT'S ACCESS TO, RECEIPT OF, MISUSE OF, OR REDISCLOSURE OF THE DATA BY THE RECIPIENT OR BY ITS EMPLOYEES, AGENTS, OR SUBCONTRACTORS. TXDMV MAKES NO REPRESENTATION OR WARRANTY AS TO USE, RESULT, OR ACCURACY OF THE DATA THAT IS THE SUBJECT OF THIS CONTRACT. THE RECIPIENT, NOT TXDMV, IS SOLELY RESPONSIBLE IF A USER FAILS TO PROPERLY INTERPRET THE DATA. THE RECIPIENT, NOT THE TXDMV, IS SOLELY RESPONSIBLE FOR SENDING ANY NOTICES TO THE INCORRECT PARTIES.

10.14. No Third-Party Beneficiaries. This Contract is intended for the benefit of TxDmv and the Recipient, and is not for the benefit of, nor may any provision hereof be enforced by, any other person. Any benefit(s) that a third-party may receive as a result of this Contract are incidental and do not create any rights for such third-party.

10.15. Publicity. The Recipient shall not use TxDmv's name, logo, or other likeness in any press release, marketing material, or other announcement, including postings on social media sites, without TxDmv's prior written approval. TxDmv does not endorse the Recipient, any vendor, commodity, or service.

10.16. Public Information Act. The Recipient understands that TxDmv will comply with the Texas Public Information Act (Texas Government Code Chapter 552) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this Contract may be subject to

public disclosure pursuant to the Texas Public Information Act. In accordance with Texas Government Code § 2252.907, the Recipient is required to make any information created or exchanged with the State of Texas or TxDMV pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State of Texas or TxDMV.

- 10.17. Recitals. The recitals set forth at the beginning of this Contract are incorporated into and made part of this Contract, and the Parties represent the recitals are true, accurate, and correct.
- 10.18. Severability. This Contract shall be construed in a manner consistent with all applicable existing and future laws and regulations. If any part of this Contract is determined to be invalid or contrary to existing and future laws and regulations, the remainder of the Contract will remain in full force and effect. The illegal or invalid provision will be deemed severable and stricken from this Contract as if it had never been incorporated herein. Upon occurrence of such an event, the Parties shall meet and confer as soon as practical to renegotiate the conflicting provisions
- 10.19. Sovereign Immunity. The Parties expressly agree that no provisions of this Contract are in any way intended to constitute a waiver by the State of Texas or TxDMV of any immunities from suit or from liability that the State of Texas or the TxDMV may have by operation of law. Additionally, if the Recipient is a “governmental unit” as defined by Texas Civil Practice and Remedies Code § 101.001(3), then nothing in this Contract should be construed to abrogate any rights or affirmative defense available to the Recipient under the doctrines of sovereign and official immunity.
- 10.20. Survival. Expiration or termination of this Contract for any reason does not release the Recipient from any liability or obligation set forth in this Contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of this Contract, including without limitation the provisions regarding indemnification, limitation of liability, data security, confidentiality, and breaches, and rights and remedies upon termination.

11. Contract Term

- 11.1. This Contract is effective on the signature date of the last of the Parties to sign and will continue for 5 years, unless terminated earlier pursuant to the terms and conditions of this Contract. Thereafter, this Contract **shall automatically renew for successive 5-year terms**, subject to **Subsection 10.2** of this Contract. For the avoidance of doubt, this contract may be terminated during the initial term or any renewal period in accordance with **Section 7** of this Contract.
- 11.2. TxDMV may, in its sole discretion, exercise the option to cancel the autorenewal of this Contract, at the end of each 5-year term, upon evaluation of the Recipients performance during the previous contract term. The Recipients of bulk Data will also be evaluated on

their adherence to **Section 3** of this Contract. TxDMV will notify the Recipient, in writing, of its Contract renewal status at least 30 days prior to the date the contract term will expire.

12. Signatures

By signing below, the Parties acknowledge that they have read this Contract and bind themselves to faithful performance of the duties and obligations therein.

Texas Department of Motor Vehicles

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date



MVINet Account Update Form

Account #

Instructions:

Below is the general business information, a list of your MVInet Security Administrator(s) and MVInet Users the TxDMV has on file for your account. Please review all the information provided and select either the NO UPDATES or UPDATES required box for each area.

Use page 2 to make updates to your General Business Information, Billing Contact, and MVInet Security Administrator(s).

Use page 3 to make updates to your MVInet Users.

Return the completed forms by email.

Legal Business Name	DBA(if applicable)
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General Business Information	NO UPDATES	*UPDATES required *See page 2
Full Business Mailing Address		County
Business Phone Number		Business Email Address

MVINet Account Information - See List Below

MVINet Security Administrator (MSA)	NO UPDATES	*UPDATES required see pg.2
MVINet USER(s)	NO UPDATES	*UPDATES required see pg.3

MVINet USER(S) List

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SB15 Compliant Contract MVInet ONLY Account Update Form ACCOUNT



DEPARTMENT USE	
New Contract Executed:	
EXEMPT:	
<u>MVInet Account Requires Updates:</u>	
NO - <u>File Only</u>	YES - See Below

Instructions:

Use this form to update the required information selected on the previous form. IF THERE ARE NO UPDATES to any of the information currently associated with the recipient's MVInet account(s), simply review the information below for accuracy, save the form, and return. **Additionally, provide the name, email and phone number for your selected Designated Contract Representative (DCR). The DCR is an individual who may be designated to administer contract and account activities including, but not limited to, non-legal notices, consents, approvals, requests, or other general communications. The provided DCR will be listed in Subsection 10.5 of the Texas Motor Vehicle Records Data Contract. A DCR's signature will hold the same authority as the individual who executed the contract, when applying data account updates. The DCR is not authorized to terminate the contract or the data product account. To update information, please click into each field and **type in** the requested information. When you have finished, review the information for accuracy, save the form, and return the completed forms by email.**

General Business Information

Business Type	Legal Business Name	DBA (if applicable)
Full Business Mailing Address	County	Business Phone Number

*** Designated Contract Representative (DCR)**

If a DCR is not provided, the DCR will automatically default to the individual who executed the contract.

Full Name (First, MI, Last, Suffix)	Email Address	Phone Number
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*** Billing Contact (monthly billing invoices emailed to the email address(s) provided) N/A EXEMPT**

Primary Billing Contact Full Name (First, MI, Last, Suffix)	Email Address	Phone Number
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Optional <u>additional</u> email address to receive monthly invoices	Optional <u>additional</u> email address to receive monthly invoices
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*** MVInet Security Administrator (MSA) - One MSA is required, additional are *optional*.**

When selecting MSA's, please note that MSA's are responsible for submitting the required forms for MVInet external users, including adding new users changing the name of existing users, or deleting user access. Contact your TxDMV Designated Contract Representative with questions.

Security Administrator Full Name (First, MI, Last, Suffix)	ADD	DELETE	Email Address	Phone Number
Security Administrator Full Name (First, MI, Last, Suffix)	ADD	DELETE	Email Address	Phone Number
Security Administrator Full Name (First, MI, Last, Suffix)	ADD	DELETE	Email Address	Phone Number
Security Administrator Full Name (First, MI, Last, Suffix)	ADD	DELETE	Email Address	Phone Number
Security Administrator Full Name (First, MI, Last, Suffix)	ADD	DELETE	Email Address	Phone Number

Department Use Only

The Data Contracts Unit affirms the following is true and correct:

The complete data contract and all applicable forms have been vetted. The contract was fully executed on the date listed above.



MVINet User Update Form

ACCOUNT #

Instructions:

A MVInet security administrator (MSA) must complete the MVInet User Information section to add a new user, change a name for an existing user, or delete a user's access to MVInet. When deleting a user, the *Texas Motor Vehicle Records Data Contract Data Use Agreement (VTR-DC.DUA)* is **not required**. For efficient processing, please click into each field and **type in** the requested information. Electronic signatures are preferred.

IF THERE ARE NO UPDATES to any of the information currently associated with the recipient's MVInet User(s), you may disregard the rest of this form.

IF THERE ARE UPDATES to the recipient's MVInet User(s), please click into each field and type in the requested information. When you have finished, review the information for accuracy, save the form, and return the completed forms by email. UPDATES must be made on a separate form FOR EACH MVInet USER (a blank MVInet User Update Form has been provided in the email).

Business Information:

Legal Business Name	DBA (if applicable)
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MVINet Account Number:

MVINet User Information:

FIRST NAME	M.I.	LAST NAME

Select a User Action		
Add New User	Change Name of Existing User User ID: (required)	Delete Existing User User ID: (required)

Signatures

MSA signature is **required**. User's signature is required for all new users or name changes.

MSA Printed Name	User Printed Name
MSA Signature	User Signature
Date	Date

Department Use Only

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