

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and between:

Vendor: Vigilant Solutions, Inc.
2021 Las Positas Court, Suite #101
Livermore, CA 94551

Agency: City of Kyle
c/o Police Chief
100 W. Center Street
Kyle, TX 78640-9540

A. Purpose. To allow the Agency to utilize license plate recognition products and services provided by Vendor to increase the efficiency of the redemption and clearing of outstanding warrants and fines owed to Agency.

B. Roles and Responsibilities. The following details the roles, responsibilities, and deliverables necessary to insure the success of the warrant redemption and fine collection activities of the Agency:

Vendor agrees to deliver to Agency the license plate recognition products and services, payment processing products and services, and warrant clearing support activities set forth in Exhibit A.

Agency agrees to utilize the license plate recognition products and services, payment processing products and services, and clearing support activities provided by Vendor in the manner and as described by Exhibit B.

C. Financial Implications to Agency. No financial commitment by Agency is required to participate in this program. This program and MOU is intended to have zero fiscal impact on Agency for use of Vendor's license plate recognition products and services in Agency's efforts to increase the efficiency of the redemption, and collectability of outstanding warrants and fines owed to Agency.

D. Timeframe. The MOU shall commence once executed and shall continue until terminated. Either party may terminate this MOU for its convenience, and in its sole discretion, by providing the other party thirty (30) days prior written notice of termination. Upon termination of this MOU, Agency will immediately cease all use of Vendor deliverables and will return all hardware furnished pursuant to Exhibit A back to Vigilant.

Upon termination of this MOU and upon Agency providing written request to Vigilant, Agency will be provided a copy of all license plate recognition ("LPR") data collected by Agency. Such data shall be provided in standard XML format. A copy of the original LPR vehicle location data shall remain on Vendor's servers for purposes of sharing such data with other law enforcement agencies and uses in accordance with, and pursuant to, a permissible purpose set forth under the federal Drivers Privacy Protection Act (DPPA).

E. Processing and Handling Fees. Agency agrees that it will collect processing and handling fees at the time payment is made through Vendor's payment processing service pursuant to the fee schedule set forth in Exhibit C as permitted by Texas Statute, Chapter 132 of the Local Government Code, which is attached as Exhibit D.

F. Indemnification. Each Party to this MOU shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this MOU. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur

within the scope of their official duties. Under no circumstances shall this MOU be interpreted to create a partnership or agency relationship between the Parties. During the term of this Agreement, Vigilant shall maintain insurance with the types and limits set forth in Exhibit F.

G. Ownership of LPR Hardware and Software. The deliverables provided by Vendor pursuant to Exhibit A remain the property of Vendor. The hardware and software components are owned by and titled to Vigilant. This MOU does not constitute sale of any piece, part or portion of Vendor’s deliverables. Vendor retains title and ownership of the software and hardware components related to all deliverables and all other materials included as part of the deliverables package provided pursuant to Exhibit A.

H. Ownership of Agency Warrant Data. All warrant data transmitted by Agency to Vendor pursuant to this MOU, regardless of form, is confidential, proprietary information owned by the Agency. Except as specifically provided in this Agreement, Vendor and its agents, employees, and contractors shall not disclose such data to any third person without the prior written consent of the Chief of Police of the Agency, or other Agency designee.

I. Notices. All notices, requests, demands, or other communications required or permitted to be given hereunder must be in writing and must be addressed to the parties at their respective addresses set forth below and shall be deemed to have been duly given when (a) delivered in person; (b) sent by facsimile transmission To the facsimile number below and indicating receipt at the facsimile number where sent; (c) one (1) business day after being deposited with a reputable overnight air courier service; or (d) three (3) business days after being deposited with the United States Postal Service, for delivery by certified or registered mail, postage pre-paid and return receipt requested.

Vigilant Solutions, Inc.	Agency: <u>City of Kyle</u>
Attn: Sales Administration	Attn: Police Chief
2021 Las Positas Court - Suite # 101	Address: <u>100 W. Center Street, Kyle, TX</u>
Livermore, CA 94551	78640
Fax: (925) 398-2113	Fax: (512) 262-3987 <u> </u>

IN WITNESS WHEREOF, Vigilant the Agency have caused this MOU to be signed on the date set forth below and be effective on the last date specified below.

Vendor:	Vigilant Solutions, Inc.	Agency:	_____
Authorization:	Joseph L. Harzewski III	Officer:	_____
Title:	Vice President	Title:	_____
Date:	_____	Date:	_____
Signature:	_____	Signature:	_____

Address Correspondence about this document to:
 Joe Harzewski - Vice President
 Tel: 818-915-8085 / Fax: 925-398-2113
 Email: joe.harzewski@vigilantsolutions.com

Exhibit A

Vigilant Deliverables:

Upon execution of this MOU, Vigilant will deliver the following to Agency:

1. Access and licenses to utilize Vigilant's CarDetector mobile LPR software.
2. Vigilant shall deliver one (1) complete mobile LPR systems to the designated Agency address. Each system shall include three (3) mobile LPR cameras, GPS receiver, Power stabilizer and payment processing hardware package. Each payment processing hardware package shall include one credit card swiper and receipt printer which shall be connected to an existing agency mobile data computer via USB. Additional payment processing hardware packages to support court house payment terminals are available upon request.
3. An unlimited number of general user accounts to access Vigilant's Law Enforcement Archival Reporting Network ("LEAN") server which shall provide up to four (4) user accounts limited access to Vigilant's private LPR database. Such access shall be limited to access to LPR data contained within the nearest major metropolitan area of the jurisdiction's physical address.
4. Printed warrant notification 'Tags' which shall be placed upon unoccupied vehicles located on public property by the Agency or by Vigilant representatives. The design, agency logo/seal placement and content messaging for Agency disseminated 'Tags' shall be pre-approved by Agency prior to being printed and delivered to Agency.
5. Use of Vigilant's warrant notice text messaging service to allow the Agency to send text message warrant and/or delinquent payment notices to offenders. The content messaging contained in the text message shall be pre-approved by Agency prior to being communicated to the warrant holder. The text messaging service shall contain the 'Click to Pay' warrant redemption module allowing the warrant holder to pay directly from the text message via smartphone and/or internet terminal.
6. Use of Vigilant's warrant notice "Tag" delivery service to deliver/attach warrant notice "Tags" by Vigilant representatives onto unoccupied vehicles identified to be located in public space in the State of Texas. Warrant records shall be sent to Vigilant representatives operating mobile LPR systems for warrant notice 'Tag' delivery onto the windshield of unoccupied vehicles. No Personally Identifying information shall be made available to any Vigilant representative delivering "Tags", but rather only the following information shall be used for warrant notice "Tag" delivery:
 - A. Offender license plate Number and corresponding state of registration
 - B. PIN number for PMW website payment, to be authenticated only by the offender via Date Of Birth
 - C. Agency Name
 - D. Agency Point of Contact Name and Phone (for response feedback and direct offender communication)

Vigilant Obligations:

Upon execution of this MOU and delivery of the deliverables identified above, the following are the key obligations of Vigilant:

1. A Vigilant certified technician will schedule both on-site and after-visit telephone support events in order to assist in the implementation of Agency's mobile LPR system(s) as may be required dependent upon agency's expertise.
2. Vigilant will make available to Agency a standard LEARN Server and 'Pay My Warrant' account and support their use throughout WRP participation period, including Agency general LPR use
3. Vigilant will facilitate the data sharing of all acquired LPR data (vehicle locations), resulting from Agency's use of the mobile LPR systems, with the local Law Enforcement Agency servicing the City's public safety needs. This shall include offering the city's local Police Department with full access to Vigilant's LEARN server and all associated data analytics and criminal analysis tool sets.
4. Vigilant will facilitate data sharing of all warrant records with other WRP participating Agencies as to support synergetic 'Cross Jurisdictional Warrant Processing' with such warrant data sharing being managed via Agency's LEARN account

5. Vigilant shall provide all standard warranty coverage on all hardware items provides at no charge to the Agency.

Vigilant Warrant-List Support:

Upon execution of this MOU, Vigilant shall provide the following support to Agency related to the Warrant List:

1. The warrant file (and associated Agency updates) shall be accessible to Vigilant's Court Management System (CMS) Integration Partner via server download with Agency server access provided by your Agency.
2. Vigilant's CMS will make updates to update warrant data to include the most current information available based on public record sources. Specifically, Vigilant (or CMS partner) shall extract the list of then outstanding warrant data from the Agency server so that Vigilant's 3rd party public records providers may update the warrant data (within the context of the client's law enforcement permissible purpose) to attach current vehicle registration data (license plates) and cell phone data, in an effort to create a suitable warrant list for law enforcement use in conjunction with the Agency's use of the mobile LPR system.
3. Warrant information and any appended vehicle registration information shall only be made available to Agency, Vigilant, Vigilant Representatives, and the CMS integration partner. There shall be no other dissemination or use of warrant data other than for the specific use of providing services to Agency in accordance with this MOU.
4. The aforementioned process is referred to as "Warrant-list Hygiene" and Vigilant (in conjunction with its CMS integrator) shall perform this Warrant-List Hygiene procedure upon execution of this MOU, and shall continue to perform such Hygiene on an 'As Needed' basis' such that new warrant data can be added to the Warrant-List as needed.
5. Vigilant may provide warrant processing updates to Agency's Case Management Software (to the extent your Agency desires such updates) upon having outstanding warrants settled in full. Each warrant processing update shall contain the 'Warrant Value' which includes the monetary value that represents a financial settlement amount satisfactory to the Agency.

Exhibit B

Agency Obligations:

Upon execution of this MOU, the following are the key obligations of Agency:

1. Agency will apply for a Credit Card Processing Merchant Account and become the Merchant of record for all financial warrant/fine settlement transactions. This allows for warrant settlement funds to be deposited directly into the Agency's bank account(s).
2. Agency shall sign a 'Split-Funding Agreement', as found in Exhibit E, regarding the warrant/fine settlements which are collect pursuant to the fee schedule contained in Exhibit C.
3. Agency shall be willing to receive and, if requested by Vigilant, return the Vigilant deliverables provided pursuant to Exhibit A.
4. Agency shall complete the following within 30 days of execution of this MOU unless additional time is approved by both parties:
 - a. Schedule installation of the mobile LPR systems with Vigilant certified technician.
 - b. Install the Vigilant deliverables (software/hardware) onto your Agency provided mobile data computers contained within Agency patrol vehicles.
 - c. Insure that Agency mobile data computers used for this program have the required broadband internet connectivity necessary to process warrant/fine collection activities. Agency shall contact Vigilant for detailed MDC hardware and software requirements to ensure compliance.
5. Agency shall put forward 'Best Efforts' to support and enforce financial warrant settlement payments through each of the Vigilant deliverables where/when appropriate, therefore expediting and accelerating the normal rate of warrant clearance and redemption. This includes payment transactions via 1) Mobile LPR systems; 2) Cross jurisdictional settlement processing (other agency warrants); 3) use of warrant notification via text messaging service by the Agency, and 4) use of warrant notice Tag notification delivery by Vigilant representatives
6. Agency shall provide a Warrant-List (target offender list) containing valid 'C' class warrants and fine data, with automated update access of the warrant data file, to Vigilant for public records hygiene and updating as required to facilitate Vigilant's Warrant List support obligations. Each warrant record shall contain as a minimum:
 - a. Full offender name
 - b. Offender Date of Birth
 - c. Offender last best address
 - d. Offender best license plate number and corresponding state of registration

Exhibit C

Processing and Handling Fees

Agency agrees that Vigilant shall process payments in accordance with the fee schedule set forth below. Agency authorizes Vigilant to charge such fees at the time or processing payment on behalf of Agency.

The permitted fee schedule is as follows:

- Credit Card Processing Fee: 5% of the total fine amount processed.
- Credit Card Handling Fee: 5% of the total fine amount processed.
- Vendor Transaction Fee: 15% of the total fine amount processed The Vendor Transaction Fee includes the following services as a minimum:
 - a. Warrant Record Hygiene
 - b. Mobile LPR and Payment Processing System Hardware & Software Use
 - c. 'Tag' and 'Text' service User
 - d. Unlimited 'Tag' prints

Commented [FG1]: What is difference between processing fee and handling fee?

Financial Economic Example:

Warrant Value	Total Vendor Fees	Total Settlement	Vigilant Split Payment	Payment to Agency	Vigilant Remuneration
\$ 400.00	25.0%	\$ 500.00	20.0%	\$ 400.00	\$ 100.00

** Vigilant agrees to pay back all 'Charge Back' monies, charged back to the Agency from offender payment conflicts, in full on a monthly basis by way of check by mail, based on Charge Back claims reported to Vigilant per the Notices section of this agreement by the Agency within thirty (30) days of offender actual Charge Back.

Exhibit D

COPY OF LOCAL GOVERNMENT CODE TITLE 4. FINANCES

SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 132. PAYMENT OF FEES AND OTHER COSTS BY CREDIT CARD OR ELECTRONIC MEANS IN MUNICIPALITIES AND COUNTIES

Please refer to the following web page:

<http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.132.htm>

Exhibit E

SPLIT-FUNDING AGREEMENT

This Split-Funding Agreement ("Agreement") is entered into between Vigilant Solutions Inc. ("Payee") and _____ ("Merchant") and shall be effective as of the _____ day of _____ 20____ ("Effective Date").

BACKGROUND: Merchant has executed the Merchant Processing Agreement ("Agreement") by and between ECS and Merchant, with services provided by a transaction processor ("Processor") and a card association sponsor bank ("Bank") to provide credit and debit processing services. Merchant has executed an agreement with Vigilant Solutions Inc. ("Payee") that stipulates/requires Merchant direct and pay a percentage of its future credit and debit card receipts to Payee ("WRP MOU") and that Merchant cause ECS and the processor to take certain other actions described in this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual promises and conditions contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, Merchant, ECS, and Payee agree as follows:

1. Merchant Authorization. Merchant irrevocably authorizes and instructs ECS to (i) withhold (or cause to withhold) 20.0% (Twenty Percent) of Merchant's daily gross credit and debit card processing receipts ("Split Payment") from deposit into Merchant's Settlement Account and to (ii) redirect and pay (or cause to redirect and pay) such percentage to an account designated by Payee ("Payee Account") until Payee sends written notice to ECS that the Merchant has satisfied its obligations under the WRP MOU.

2. Acknowledgment. Merchant acknowledges that nothing in this Split-Funding Agreement shall relieve Merchant of its obligations or deprive ECS of its rights under the Merchant Agreement.

3. Indemnification. To the extent allowed by law, Merchant will indemnify and hold harmless each of ECS, processor, and sponsoring bank and their respective agents, employees, representatives and their respective successors and assigns harmless from all liabilities, claims, demands, actions or judgments, including but not limited to attorneys' fees, arising out of or resulting from the acts or omissions of the Merchant, its employees, officers, or agents in connection with this Split-Funding Agreement. Each of Merchant and Payee will indemnify, defend and hold ECS from and against all liabilities, losses, claims, damages and disputes suffered or incurred as a result of any actions in reliance on the terms of this Split-Funding Agreement or otherwise in connection with the Agreement.

4. Term and Termination. This Agreement shall commence on the Effective Date and shall continue in force until Payee sends written notice to ECS, that the Merchant has satisfied its obligations under the WRP MOU.

5. General. If any provision of this Agreement is declared invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired, and the parties shall replace the invalid or unenforceable provision with a valid and enforceable provision that reflects the original intent of the parties as nearly as possible in accordance with applicable law. This Agreement together with the Merchant Processing Agreement contains the full and complete understanding of Payee and Merchant regarding the matters described in this Split-Funding Agreement and supersedes all prior agreements and understandings between the parties with respect to the entire subject matter. This Split-Funding Agreement shall be governed by Texas law. The sole and exclusive venue for hearing disputes under this Agreement shall be the state or federal courts of Hays County, Texas. This Split-Funding Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns, and to the benefit of Payee.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above:

Payee: Vigilant Solutions Inc.	Merchant: _____
By: Joseph L Harzewski III	By: _____
Title: Vice President	Name: _____
Signature: _____	Signature: _____
E-Mail for Notices: joe.harzewski@vigilantsolutions.com	E-Mail for Notices: _____

Exhibit F

Insurance Coverage

		VIGIL-1 OP ID: BN		
CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 07/31/2015		
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.				
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).				
PRODUCER Andreini & Company-San Mateo License 0208825 220 West 20th Ave San Mateo, CA 94403		CONTACT NAME Phone: 650-573-1111 Fax: 650-378-4361		
INSURED Vigilant Solutions, Inc. 2021 Las Positas Court #101 Livermore, CA 94551		INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: Associated Industries of 33758 INSURER B: Golden Eagle Ins. Corp. 10836 INSURER C: Lloyd's of London INSURER D: Travelers Property Casualty 36161 INSURER E: Fireman's Fund Ins. Co. 21873 INSURER F:		
COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:				
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.				
INSR LTR	TYPE OF INSURANCE	ACORD BUREAU NO. / POLICY NO.	POLICY EFF. DATE / POLICY EXP. DATE	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	AES1030714	05/10/2015 05/10/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 50,000 MED EXP. (Any one person) \$ Excluded PERSONAL & ADV. INJURY \$ Excluded GENERAL AGGREGATE \$ 2,000,000 PRODUCTS-COMP/OP/AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BAS56519801	05/10/2015 05/10/2016	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
E	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	SSE48834634	05/10/2015 05/10/2016	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in N/A) If yes, describe under DESCRIPTION OF OPERATIONS below	UB2214L81914	04/25/2015 04/25/2016	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability	JCS260189015	05/10/2015 05/10/2016	Aggregate 1,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101. Additional Remarks Schedule, if more space is required)				
CERTIFICATE HOLDER		CANCELLATION		
(Empty space for Certificate Holder Name)		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		
(Empty space for Signature)		AUTHORIZED REPRESENTATIVE 		
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