

**AGREEMENT FOR PROCESSING
OF PARKING CITATIONS, PERMITS AND MOBILE DEVICES**

AGR 17.215
IHH _____

This Agreement is entered into by and between **Turbo Data Systems, Inc. (TDS)**, a California Corporation, and **the Town of Los Gatos**, (hereinafter "Customer").

Whereas, TDS and the Customer desire to enter into an agreement whereby TDS will provide services and equipment related to the processing of parking citations, provide a permit management system, and provide mobile devices for the Customer pursuant to the terms and conditions set forth herein.

In consideration of the mutual covenants, conditions, representations and warranties contained herein the parties hereby agree as follows:

1. **PURPOSE.** The purpose of this Agreement is for TDS to process parking citations, provide permit processing and provide mobile devices and support for the Customer in a timely manner.

2. **SCOPE OF SERVICES.** When and as directed by the Customer, TDS shall perform the following services:

See Attached Scope of Services

3. **TERM.** This agreement shall become effective for a period of five years, renewing annually thereafter upon mutual consent, starting **December 1, 2017**. ✓

4. **CONSIDERATION.** In consideration for services performed by TDS as provided in this agreement, Customer shall pay TDS pursuant to the terms set forth in Exhibit "A" which is attached hereto and incorporated herein by this reference.

5. **PAYMENT OF FEES.** Charges determined on the basis set forth in Exhibit "A" shall be billed on a monthly basis in arrears and payment therefore shall be made within thirty (30) days after submission of each separate invoice.

6. **ACCOUNTING RECORDS.** Records of the citations processed by TDS shall be available for examination by the Customer or its authorized representative(s) at a time agreeable to the Customer and TDS within one week following a request by the Customer to examine such records. Failure by TDS to permit such examination within one (1) week of a request shall permit the Customer to withhold all further payments until such examination is completed unless the Customer in writing authorizes an extension of time for examination.

7. **TIME OF PERFORMANCE.** Time is of the essence, and TDS shall perform the services required by this agreement in an expeditious and timely manner so as not to unreasonably delay the purpose of this agreement as set forth in Sections 1 and 2.

8. **INDEPENDENT CONTRACTOR.** At all times during the term of this agreement, TDS shall be an independent contractor and shall not be an employee of the Customer. The Customer shall have the right to control TDS only insofar as the results of TDS's services rendered pursuant to this agreement; however, Customer shall not have the right to control the means by which TDS accomplishes the services rendered pursuant to this agreement.

9. **FACILITIES AND EQUIPMENT.** TDS shall, at its own cost and expense, provide all facilities and equipment

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that may be required for performance of the services required by this agreement.

10. TDS agrees to defend, indemnify, hold free and harmless the Customer, its elected officials, officers, agents and employees, at contractor's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the Customer, its elected officials, officers, agents and employees arising out of the performance of the contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the Customer, its elected officials, officers, agents and employees based upon the work performed by the contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the contractor shall not be liable for the defense or indemnification of the Customer for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the Customer. This provision shall supersede and replace all other indemnity provisions contained either in the Customer's specifications or contractor's proposal, which shall be of no force and effect.

11. INDEMNIFICATION BY CUSTOMER. TDS shall use due care in processing work of the Customer. Any errors shall be corrected by TDS at no additional charge to the Customer. TDS shall be entitled to reimbursement from the Customer for any expenses incurred by TDS for the correction of any erroneous information provided by the Customer and TDS shall not be responsible for Customers' losses and expenses resulting from erroneous source materials provided by the Customer. Neither party shall be liable to the other for any indirect or consequential losses or damages resulting from any errors within the scope of this Section 11.

12. FAIR EMPLOYMENT PRACTICES/EQUAL OPPORTUNITY ACTS. In the performance of this agreement, TDS shall comply with all applicable provisions of the California Fair Employment Practices Act (California Labor Code Sections (410 et seq.) and the applicable equal employment provisions of the Civil Rights Act of 1964 (42 U.S.C. 200e 217), whichever is more restrictive.

13. AGENCY. Except as Customer may specify in writing TDS shall have no authority, expressed or implied, to act on behalf of the Customer in any capacity whatsoever as an agent. TDS shall have no authority, expressed or implied, pursuant to this agreement to bind Customer to any obligation whatsoever.

14. CHANGES IN LAW. Should there be any changes in the law applicable to the processing of parking citations which would require material changes in the method of the processing as contemplated in this agreement, or materially reduce or eliminate the amount of revenue received by the Customer from parking citations, this agreement shall terminate on the date such law becomes effective, provided either party gives sixty (60) days' notice of termination. Any changes in the processing of parking violations as a result of changes in the law or DMV regulations affecting such violations, which do not materially add to the cost of processing such citations by TDS shall be implemented by TDS at the request of the Customer, provided however, that the cost of such implementation does not exceed the fee paid to TDS for performing such services. If any such change results in the cost of processing citations exceeding the amounts provided for in

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Section 4 and the Customer declines to amend this agreement to provide for the payment of such increased costs, the agreement shall terminate as of the effective date of the change in the law or regulations.

15. **OWNERSHIP OF SOFTWARE.** Customer acknowledges that the software and software programs used by the Customer or used for the Customer's benefit which were developed by TDS are the sole property of TDS and the Customer obtains no right or interest in the software by virtue of this agreement.

16. **OWNERSHIP OF DOCUMENTS.** All citations and other physical documents pertaining to the Customer (payment documents, appeal documents, etc.), shall be the property of the Customer. Copies of said documents shall not be made available by TDS to any individual or organization without the prior written approval of Customer, except as required by law. TDS agrees to provide Customer, in computer readable form, a copy of all data files to service its citations at the conclusion of this Agreement.

17. **FORCE MAJEURE.** Neither party shall be responsible for delays or failure in performance resulting from acts beyond the control of such parties. Such acts shall include, but are not limited to, Acts of God, strikes, riots, acts of war, epidemics, fire, communication line failure, earthquakes or other disasters.

18. **TERMINATION.** This agreement may be terminated by either party upon ninety (90) days written notice after the original term of the agreement. At such time, TDS agrees to provide Customer, in computer readable form, a copy of all data files to service its citations.

19. **NOTICE.** Whenever it shall be necessary for either party to serve notice on the other respecting this agreement, such notice shall be served by certified mail addressed to:

TDS:	Turbo Data Systems, Inc. 18302 Irvine Blvd, Suite 200 Tustin, CA 92780 Roberta J. Rosen, President
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CUSTOMER:	Town of Los Gatos 110 E. Main Street Los Gatos, CA 95030
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unless and until different addresses may be furnished in writing by either party to the other, and such notice shall be deemed to have been served within seventy-two (72) hours after the same has been deposited in the United States Post Office by certified mail. This shall be valid and sufficient service of notice for all purposes.

20. **EXTENT OF AGREEMENT.** This agreement represents the entire and integrated agreement between Customer and TDS and supersedes any and all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both Customer and TDS. This agreement may only be assigned with the express written consent of each of the parties hereto. In the event that any provision hereof is deemed to be illegal or unenforceable, such a determination shall not affect the validity or enforceability of the remaining provisions hereof, all of which remain in full force and effect.

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21. LITIGATION COSTS. If any legal action or any other proceeding is brought to enforce the terms of this agreement, or because of an alleged dispute, breach, or misrepresentation in the connection with any of the provisions of this agreement, the successful or prevailing party or parties shall be entitled to recover their reasonable attorneys' fees and other costs incurred in that action or proceeding, including the costs of appeal in addition to any other relief to which it or they may be entitled.

22. EFFECTIVE DATE OF THIS AGREEMENT. This agreement, made in duplicate, shall be effective from and after **December 1, 2017**.

Executed on this ____ day of _____, ____.

TOWN OF LOS GATOS

By: See Attached Signature Page

TURBO DATA SYSTEMS, INC.

By: See Attached Signature Page

Roberta J. Rosen
President



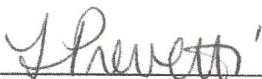
Town of Los Gatos
110 E Main St.
Los Gatos, CA 95030

SIGNATURE PAGE

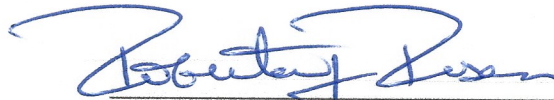
IN WITNESS WHEREOF, the Town and Contractor have executed this Agreement as of the date indicated on page one (1) of the document.

TOWN OF LOS GATOS

VENDOR: Turbo Data Systems, Inc.

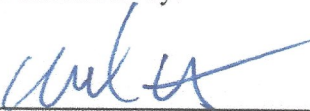


Laurel Prevetti, Town Manager



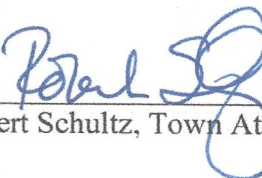
Roberta J. Rosen, President

Recommended by:



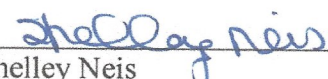
Michael D'Antonio, Interim Chief of Police

Approved as to form:



Robert Schultz, Town Attorney

ATTEST:

 11/16/17

Shelley Neis
Clerk Administrator

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**EXHIBIT "A"
PARKING CITATION PROCESSING**

Basic Processing Services -	Automated Citations	\$0.40
	Manual Citations	\$0.40
	Monthly Minimum	waived
Notice Processing Services Notices, initial review letters, other correspondence		\$0.80/letter mailed
Out of State Processing		25% of amt collected
Administrative Adjudication Processing		\$1.25 per appeal
Paperless Appeals (eAppeals and Scanning)		included with Adjudication
Web Payments - Credit Card Processing		\$3.95 Fee Paid by Violator ✓ No Charge to Agency
ICS Delinquent Collections		25% of amt collected
Franchise Tax Board Offset Program includes postage		\$2.00/letter mailed plus 15% of amount collected
Bank Management Process all parking deposits Send monthly surcharge check Write TDS check for services Monthly reconciliation Monthly check to Agency for balance of funds \$5 fee per NSF and refund check		\$75 per month plus bank fees ✓

Fee Increases:

Postal Rate Increase Offset – Fees will increase immediately to offset the amount of any postal increase.

Annual CPI Increase – For each additional year that this agreement continues per paragraph 3, the cost per item shall be increased according to the CPI for the previous 12 month period.

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MOBILE DEVICES with ticketPRO software

S7 Active ticketPRO Magic Lease (5 year)

Early Termination Fee: \$55/month/unit for the remainder of the lease term

3 units at \$120/month/unit = \$360/mo. ✓

One Time Setup/Configuration

included

Monthly Communications and Support

included

Parking Citation ticket stock

5,000 citations = \$400

5,000 envelopes = \$400

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PERMIT PROCESSING

PROCESSING FEES – PERMIT MANAGEMENT	<i>Annual issuance 2,000 – 5,000</i>
ONE TIME STARTUP COST	\$1,000 ✓
Includes: Database Creation, System Setup of Tables, Project Management, Client Approval, Web-Based training, Web Site Customization	
MONTHLY SERVICE/CLOUD-HOSTING FEE	\$250 ✓
This fee will cover the basic maintenance and availability of the system for the public and the City.	
Also Includes:	
✓	Portal Account Registration
✓	Online Permit Applications by Public & Uploading of Documents
✓	Inventory Stock Management
✓	Allows Mailed-in or OTC Permit Applications
✓	Web-Based Payment
✓	PO Box established by TDS for Mailed-in Applications
✓	All other correspondence will be mailed or scanned between TDS and the City
✓	"Self-Service" Internet access 24/7 for the public to view their permit information
✓	Online Support via email 8am-5pm Monday-Friday (excluding Holidays)
Permit Fee	\$1.00 per permit
• Physical Permits; Non-Digital Permits	
Online (Digital) Permit – No Review – No Fulfillment	\$0.75 per Permit
• Virtual or PDF Permits	
Permit Manual Entry/Import by TDS	+\$2.00 per Permit
• Includes document validation	
FULFILLMENT SERVICES	\$1.50 per permit + first class postage
TDS will assign approved permits and deliver via mail with letter.	
Permit Stock/Supplies	Supplied by Agency

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OTHER LETTER CORRESPONDENCE	\$1 per letter + first class postage
This fee will cover the mailing of a single page of information, such as a simple renewal letter or a rejection letter, etc. Other mailings outside of the fulfillment process can be negotiated.	
Permit Processing Bank Management	\$50 per month Plus bank fees/charges ✓
▪ Process all permit deposits into a separate account setup for Agency ▪ Write a check to TDS for services rendered ▪ Reconcile the account monthly ▪ Provide monthly reconciliation of all activities in the account ▪ Write a check to Agency monthly for the balance of the funds ▪ \$5 fee per NSF and Refund check ▪ Note: Reduced to \$25 per month if TDS Bank Management is already established	
Credit Card Payments (Internet)	No Charge to Agency
A convenience fee of 4% of the amount paid is charged to the customer for this service. This fee covers the cost of ongoing maintenance, support and enhancements of the web payment system, and includes daily and monthly reconciliation of all payments. Optionally, the Agency may choose to pay this fee. (Fee subject to change).	
CUSTOMIZATION CHARGES (OPTIONAL)	\$120 PER HOUR