

AGREEMENT TO PROVIDE SOFTWARE AS A SUBSCRIPTION SERVICE
BETWEEN
THE CITY OF OAKLAND AND SHOTSPOTTER, INC.

This agreement and its Exhibits [“Agreement”] by and between the City of Oakland, a municipal corporation, located at One Frank Ogawa Plaza, Oakland CA 94612 (“City”) and ShotSpotter Inc, a Delaware Corporation, located at 7979 Gateway Blvd., Suite 210, Newark, California 94560 [“Contractor” or “ShotSpotter”] by which Contractor shall provide its gunshot detection, location and forensic services as a subscription service [“Subscription Service”] to City, shall become effective [“Effective Date”] when executed in full below by the City and Contractor [hereinafter, the “Parties”].

WHEREAS, the City Council has authorized the City Administrator to enter into a contract to continue to acquire Contractor’s Subscription Service;

WHEREAS, the Exhibits to this Agreement, which are incorporated herein by this reference as if fully set forth, include:

1. Exhibit A Contractor’s Scope of Services dated August 3, 2021
2. Exhibit B Contractor’s 2021 Service Level Agreement
3. Exhibit C Contractor’s Quotation #Oakland 080321
4. Exhibit D City of Oakland Contract Compliance Provisions
5. Exhibit E City Schedules

NOW, THEREFORE, the Parties covenant as follows:

1. Order of Precedence

This Agreement and its Exhibits contain the entire terms and conditions of the Agreement between the Parties and supersedes all prior written or oral agreements, representations, understandings, or negotiations with respect to the matters covered by this Agreement. In the event of any conflict between the terms set forth in this Agreement and those in any of the Exhibits hereto, the Agreement’s provisions shall take precedence.

2. Initial Term

The Initial Term of this Agreement shall be from its Effective Date until June 30, 2023, with an option to extend it for an additional year from July 1, 2023 until June 30, 2024 upon the parties’ mutual agreement in writing, unless terminated earlier as provided herein.

3. Compensation

City shall pay Contractor for its Subscription Service an amount that will be based upon actual costs and the annual subscription fee, which shall in no event exceed \$796,486.00 per year as set forth in Exhibit C Contractor's Quotation #Oakland 080321.

4. Scope of Services

4.1 Contractor covenants and avers to provide the City its Flex gunshot detection, location, and forensic analysis services on a Subscription Service basis ["Subscription Service"] as set forth with specificity in Exhibit A, Contractor's Scope of Services and Exhibit B, Contractor's Service Level Agreement.

4.2 The ShotSpotter Gunshot Detection, Location, and Forensic Analysis Service acoustic Sensor may use wired, wireless, or cellular wireless communications which necessitates the existence of a real-time data communications channel from each Sensor to the ShotSpotter hosted servers via a commercial carrier. The unavailability or deterioration of the quality of such wired, wireless, or wireless cellular communications may impact the ability of ShotSpotter to provide the Subscription Service. In such circumstances ShotSpotter will use commercially reasonable efforts to obtain alternate wired or wireless cellular communications or adjust the coverage area as necessary. In the event ShotSpotter is unable to do so, ShotSpotter will terminate the Subscription Service and refund a pro-rata portion of the annual Subscription Service fee to the City.

4.3 ShotSpotter will provide the City with user documentation, online help, online training presentation, and online training sessions (as available).

4.4 ShotSpotter will use commercially reasonable efforts to respond to support requests within twenty-four (24) hours of receipt of the request during the period of 8 am to 5 pm Monday through Friday. A ShotSpotter email support specialist will be responsible for receiving City reports of missed incidents, or errors in the Subscription Service, and, to the extent practicable over email or telephone, making commercially reasonable efforts to assist the City in resolving the City's reported problems. In the event the problem cannot be resolved telephonically, then ShotSpotter will use commercially reasonable efforts to restore functionality of the Subscription Service in accordance with the standard ShotSpotter user documentation provided with the Subscription Service within seventy-two (72) hours of receipt of the report.

4.5 FORENSIC REPORTS.

i. Investigative Lead Summary ("ILS"). ShotSpotter provides an on-demand report available through the ShotSpotter Respond Application. The Investigative Lead Summary (ILS) provides useful details about the approximate location, timing, and sequence of each shot fired during an incident. The ILS is very valuable on scene, helping law enforcement find shell casings, confirm witness accounts,

and identify suspects. ILS reports are available immediately after an incident occurs via the mobile, web, or desktop ShotSpotter Respond application (machine-generated). The ILS is not a court-admissible document.

ii. Detailed Forensic Report (“DFR”). If requested by City, ShotSpotter will provide a DFR for any ShotSpotter-detected incidents, including Reviewed Alerts. The DFR is intended to be a court-admissible document used by attorneys as part of a court case for the exact, verified timing, sequence and location of each shot fired. Secondly, the DFR is available for use by law enforcement to obtain a search warrant or to investigate an Officer Involved Shooting.

DFRs must be requested in writing and addressed to the ShotSpotter Customer Support Department. Requests may be submitted via the Forensics Services page under the Law Enforcement tab on ShotSpotter’s website (www.shotspotter.com). ShotSpotter will use commercially reasonable efforts to provide a DFR within ten (10) business days of receipt of the request.

4.6 EXPERT WITNESS SERVICES.

ShotSpotter offers reasonable expert witness services, including Reviewed Alerts, for an hourly fee (\$350.00), as well as reimbursement of all travel and per diem costs. If requested to provide such services, ShotSpotter will invoice the City for the number of hours expended to prepare for and provide expert witness testimony, and actual travel expenses, upon completion of the services. City understands that ShotSpotter undertakes to provide individuals whose qualifications are sufficient for such services, but does not warrant that any person or his or her opinion will be accepted by every court. ShotSpotter requires at least fourteen (14) days prior notice of such a requirement in writing from the City. City must include dates, times, specific locations, and a point of contact for ShotSpotter personnel. Due to the nature of legal proceedings, ShotSpotter cannot guarantee that its services described in this section shall produce the outcome, legal or otherwise, which City desires. Payment for expert witness services described shall be due and payable when services are rendered regardless of the outcome of the proceedings.

5. Software License and Restrictions.

The ShotSpotter Subscription Service and the software incorporated therein is the proprietary product of ShotSpotter, licensed to the City on a subscription basis. In consideration for and subject to the payment of the annual subscription fee as set forth in Section 3 [“Compensation”], City is granted a non-transferrable, non-exclusive and terminable license (“License”) to use Contractor’s Subscription Service as set forth in this Section 5.

Contractor’s Subscription Service may incorporate components supplied to Contractor under license by third-party suppliers, and may be protected by United States patent, trade secret, copyright law and international treaty provisions. All such rights in and to the Subscription Service and any part thereof are the property of Contractor or, if applicable,

its suppliers. All right and title to Contractor's computer programs, including, but not limited to related documentation, technology, know-how and processes embodied in or made available to the City in connection with ShotSpotter's Subscription Service, patent rights, copyrights, trade secret rights, trademarks, and services marks remain with ShotSpotter. The City may not make any copies of the written materials or documentation that accompany any component of the ShotSpotter Subscription Service, or use them, or any other information concerning the ShotSpotter Subscription Service that ShotSpotter has designated as confidential, for any purpose other than bona fide use of the ShotSpotter Subscription Service or software in accordance with the terms of this Agreement, nor knowingly allow anyone else to do so. The City shall not: (i) modify, adapt, alter, translate, copy, perform, or display (publicly or otherwise) or create compilations, derivative, new, or other works based, in whole or in part, on the ShotSpotter Subscription Service; (ii) merge, combine, integrate, or bundle the ShotSpotter Subscription Service, in whole or in part, with other software, hardware, data, devices, systems, technologies, products, services, functions, or capabilities; (iii) transfer, distribute, make available the ShotSpotter Subscription Service or software to any person other than the City; or (iv) sell, resell, sublicense, lease, rent, or loan the ShotSpotter Subscription Service or software, in whole or in part. No component of the ShotSpotter Subscription Service or software may be used to operate a service bureau, rental or time-sharing arrangement.

Nothing in this Agreement shall be construed as granting any right or title to the ShotSpotter Subscription Service or software, or any component thereof, or any other intellectual property of Contractor or its suppliers to the City.

The City shall not alter, remove or obscure any copyright, patent, trademarks, confidential, proprietary, or restrictive notices or markings on any component of the ShotSpotter Subscription Service, software or any related documentation.

The City is prohibited from exporting any component of the ShotSpotter Subscription Service and software and/or technology without the express prior written permission of an officer of Contractor. In any such event, the City is responsible for comply with all applicable rules and regulations of the United States Export Administration Regulations of the US Department of Commerce.

The City shall not allow any third parties to have access to the ShotSpotter software or Subscription Service without the express prior written authorization of Contractor.

4City Data

For the purposes of this Agreement, "City Data" is defined as data, information, and electronic files created, generated, modified, compiled, displayed, stored or kept by Contractor in the course of providing the Subscription Service to City, including, without limitation, information in Reviewed Alerts accessible through the Subscription Service and/or Software.

Contractor shall own and have the unrestricted right to use the City Data for internal purposes such as research or product development. ShotSpotter may provide, license, or sell the City Data on an aggregated basis to third parties (excluding press or media) to be

used for research or analytical purposes, or for law enforcement and/or security purposes. Contractor will not release, sell, license, or otherwise distribute the gunfire alert City Data to the press or media without the prior express written consent of the City which shall not be unreasonably withheld.

City shall have the unrestricted right to download, make copies of, distribute, and use the City Data within its own organization, exclusively for its own internal purposes including, but not limited to, for purposes of detecting and locating gunfire, routine archival recordkeeping, evidence preservation, and investigative, or evidentiary, and prosecutorial purposes. City shall not provide to, license the use of, or sell City Data to any third parties, which restriction will not pertain to the collaboration with other law enforcement agencies for the purposes of investigating and prosecuting crimes detected by the ShotSpotter systems.

Except as may be required hereunder, as set forth in Section 8.5 regarding Contractor's obligation to provide City the information it needs to respond to Requests for Information, Contractor will not release or disseminate to any person or entity, City Data related to or consisting of specific forensic or law enforcement sensitive incident information pertaining to any active inquiry, investigation, or prosecution. In the event that ShotSpotter is required to release City Data in response to a valid order or subpoena issued by a court or other governmental body, or as otherwise required by law, ShotSpotter will notify the City prior to such release of City Data.

6. Proprietary or Confidential Information

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

6.2 Each Party agrees to keep confidential and not disclose to any third party and to use only for purposes of performing, or as otherwise permitted, under this Agreement, any Confidential Information. The receiving Party shall protect the Confidential Information using measures similar to those it takes to protect its own confidential and proprietary information of a similar nature but not less than reasonable measures. Each Party agrees not to disclose the Confidential Information to any of its Representatives except those

who are required to have the Confidential Information in connection with this Agreement and then only if such Representative is either subject to a written confidentiality agreement or otherwise subject to fiduciary obligations of confidentiality that cover the confidential treatment of the Confidential Information.

6.3 Exceptions. The obligations of this Section 8 shall not apply if the receiving Party can prove, by appropriate documentation, that such Confidential Information (i) was known to the receiving Party as shown by the receiving Party's files at the time of disclosure thereof, (ii) was already in the public domain at the time of the disclosure thereof, (iii) entered the public domain through no action of the receiving Party subsequent to the time of the disclosure thereof, (iv) is or was independently developed by the Contractor without access to or use of the Confidential Information; (v) was provided to the Contractor by a third party who, to the best of the Contractor's knowledge, was not bound by any confidentiality obligation related to such Confidential Information; or (vi) is required by law or government order to be disclosed by the receiving Party, provided that the receiving Party shall: (i) notify the disclosing Party in writing of such required disclosure as soon as reasonably possible prior to such disclosure, (ii) use its commercially reasonable efforts at its expense to cause such disclosed Confidential Information to be treated by such governmental authority as trade secrets and as confidential.

6.4 Contractor Confidential Information. City acknowledges and agrees that the source code, technology, and internal structure of the ShotSpotter software and Subscription Service, as well as documentation, operations manual(s) and training material(s), are the confidential information of the Contractor. The City agrees during the term of this Agreement, and thereafter, to exercise the same standard of care to protect such information as it would use to protect its own confidential data.

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

against any claims, attorneys' fees, damages, fines, judgments, or administrative penalties, which may arise from any such actions.

6.6 Contractor's Privacy Policy. ShotSpotter has structured its technology, processes and policies in such a way as to minimize the risk of privacy infringements from audio surveillance while still delivering important public safety benefits to its customers. These efforts to maintain privacy include the following:

- 1) ShotSpotter will not provide extended audio to customers beyond the audio snippet (1 second of ambient noise prior to a gunshot, the gunshot audio itself, and 1 second after the incident). Contractor will vigorously resist any subpoena or court order for extended audio that goes beyond an audio snippet.
- 2) ShotSpotter will not provide a list or database of the precise location of the audio sensors to police or the public if requested and will challenge any subpoenas for this location data.

7. Contractor Warranties

Contractor represents and warrants that:

7.1 It either owns or has acquired all required Intellectual Property Rights, to provide the Subscription Service and that it shall not at any time during the term of this Agreement render the Subscription Service unusable or inoperable.

7.2 It has the requisite experience, certifications, skills and qualifications necessary to perform the Subscription Service in: (i) a timely, competent, and professional manner, without the advice or direction of the City; and (ii) accordance with applicable governmental requirements, statutes, regulations, rules and ordinances including, without limitation, applicable data privacy laws and regulations ("Law"). This means Contractor is able to fulfill the requirements of this Agreement. Failure to complete the requirements set forth in the Scope of Services of this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement.

7.3 Contractor warrants that the ShotSpotter software will function in substantial conformity with the ShotSpotter documentation accompanying the software and Subscription Service. The software covered under this warranty consists exclusively of the ShotSpotter Dispatch, ShotSpotter Respond, and ShotSpotter Investigator Portal and user interface made available to the City under this Agreement. ShotSpotter will provide support services as defined in Exhibit B Service Level Agreement.

7.4 Contractor further warrants that the Subscription Service, City Data, and ShotSpotter software shall be free of viruses, Trojan horses, worms, spyware, or other malicious code or components.

7.4 The Subscription Service is not designed, sold, or intended to be used to detect,

intercept, transmit, or record oral or other communications of any kind. Contractor does not warrant or represent, expressly or implicitly, that use of the Subscription Service will comply or conform to the requirements of federal, state, or local statutes, ordinances, and laws, or that use of the will not violate the privacy rights of third parties.

7.5 Contractor does not warrant or represent, expressly or implicitly, that the ShotSpotter software or Subscription Service or its use will: result in the prevention of crime, apprehension or conviction of any perpetrator of any crime, or detection of any criminal; prevent any loss, death, injury, or damage to property due to the discharge of a firearm or other weapon; in all cases result in a Reviewed Alert (data reviewed by Contractor's incident review staff related to gunfire incidents detected by the ShotSpotter Gunshot Detection, Location, and Forensic Analysis Service) for all firearm discharges within the designated coverage area; or that the ShotSpotter-supplied network will remain in operation at all times or under all conditions.

7.6 Contractor expressly disclaims, and does not undertake or assume any duty, obligation, or responsibility for any decisions, actions, reactions, responses, failure to act, or inaction, by City as a result of or in reliance on, in whole or in part, any subscription services or Reviewed Alerts provided by Contractor, or for any consequences or outcomes, including any death, injury, or loss or damage to any property, arising from or caused by any such decisions, actions, reactions, responses, failure to act, or inaction. It shall be the sole and exclusive responsibility of the City to determine appropriate decisions, actions, reactions, or responses, including whether or not to dispatch emergency responder resources. The City hereby expressly assumes all risks and liability associated with any and all action, reaction, response, and dispatch decisions, and for all consequences and outcomes arising from or caused by any decisions made or not made by the City in reliance, in whole or in part, on any Subscription Service provided by Contractor, including any death, injury, or loss or damage to any property.7.7 Any and all warranties, express or implied, of fitness for high-risk purposes requiring fail-safe performance are hereby expressly disclaimed.

7.8 The Parties acknowledge and agree that the Subscription Service is not a consumer good, and is not intended for sale to or use by or for personal, family, or household use.

7.9 EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES MADE IN THIS AGREEMENT, CONTRACTOR MAKES NO REPRESENTATION, ACKNOWLEDGEMENT, CONDITION OR WARRANTY OF ANY KIND WHATSOEVER UNDER THIS AGREEMENT OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY STATUTORY, EXPRESS, IMPLIED OR OTHER WARRANTIES OR ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE REGARDING ANY SERVICES, DELIVERABLES OR ANY OTHER PRODUCT PROVIDED OR DELIVERED TO THE CITY UNDER THIS AGREEMENT.

8. Limitation on Liability

8.1 Either party's liability to the other party for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed twice the total value of this Agreement..

8.2 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST BUSINESS OPPORTUNITIES, LOSS OF USE OR EQUIPMENT DOWN TIME, AND LOSS OF OR CORRUPTION TO DATA) ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE SOUGHT, AND EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS.

8.3 The Limitations on Liability in this Section 8 shall not apply to Contractor's indemnification obligations under: Section 6.5; or under Section 10a, to the extent that the Actions (as that term is defined therein) are caused by or arise from Contractor's gross negligence or willful misconduct; or under Section 10b (Proprietary Rights Indemnity).

9. Termination

9.1 Ensuing from Contractor. If Contractor breaches any material obligation under this Agreement and fails to cure the breach or provide a plan to cure the breach within 30 days of receipt of written notice from the City of said breach, the City may terminate the Agreement and recover the pro rata portion of the prepaid Subscription Service fee for the annual period in which the Agreement is terminated.

9.2 Ensuing from City. If City breaches any material obligation under this Agreement and fails to cure the breach or provide a plan to cure the breach within 30 days of receipt of written notice from the Contractor of said breach, the Contractor may terminate the Agreement.

9.3 Bankruptcy. Either party may immediately terminate this Agreement if (i) the other party files a petition for bankruptcy or has filed against it an involuntary petition for bankruptcy which is not dismissed within 60 days of its filing, (ii) a court has appointed a receiver, trustee, liquidator or custodian of it or of all or a substantial part of the other party's property, (iii) the other party becomes unable, or admits in writing its inability, to pay its debts generally as they mature, or (iv) the other party makes a general assignment for the benefit of its or any of its creditors.

9.4 Termination for Convenience by the City. The City may terminate this Agreement for any reason at any time upon not less than sixty (60) days' prior written

notice to Contractor. The City shall not be entitled to recover a pro-rata portion of the Subscription Service fee in the event of the City's termination for convenience.

9.5 Services after Termination. If the Agreement is terminated by either party, Contractor will allow the City continued access to the Subscription Service for a period of thirty (30) days from the date of termination for the purpose of downloading the City Data.

10. Indemnification

- a. **General Indemnification.** Notwithstanding any other provision of this Agreement, Contractor shall indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities (of every kind, nature and description), claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, damages, (incidental or consequential) costs, actions or causes of action, and expenses, including reasonable attorneys' fees, (collectively referred to herein as "Actions") to the extent caused by or arising out of any:
- i. Negligent (passive or active) or willful acts or omissions in the course of performance by Contractor under this Agreement;
 - ii. Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Contractor; and
 - iii. Unauthorized use or disclosure by Contractor of Confidential Information as provided in Section 8 above.

b. Proprietary Rights Indemnity Contractor shall defend, indemnify, and hold harmless Indemnitees from any and all Actions arising out of third party claims that the Services or Software, if any, infringes upon or violates the Intellectual Property Rights of others. If Contractor's Services or software is likely to become the subject of such a third party claim of infringement or violation in an Action which Contractor is or may be obliged to defend under this section, Contractor shall upon request by the City, at Contractor's sole expense and at Contractor's option, either: (i) procure for the City the right to continue using the affected Contractor Services or software; or (ii) replace or modify the Services or software to make it or them non-infringing, provided that the Service or software continue to provide substantially the same functionality in all material respects in conformity with the then-current specifications for the Services and software and the City's use thereof is not impaired thereby. Contractor's obligations under this

Agreement will continue uninterrupted with respect to the replaced or modified Services or software as if it were the original Services or software.

Provided that Contractor shall have no obligation to defend and indemnify the City to the extent that the City utilizes the Services or Software other than for or in connection with the use of the Software or Services for detecting and locating gunshots exclusively through acoustic means.

This Section 10, paragraph b states the entire liability of Contractor and is the City's exclusive remedy for or relating to infringement or claims or allegations of infringement of any patent, copyright, or other intellectual property rights in or to the Contractor's Subscription Service, the ShotSpotter Gunshot Detection, Location and Forensic Analysis Service components, and software. This section is in lieu of and replaces any other expressed, implied, or statutory warranty against infringement of any and all intellectual property rights.

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

consent of the City.

- f. All of Contractor's indemnification obligations hereunder are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.

- g. Contractor's indemnification obligations related to third party claims or infringement claims hereunder shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement.

11. Governing Law and Venue

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

12. Third Party Beneficiary

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

13. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City Administrator and City Attorney or their respective appointed representatives, which consent shall not be unreasonably withheld. City's consent to any assignment shall be conditioned upon City retaining all rights it has at law against Contractor as Assignor. Any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer. In the event that Contractor assigns this Agreement in compliance with this provision, this Agreement and all of its provisions shall inure to the benefit of and become binding upon the parties and the successors and Assignees of the respective parties.

14. Dispute Resolution

- a. If dispute or disagreement among the Parties arises with respect to either Party's performance of its obligations hereunder, or any provision of or interpretation of the Agreement, the Parties agree in good faith to attempt to resolve such dispute or disagreement (a "Dispute") prior to submitting the Dispute to mediation, arbitration or litigation in accordance with this Section 14. Such resolution efforts shall involve the City Administrator of the City of Oakland and an executive officer of Contractor, together with such other persons as may be designated by either Party.
- b. Any Party may commence said resolution efforts by giving notice, in writing, to any other Party. Such notice shall include at least a description of the Dispute and any remedial action that the Party commencing the resolution procedure asserts would resolve the Dispute. Upon receiving such notice, the Party against whom the Dispute is brought shall respond in writing within five (5) Business Days. The Parties shall then meet and confer in a good faith attempt to resolve the Dispute.
- c. If the Dispute has not been resolved within five (5) Business Days after the Subsection 14.b. notice is given, and unless the Party initiating the Dispute does not wish to pursue its rights relating to such Dispute, then such Dispute will be automatically submitted to mediation. The mediation will be conducted in Alameda County by a single mediator selected by the Parties to the Dispute by mutual agreement or by the use of the Commercial Arbitration Rules of the American Arbitration Association for selecting an Arbitrator ("AAA RULES"). The Parties to the Dispute shall evenly share the fees and costs of the mediator. The mediator shall have twenty (20) Business Days from the submission to mediation to attempt to resolve such Dispute. If the Dispute is not resolved within that time period, the parties will be entitled to pursue such matter by demanding arbitration under the AAA RULES or instituting litigation.

[SIGNATURE PAGE FOLLOWS]

SO AGREED:

City of Oakland,
a municipal corporation

Contractor
ShotSpotter, Inc.



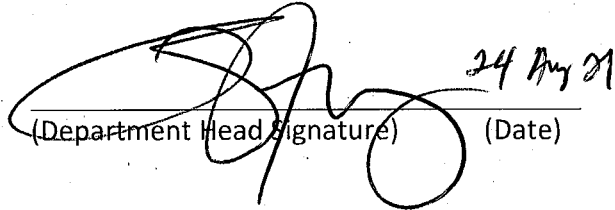
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(City Administrator's Office) (Date)



8/23/2021

(Signature) (Date)
Roxanne Lerner, Contracts Manager



(Department Head Signature) (Date)

00085748

Business Tax Certificate No.

Approved as to form and legality:

88711 CMS

City Council Resolution Number


Celso Ortiz (Aug 26, 2021 14:45 PDT)

(City Attorney's Office Signature) (Date)



**Scope of Services for Renewal and Expansion for
Subscription-Based
Gunshot Detection, Location, and Forensic Analysis Service
for the Oakland Police Department
August 3, 2021**

**Submitted by: Terri Greene, Director – West Region
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Introduction

ShotSpotter is pleased to provide this description of the scope of services for the renewal and expansion of the Oakland Police Department's existing gunshot detection, location, and forensic analysis services per the City's request. ShotSpotter is honored to have served the City of Oakland in its gun violence reduction efforts since December 2006, and we are pleased to have the opportunity to continue to support the City and the Police Department.

In addition to continuing service and support for the City's existing ShotSpotter Respond deployment, ShotSpotter will expand the City's current 15.38 square miles of coverage by 2.79 square miles. While the original coverage areas were deemed the most critical at the time of their original deployments, there are additional areas of the City that would benefit from ShotSpotter coverage. ShotSpotter has collaborated with the Police Department to identify those areas which would benefit most from expanded coverage.

The ShotSpotter gunshot detection, alert, and analysis services provide what would be otherwise unobtainable, critical real-time gunfire intelligence. The core capabilities of the ShotSpotter solution are:

- **DETECT** – ShotSpotter detects and locates gunfire incidents enabling a fast, precise response to over 90% of shooting incidents within the targeted areas. This has a powerful deterrent effect and disrupts the gun violence cycle.
- **PROTECT** – ShotSpotter helps to protect officers by providing them with comprehensive data on the actual amount of gunfire activity that occurs in the neighborhoods they patrol and provides critical situational awareness when responding to specific incidents.
- **CONNECT** – By applying community policing-oriented best practices, ShotSpotter provides a unique opportunity for law enforcement agencies to connect with vulnerable communities. Rapid response to gunfire incidents in communities that have been most impacted by gun violence builds positive attitudes towards law enforcement and leads to more constructive engagements and cooperation.

ShotSpotter has become an indispensable crime-fighting tool for these agencies, in light of the community dynamics that fuel gun violence and the well-documented challenges of relying solely on 9-1-1 calls for service:

- **Under-reporting of persistent gunfire:** Nationwide, on average, less than 20% of gunfire incidents are reported to 9-1-1. Why don't residents call? The answer is complex, but typically involves the following concerns:
 - Recognition: "Was that gunfire, fireworks, or something else?"
 - Retaliation: "If they find out I called, will they come after me?"
 - Resignation: "No one came the last time I called..."

Without ShotSpotter, most law enforcement agencies are working with an 80% to 90% deficiency in their gun violence-related intelligence.

- **Late and inaccurate information:** When a citizen reports a gunfire incident, the 9-1-1 call typically comes several minutes after the event has occurred, and, based on analysis, the location provided is usually mislocated by 750 feet (on average). As a result, valuable time and resources are wasted trying to locate the incident, greatly diminishing the opportunity to identify suspects and witnesses, recover evidence, and, most important, render life-saving aid to victims.

The ability to receive near real-time gunfire intelligence data provides law enforcement agencies with a critical advantage in their efforts to reduce and prevent gun violence and improve officer safety. Specific results include:

- Officers can more quickly and more accurately go directly to the scene of the shooting
- Situational awareness is vastly improved over what is available when relying solely on the 9-1-1 system
- Law enforcement has a better chance of arriving before the shooter has left the scene
- Officers are much more likely to find evidence in the form of shell casings (which, in conjunction with NIBIN/IBIS, provide valuable investigative leads) and/or other ground truth that can aid in the investigation
- Officers are more likely to find witnesses who may have information that can aid in the investigation
- Community engagement is heightened, which often translates into more information from the community (e.g., tip lines, field interviews, etc.)
- Targeted enforcement (precision policing) is enhanced
- More court-admissible and scientifically sound forensic evidence is available to strengthen prosecutions of the worst offenders

How it Works

Based on an analysis of known gunfire-related crimes, the ShotSpotter team designs and deploys networked sensors within the targeted coverage area. These acoustic arrays detect and locate gunshot activity within the coverage area and report that information to ShotSpotter's Incident Review Center (IRC) which is staffed 24/7/365. ShotSpotter uses a two-factor incident review process to minimize false alerts. The first tier is performed by sophisticated AI software. Once the software has performed an initial review and filtered out any incidents that are determined not to be gunfire (e.g., helicopter noise, fireworks, etc.), the data is received at our IRC.

The IRC review process is performed by a team of highly trained acoustic experts. In addition to examination of the incident audio, the review process involves examination of visual characteristics of the detected pulses and the incident, such as the number of participating sensors, the wave form, pulse alignment, and the direction of sound. The IRC review results in publishing (Gunshot or Probable Gunshot) or dismissal (Non-Gunshot) of the incident with a high level of precision. If the reviewer classifies the incident as a gunshot, the reviewer sends an alert, including location information and an audio snippet, to law enforcement agencies via a password-protected application on a mobile phone, in-car laptop, or computer. In addition to the dot on the map and audio, ShotSpotter provides details such as number of shots fired, whether multiple shooters are involved, and whether high-capacity and/or fully automatic weapons are being used. This entire process (i.e., recording the impulsive sound, two-factor review, and publishing alerts to authorized users) is designed to be completed in less than 60 seconds (but is often completed within 25 to 30 seconds).

ShotSpotter customers receive a contextually rich, detailed gunfire alert that enables a fast, precise, and safer response to gunfire incidents. In addition, ShotSpotter alerts can also trigger other technology platforms such as cameras that can pan and zoom in the direction of an event. ShotSpotter has also successfully integrated with a wide range of third-party applications such as CAD, RMS, License Plate Readers, drones, and other applications.

Coverage Areas

ShotSpotter systems are deployed to provide coverage for specified areas, bounded by specific coverage area perimeters. ShotSpotter designed the coverage areas based upon the Department’s requirements and based upon analysis of historical crime data. The figure below depicts the Phase I, Phase II, and Phase III coverage areas in the City of Oakland:

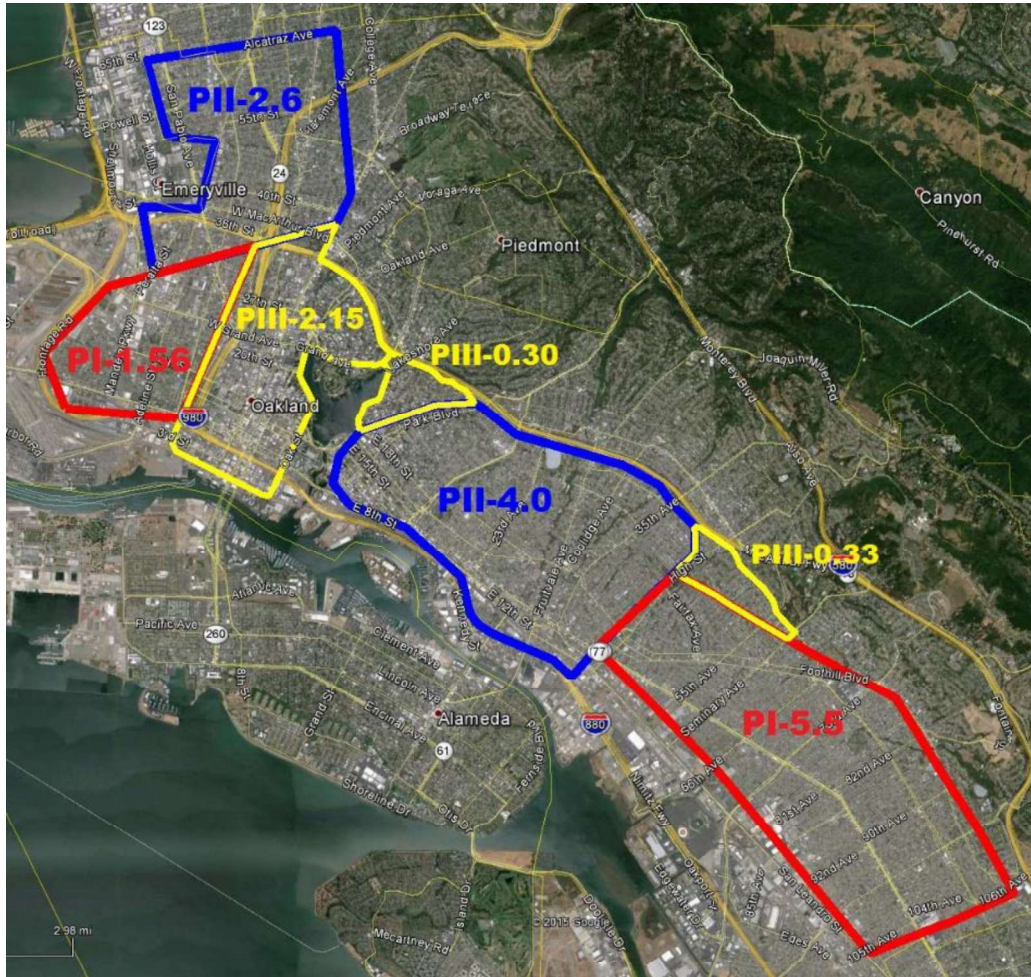


Figure 1: Current ShotSpotter Coverage Areas

The coverage areas were deployed as follows:

Phase	Square Miles	Year Deployed
One	6.00	2011
Two	6.60	2013
Three	2.78	2016
Total:	15.38*	

*While the total contracted coverage area is 15.38 mi², ShotSpotter covers an additional 1.06 mi², for a total of 16.44 mi².

Coverage Area Expansion

The areas delineated by a blue boundary in the image below are rough estimates of the expanded coverage areas based on input from Captain Trevelyan Jones. The precise size of each area (i.e., in square miles) can only be verified with actual acoustic propagation information; therefore, the final coverage area may vary. ShotSpotter will perform this verification during the installation process.

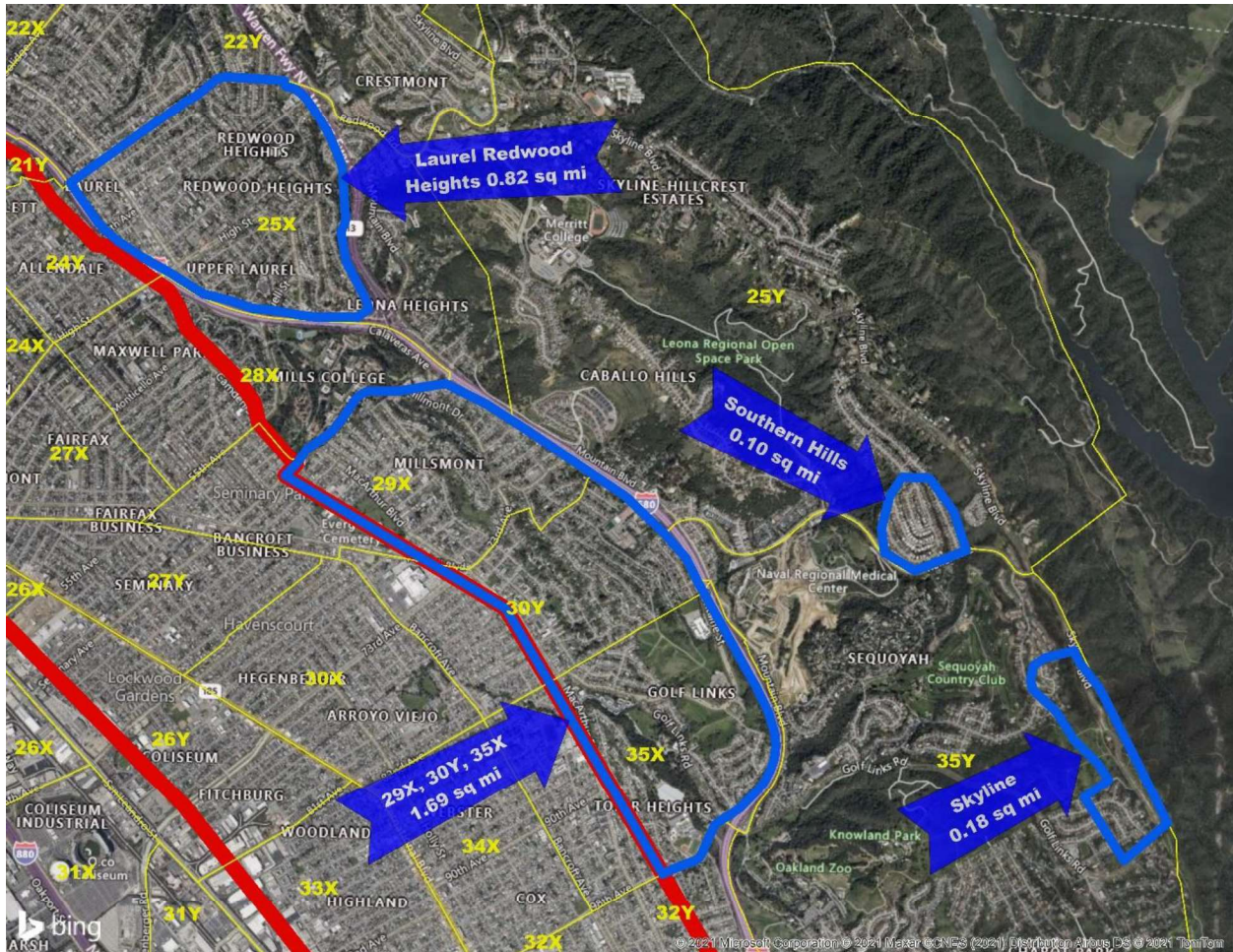


Figure 2: ShotSpotter Coverage Area Expansion = 2.79 square miles

ShotSpotter Respond Service Overview

ShotSpotter helps law enforcement agencies by directing resources to the precise location of more than 90% of gunfire incidents. ShotSpotter rapidly notifies first responders of shootings via dispatch centers, in-vehicle computers, and smart phones. Instant alerts enable first responders to aid victims, collect evidence, and identify witnesses. ShotSpotter’s actionable intelligence can then be used to prevent future crimes by positioning law enforcement when and where crime is likely to occur. ShotSpotter gunshot detection and location services are delivered as an easily implemented Software as a Service (SaaS) solution, with no requirement for customer investment in or maintenance of expensive hardware or software. ShotSpotter hosts, secures, monitors, and maintains the ShotSpotter infrastructure. Contracts are based on an affordable one-year or multi-year subscription agreement, and the subscription includes unlimited licenses for the proposed ShotSpotter applications.

ShotSpotter Dispatch™ and ShotSpotter Respond™ Applications

The ShotSpotter Dispatch and ShotSpotter Respond applications are used by Call Takers, Dispatchers, and Patrol Officers in the field. Real-time notifications of gunfire incidents are delivered to these apps and include the following data:

- Incident location (dot on the map)
- Type of gunfire (single round, multiple round)
- Unique identification number
- Date and time of the muzzle blast (trigger time)
- Nearest address of the gunfire location
- Number of shots
- District identification
- Beat identification

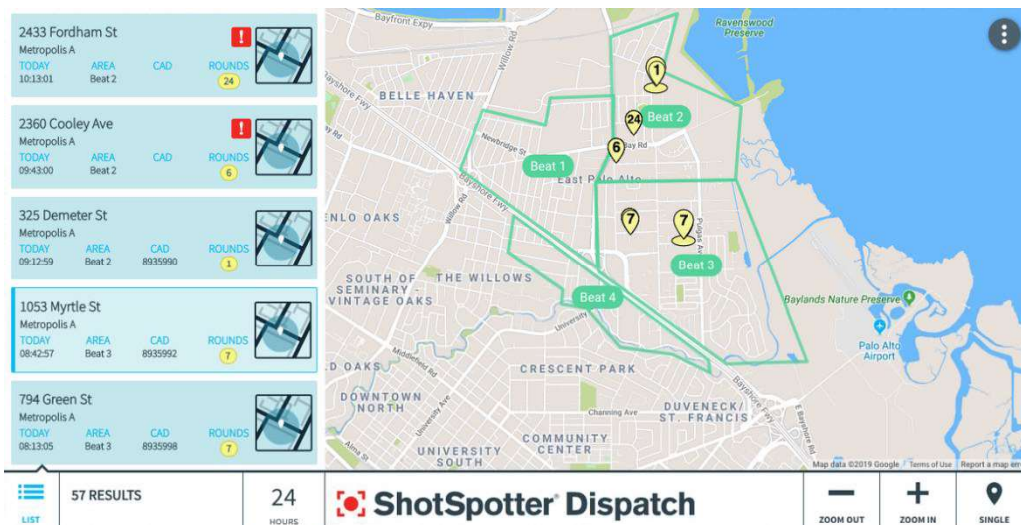


Figure 3: ShotSpotter Dispatch App

A ShotSpotter analyst may add other contextual information such as the possibility of multiple shooters, high-capacity weapons, full-automatic weapons, and the shooter's location related to a building (front yard, back yard, street, etc.). The report also includes an audit trail of the time the alert was published, acknowledged, and closed at the customer facility. All notes entered by Call Takers and Dispatchers added to the alert are time- and date-stamped with the operator's ID. For Patrol Officers, the alert includes an audio snippet of the incident.

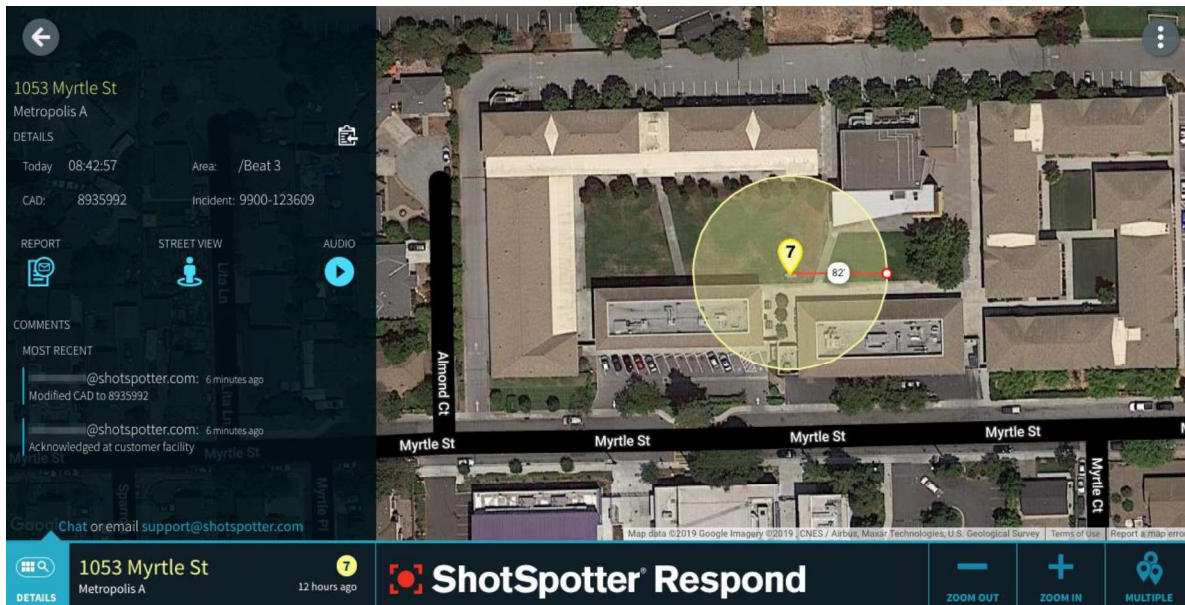


Figure 4: ShotSpotter Respond App

ShotSpotter Insight™

ShotSpotter Insight™ enables customers to explore details about prior gunshot incidents in their ShotSpotter coverage area and use the data for investigation and analysis. Crime analysts, investigators, and command staff can view, filter, sort, report, and transform historical gunshot data into meaningful insights, ultimately informing strategies for reducing gun violence.

Insight enables users to find and identify the incidents using an extensive array of filters for date, time, location, keywords, single vs. multiple gunshots, patrol areas, as well as shapes drawn on the map. The shape filters narrow a search for shooting incidents within a radius of a known address, across several blocks, or look for and monitor activity on both sides of a jurisdictional border. Saved reports retain common filter settings for quick retrieval (e.g. "District 4 Gunfire – Last 28 days").

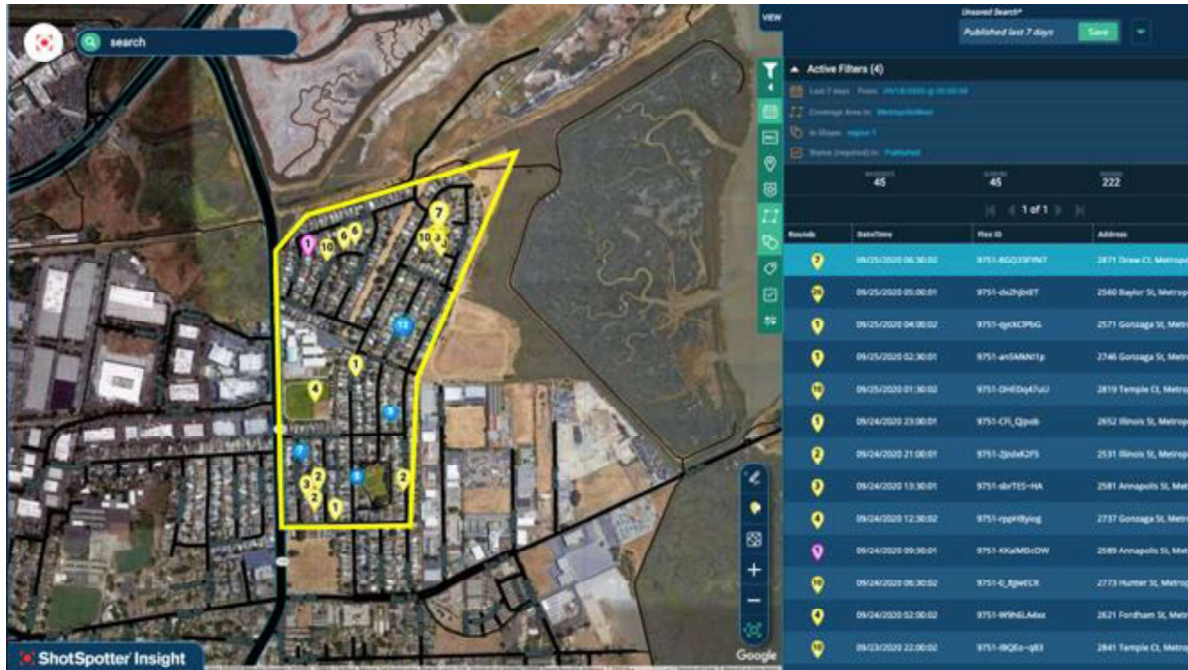


Figure 5: ShotSpotter Insight App

Insight shows how a shooting event unfolded by watching a shot-by-shot animation that details the location and sequence of each shot. The software also highlights other nearby incidents that may be potentially related based on its relative distance and time of occurrence.

Insight comes with a set of reports that make it easy to share incident data throughout an agency:

- The Investigative Lead Summary report give details of a shooting incident including audio, location, sequence, and timing of each shot fired. This report is often used to share incident audio and details with colleagues, aid investigators with collecting evidence at the scene of a shooting and conducting better interviews of witnesses, suspects, and victims, or attach to a case file.
- The Multi-Incident report provides a summary of shooting incidents broken out by single, multiple, and probable gunshot incidents as well as any non-gunfire incidents if they were included in the search. The summary is followed by details for each incident including the date, time, location, number of rounds, CAD ID, Respond ID, and other details.

For custom ad hoc reporting and analysis, Insight can export incident data to other off-the-shelf products such as Microsoft Excel, Tableau, Google Earth, ArcGIS, and other tools.

Mobile Alerts

Real-time gunfire alert data can be delivered to smart phones and smart watches via the Respond smartphone application, available for use on iPhones and Android platforms. The gunfire location is displayed as a dot on a map, and the data also includes the number of rounds fired and access to the incident audio.



Figure 6: Smart Watch Notification

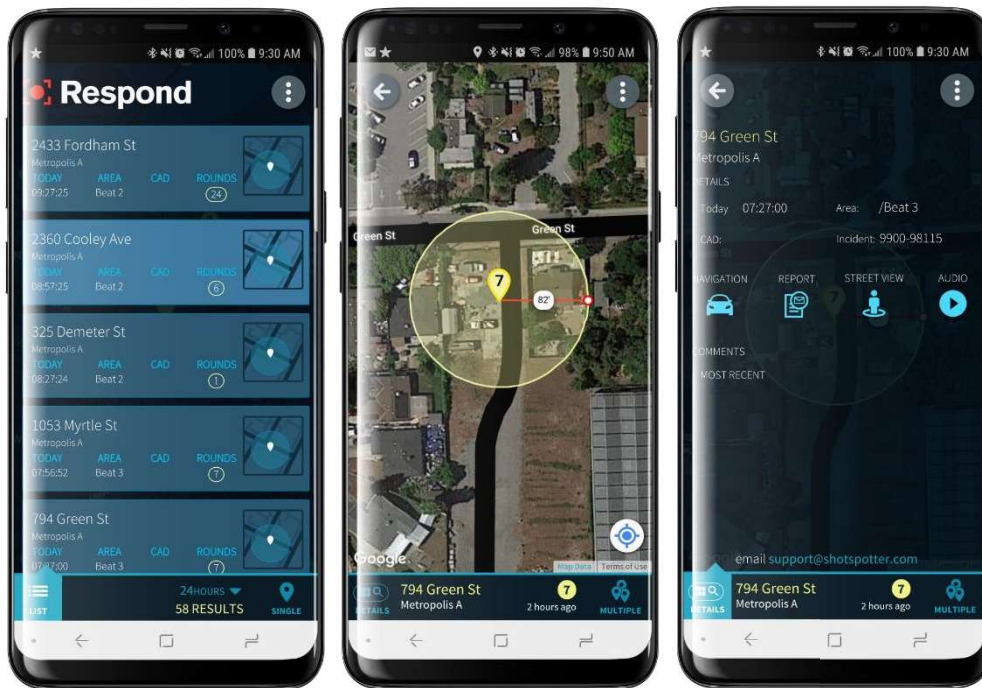


Figure 7: ShotSpotter Respond App Smartphone Notification

Notifications API

The ShotSpotter Notifications API allows client applications to receive accurate, timely details about ShotSpotter gunfire alerts, including precise latitude and longitude (geolocation), GPS-synchronized timestamps, incident audio, and situational context provided by the 24x7x365 ShotSpotter Incident Review Center. Typical integrations include:

- Video Management Systems (VMS)
- Computer-Aided Dispatch (CAD) systems
- Records Management Systems (RMS)
- Automated License Plate Readers (ALPRs)
- Crime analysis and statistics packages (including COMPSTAT software)

Each Notifications API license pack is available for an annual subscription fee that includes:

- Up to three (3) interfaces
- Establishing an instance of the API for the Department on ShotSpotter-hosted servers
- Consulting with the Department and third parties to ensure the API operates according to the API specifications
- 24x7 alerts to up to three third-party interfaces
- Supporting the third party and Department as systems are upgraded

Investigative Lead Summary

ShotSpotter recently introduced a new, on-demand report available through the ShotSpotter Respond application. The Investigative Lead Summary (ILS) provides useful details about the location, timing, and sequence of each shot fired during an incident. The ILS is very valuable on scene, helping law enforcement find shell casings, confirm witness accounts, and identify suspects. ILS reports are available immediately after an incident occurs through a single click of a button within the mobile, web, or desktop ShotSpotter Respond application.

The ILS will fulfill the majority of law enforcement agency needs, particularly in situations where a report is not intended for presentation to court (since the ILS report is electronically produced, it is not court admissible).

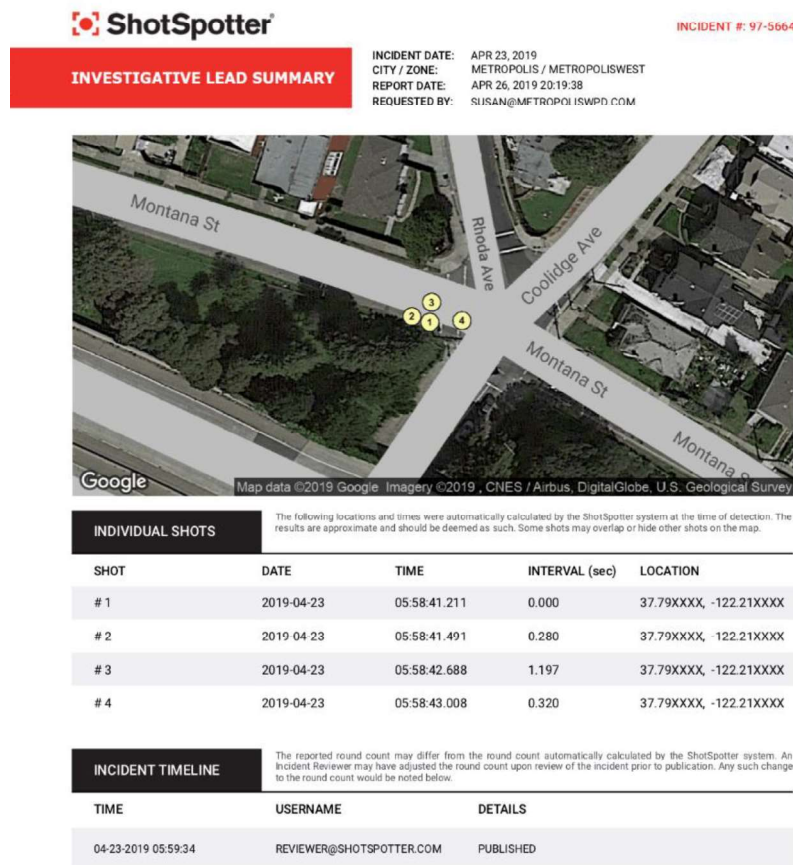


Figure 8: ShotSpotter Investigative Lead Summary (ILS)

Detailed Forensic Reports and Expert Witness Testimony

In nearly all the criminal proceedings in which our experts have been called to testify, ShotSpotter has produced detailed, round-by-round analysis of the timing and location of the shots fired by one or more weapons. To the best of our knowledge, no other acoustic-based gunshot detection system has been accepted in a court of law as providing this kind of forensic evidence.

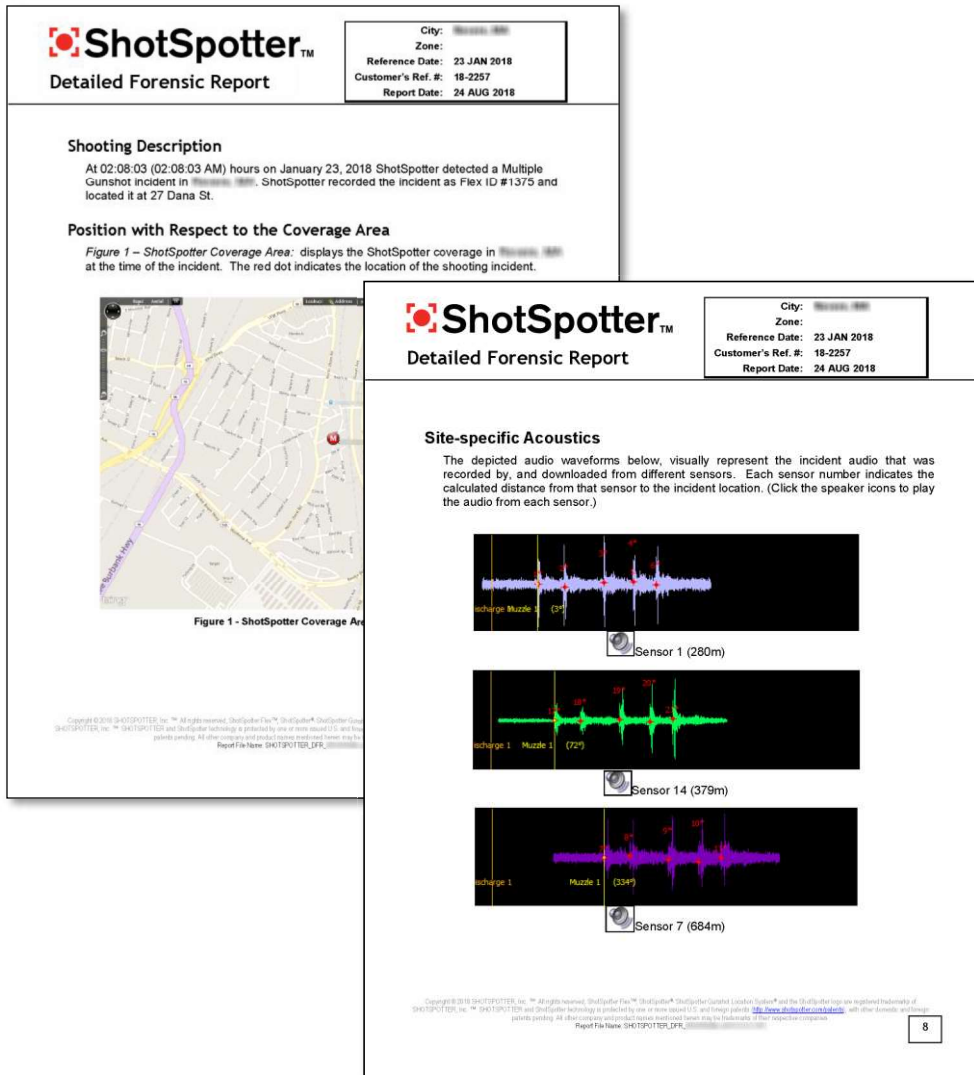


Figure 9: ShotSpotter Detailed Forensic Report (DFR)

ShotSpotter data supports detailed forensic analysis of gunfire incidents, including:

- Weapon type (e.g., automatic vs. semi-automatic)
- Number of rounds fired
- Possibility of multiple shooters

Unlike the ILS, the DFR is a court-admissible document prepared by our forensic engineers. The DFR is intended to be used by attorneys as part of a court case for the exact, verified timing, sequence and location of each shot fired. Secondly, DFRs are available for use by law enforcement to obtain search warrants or to investigate Officer Involved Shootings. DFRs are available upon written request, and our goal is to deliver all DFRs within ten business days of the request.

To support prosecutions, audio snippets provide powerful demonstrative evidence to prosecutors and allow jurors to gain a deeper understanding of the victims' experience of the incident. For prosecutors who wish to have a ShotSpotter expert witness testify regarding a DFR, to help interpret and clarify crime scene activity derived from ShotSpotter data, or provide other forensic consultation services, these services are available for an hourly fee.

In 17 states and in the District of Columbia, ShotSpotter evidence and ShotSpotter expert witness testimony have been successfully admitted in over 100 court cases. ShotSpotter forensic evidence has prevailed in nine Frye challenges, including four in California, and five Daubert challenges throughout the United States.

Services Overview

The mission of the ShotSpotter Customer Success team is to ensure your agency realizes value by using ShotSpotter products and services effectively. Customer Success proactively defines and personalizes a success plan to ensure service activation goes smoothly and your agency continually makes progress on your gun crime reduction efforts.

Key features of our Customer Success program include:

- Dedicated Customer Success Director
- Onboarding Services
- Ongoing Best Practice Guidance
- User Training
- Crime Analyst Training
- Monthly Check-ins
- Annual Account Reviews

Dedicated Customer Success Director

The ShotSpotter Customer Success Team has more than 200 years of combined law enforcement experience. Each customer is assigned a dedicated Customer Success Director that is responsible for ensuring your agency is using the system effectively. Customer Success Directors frequently have a wide a range of functional management and leadership experience from dispatch, patrol, investigations, community policing, and more.

Ongoing Best Practice Guidance

Early in the Customer Onboarding Process, your Customer Success Director worked with the Department's Program Manager and other project leaders to schedule and conduct a series of Best Practices workshops. These workshops assisted the Department in establishing response protocols and procedures to manage the gunshot alerts and gun crime intelligence data that the ShotSpotter service provides. ShotSpotter customized and conducted these sessions for each of the following groups of users involved in the gun violence reduction program in the targeted coverage area:

- Program Management
- Dispatch/Communications
- Field Operations/Patrol
- Investigations
- Prosecution
- Intelligence & Crime Analysis

During monthly check-ins and yearly reviews, your Customer Success Director will help assess your best practices implementations, provide feedback, and conduct workshops as needed to educate and train additional groups.

Crime Analyst Training

ShotSpotter Crime Analysts train the Department's analyst team to perform ongoing gunshot activity analysis. They also conduct best practice workshops to ensure your analysts can capture required data needed to perform analysis needed to inform resource and strategic planning. ShotSpotter Crime Analysts work with the Customer Success Director and agency analysts to prepare the annual ShotSpotter Value Report, which illustrates the impact your program is having by providing a comparison of calls for service vs ShotSpotter alerts, as well as hotspot and time/day analysis.

Monthly Check-ins

Following go-live, your Customer Success Director monitors adoption of the product to ensure your agency is using it as expected. The Department's Program Managers are encouraged to reach out to the Customer Success Director with any questions regarding best practices or process integration.

Annual Account Reviews

Once a year, your Customer Success Director works with the Department’s command staff and program managers to plan for and lead an annual account review. Together, we conduct a comprehensive retrospective by discussing the Value Report, application usage, best practice adoption, system performance, and goal alignment. We conclude by understanding the Department’s 12-month agency priorities and goals so we can update our ongoing plan accordingly.

Active Support During Service Activation (Go-Live)

For new customers or customers expanding their service, on the day of ShotSpotter service activation to a live production status, ShotSpotter’s Customer Success Director actively supports the go-live to ensure that the transition is smooth, that the established best practices are being implemented as planned, and that user questions are answered quickly. Following system activation, the Customer Success Director will facilitate a status call with the Department to review the status and results being achieved by each group of users involved in the gun violence reduction program.

Ongoing Customer Support

ShotSpotter standard customer support includes 24/7 assistance with user accounts, software interface, tools, features, incident (re)classification, and review. Tier 1 Support is provided by our Incident Review Center (IRC). IRC staff have extensive experience with ShotSpotter applications and provide real-time support of basic issues, and first level of support for information gathering and triage for advanced troubleshooting by Tier 2 Support. The Tier 2 Support Team comprises technically advanced, experienced Customer Support professionals who are responsible for advanced levels of troubleshooting and analysis, IT Support, mapping issues, etc.

Support Level	Tier 1 Support (IRC)	Tier 2 Support (Customer Support)
Features	<ul style="list-style-type: none"> • Login support • Report a misclassification • Report a missed incident • Report a mislocated incident • Basic audio request • General/application questions • Request for ILS 	<p>Normal Support:</p> <ul style="list-style-type: none"> • Analysis of missed gunshots • Detailed audio search • Performance analysis • Integration issues <p>Critical Support:</p> <ul style="list-style-type: none"> • System outage
Hours of Operation	24x7x365	<p>Normal Support: 5 am – 11 pm Pacific Time Zone</p> <p>Escalation: 24x7x365</p>



EXHIBIT C Quotation

7979 Gateway Blvd., Suite 210
Newark, CA 94560-1156
Phone (888) 274-6877 Fax (650) 887-2106

Date 8/3/2021
Quotation # OAKLAND080321
Customer ID Oakland, CA

Quotation For:
City of Oakland
One Frank Ogawa Plaza
Oakland, CA 94612

Quotation valid until: 8/30/2021
Prepared by: K Isotalo

C/O Mr. Gaspar Montoya
Administrative Assistant II
Fiscal Services
City of Oakland Police Department

Comments or Special Instructions: Renewal of Respond (formerly Flex) Annual Subscription Services for Phase I (6.0 mi² of coverage); Phase II (6.6 mi² of coverage); and Phase III (2.78 mi² of coverage) for an additional two-year term for July 1, 2021 through June 30, 2023 and for an optional one-year term for July 1, 2023 through June 30, 2024. Phase IV Expansion (adding 2.79 mi² of coverage) Year 1 will be prorated from the date of activation through June 30, 2022. These services will be delivered according to the terms and conditions contained in the Agreement to be entered into between the City of Oakland and ShotSpotter, Inc. for the subscription periods as shown in the pricing below.

Coverage Area Size	Description	Unit Price (per mi ²)	Total
6.00 mi ²	ShotSpotter Annual Subscription Services for 7/1/2021 to 6/30/2022 (Phase I; 6.0 mi ²).	\$17,017	\$102,102
6.60 mi ²	ShotSpotter Annual Subscription Services for 7/1/2021 to 6/30/2022 (Phase II; 6.6 mi ²).	\$48,620	\$320,892
2.78 mi ²	ShotSpotter Annual Subscription Services for 7/1/2021 to 6/30/2022 (Phase III; 2.78 mi ²).	\$64,098	\$178,192
2.79 mi ²	ShotSpotter Subscription Services for Expansion (Phase IV; 2.79 mi ²) from service activation date (on or after 9/30/2021) through 6/30/2022. Final amount will be prorated from actual activation date and will not exceed total.	\$70,000	\$146,609
YEAR ONE SUBTOTAL:			\$747,795

(Continued on next page)

Coverage Area Size	Description	Unit Price (per mi ²)	Total
6.00 mi ²	ShotSpotter Annual Subscription Services for 7/1/2022 to 6/30/2023 (Phase I; 6.0 mi ²).	\$17,017	\$102,102
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2.78 mi ²	ShotSpotter Annual Subscription Services for 7/1/2022 to 6/30/2023 (Phase III; 2.78 mi ²).	\$64,098	\$178,192
2.79 mi ²	ShotSpotter Annual Subscription Services for 7/1/2022 to 6/30/2023 (Phase IV; 2.79 mi ²).	\$70,000	\$195,300
	<i>YEAR TWO SUBTOTAL:</i>		\$796,486
6.00 mi ²	ShotSpotter Annual Subscription Services for 7/1/2023 to 6/30/2024 (Phase I; 6.0 mi ²).	\$17,017	\$102,102
6.60 mi ²	ShotSpotter Annual Subscription Services for 7/1/2023 to 6/30/2024 (Phase II; 6.6 mi ²).	\$48,620	\$320,892
2.78 mi ²	ShotSpotter Annual Subscription Services for 7/1/2023 to 6/30/2024 (Phase III; 2.78 mi ²).	\$64,098	\$178,192
2.79 mi ²	ShotSpotter Annual Subscription Services for 7/1/2023 to 6/30/2024 (Phase IV; 2.79 mi ²).	\$70,000	\$195,300
	<i>OPTIONAL YEAR THREE SUBTOTAL:</i>		\$796,486
	<i>GRAND TOTAL:</i>		\$2,340,767

EXHIBIT B – SERVICE LEVEL AGREEMENT

ShotSpotter Respond Gunshot Location System

Reviewed Alert Service Levels

Summary

Under the terms and conditions of the ShotSpotter Services Agreement between ShotSpotter, Inc. (“ShotSpotter”) and Customer, ShotSpotter commits to meet or exceed the following Service Level Agreement (SLA) standards as it provides its ShotSpotter Gunshot Location Services¹:

Service	SLA and Measurement
Gunshot Detection & Location	90% of unsuppressed, outdoor gunfire incidents, using standard, commercially available rounds greater than .25 caliber, inside the Coverage Area will be detected and located within 25 meters of the actual gunshot location.
Reviewed Alerts	90% of gunshot incidents will be reviewed and published in less than 60 seconds.
Service Availability	The ShotSpotter Gunshot Location System service will be available to the Customer 99.9% of the time with online access to ShotSpotter data, excluding scheduled maintenance windows.

Gunshot Detection & Location Performance

ShotSpotter will detect and accurately locate to within 25 meters of the actual gunshot location 90% of unsuppressed, outdoor gunshots fired inside the contracted coverage area using standard, commercially available rounds greater than .25 caliber.

Reviewed Alerts Service

The ShotSpotter real-time Incident Review Center (IRC) will review at least 90% of all gunfire incidents within 60 seconds. This human review is intended to confirm or change the machine classification of the incident type, and, depending on the reviewer’s confidence level that the incident is or may be gunfire, will result in an alert (“Reviewed Alert”) sent to the Customer’s dispatch center, patrol car mobile data terminals (MDT), and officer smartphones (via the ShotSpotter App), based on the following criteria:

Incident Type	Action
High confidence incident is gunfire	Reviewed Gunfire Alert, (Single Gunshot “SG” or Multiple Gunshots “MG”) sent to Customer’s dispatch center, patrol car mobile data terminals (MDT), and officer smartphones (via the ShotSpotter Respond App)
Uncertain if incident is gunfire or not	Reviewed Probable Gunfire (“PG”) Alert sent to Customer’s dispatch center, patrol car MDTs, and officer smartphones
Low confidence incident is gunfire	No alert will be sent; incident available for Customer review in the incident history available through Insight

¹ See attached “ShotSpotter – Definition of Key Terms” for a complete definition of terms associated with this SLA and further details in the expanded definitions listed below the Summary. The basis for this SLA and performance measurement will be total gunshot incidents as defined by the Definition of Key Terms.

Reviewed Alerts are sent to the Customer's dispatch center, patrol car MDTs, and officer smartphones. Information in a Reviewed Alert will include the following:

- "Dot on the map" with latitude and longitude indicating the location of the incident.
- Parcel address closest to location of the incident.
- When available, additional situational awareness data points may be included, such as:
 - Qualitative data on the type/severity of incident: Fully automatic, High Capacity
 - Other comments (if any)

The ShotSpotter Respond App, and Insight provide the Customer with full and immediate access to incident history including information ShotSpotter uses in its internal review process. This information includes, among other things, the initial incident classification and any reclassifications of an incident, incident audio wave forms, and incident audio files. This data access is available as long as the Customer is under active subscription.

Service Availability

The ShotSpotter Respond System² will be able to detect gunfire and available to users with online access to ShotSpotter data 99.9% of the time, on a 24x7 by 365 day per year basis, excluding: a) scheduled maintenance periods which will be announced to Customer in advance; b) select holidays; and c) third party network outages beyond ShotSpotter's control.

Customer SLA Credits

Each Service Level measurement shall be determined quarterly, the results of which will be reviewed during the periodic account review meetings with Customer. For each calendar quarter that ShotSpotter does not meet at least two of the three above standards, a fee reduction representing one free week of service (for the affected Coverage Area) for each missed quarter shall be included during a future Customer renewal.

Service Level Exclusions and Modifications

ShotSpotter takes commercially reasonable efforts to maintain Service Levels at all times. However, Service Level performance during New Year's Eve and Independence Day and the 48-hour periods before and after these holidays, are specifically excluded from Service Level standards. During these excluded periods, because of the large amount of fireworks activity, ShotSpotter uses fireworks suppression techniques³.

The ShotSpotter sensors send incident information to the ShotSpotter cloud via third party cellular, wireless or wired networks. ShotSpotter is not responsible for outages on the third-party networks.

² Respond service includes all database, applications, and communications services hosted by ShotSpotter, Inc. at our data center and specifically exclude Customer's internal network or systems or 3rd party communications networks, e.g. Verizon, AT&T, Sprint/T-Mobile, or Customer's Internet Service Provider.

³ ShotSpotter will put the ShotSpotter system into "fireworks suppression mode" during this period in order to reduce the non-gunfire incidents required for human classification. ShotSpotter will formally inform the customer prior to the system being placed in fireworks suppression mode and when the mode is disabled. While in fireworks suppression mode, the incident alerts determined to be fireworks are not sent to the reviewer nor the Customer dispatch center, patrol car MDTs, and officer smartphones; however, these non-gunfire incidents will continue to be stored in the database for use if required at a later time.

Service Failure Notification

Should ShotSpotter identify any condition (disruption, degradation or failure of network, cloud, servers, sensors etc.) that impacts ShotSpotter’s ability to meet the Gunshot Detection & Location standard (above), ShotSpotter will proactively notify the Customer with: a) a brief explanation of the condition; b) how the Customer’s service is affected; and c) the approximate timeframe for resolution. ShotSpotter will also notify the Customer once any such condition is resolved.

Customer Responsibilities

The purpose of the Reviewed Alert service is to provide incident data to the Customer, reviewed, analyzed and classified in the manner described above. However, it is the sole responsibility of the Customer to interpret the data provided, and to determine any appropriate follow-up reaction or response, including whether or not to dispatch emergency responder resources based on a Reviewed Alert. ShotSpotter does not assume any obligation, duty or responsibility for reaction, response, or dispatch decisions, which are solely and exclusively the responsibility of Customer, or for the consequences or outcomes of any decisions made or not made by the Customer in reliance, in whole or in part, on any services provided by ShotSpotter.

Customer must inform ShotSpotter when Verified Incidents of gunfire are missed by the ShotSpotter Respond System in order to properly calculate Performance Rate, as defined below.

Customer is responsible for providing any required workstations, mobile devices and internet access for the Customer’s dispatch center, patrol car MDTs, and officer smartphones, or Insight.

Support Level Matrix

Support Level	Tier 1 Support (IRC)	Tier 2 Support (Customer Support)
Features	<ul style="list-style-type: none"> • Login support • Report a misclassification • Report a missed incident • Report a mislocated incident • Basic audio request • General/application questions • Request for ILS 	Normal Support: <ul style="list-style-type: none"> • Analysis of missed gunshots • Detailed audio search • Performance analysis • Integration issues Critical Support: <ul style="list-style-type: none"> • System outage
Hours of Operation	24x7x365	Normal Support: 5 am – 11 pm Pacific Time Zone Escalation: 24x7x365

ShotSpotter – Definition of Key Terms

The ShotSpotter Respond System will provide data for correct detection and accurate location for ninety percent (90%) of detectable (outdoor, unsuppressed) community gunfire which occurs within a coverage area, the “Coverage Area”, provided the measurement is Statistically Significant, as defined below. This performance rate shall be calculated as a percentage as follows:

$$\text{Performance Rate} = \frac{\text{NumberAccuratelyLocated}}{(\text{NumberAccuratelyLocated} + \text{NumberNotDetected} + \text{NumberMislocated})}$$

where the “Performance Rate” is a number expressed as a percentage, “NumberAccuratelyLocated” is the number of “Gunfire Incidents” occurring within the Coverage Area during the specified period for which the ShotSpotter Respond System produced an Accurate Location, NumberMislocated is the number of Verified Incidents (a “Verified Incident” is an incident where Customer has physical or other credible evidence that gunfire took place) for which the ShotSpotter Respond System produced an inaccurate location (i.e., a Mislocated Incident), and NumberNotDetected is the number of Verified Incidents for which the ShotSpotter Respond System failed to report a location at all (i.e., Missed Incidents).

An “Accurate Location” shall mean an incident located by the ShotSpotter Respond System to a latitude/longitude coordinate that lies within a 25-meter radius of the confirmed shooters location (25 meters = approximately 82 feet). “Detectable Gunfire” incidents are unsuppressed discharges of ballistic firearms which occur fully outdoors in free space (i.e. not in doorways, vestibules, windows, vehicles, etc.) using standard commercially available rounds of caliber greater than .25.

ShotSpotter Review Period is measured as the period commencing when the Incident Review Center (IRC) receives the alert and the first audio download to the time it is published to the customer.

ShotSpotter Respond System performance is guaranteed after a “Statistically Significant” set of incidents has been detected in accordance with timeframes set forth herein and following DQV and commercial system acceptance. The ShotSpotter Respond System is designed to detect gunfire which is typically well distributed throughout the Coverage Area; however, performance should not be construed to mean that 90% of gunfire fired at any given location within the Coverage Area will be detected and located within the guaranteed accuracy.

The ShotSpotter Respond System is not a “point protection” system and is therefore not designed to consistently detect gunfire at every single location within the Coverage Area, but rather to Accurately Locate 90% of the Detectable Incidents in aggregate throughout the entire Coverage Area. There may be certain locations within the Coverage Area where obstacles and ambient noise impede and/or overshadow the propagation of acoustic energy such that locating the origin at those positions is inconsistent or impossible. The Performance Rate calculation is thus specifically tied to the Community Gunfire across the entire Coverage Area.

Statistically Significant shall be defined as measurements and calculations which shall be performed as follows: (a) Across an entire Coverage Area; (b) Aggregating over a period of at least 30 days under weather conditions seasonally normal for the area; and (c) Provided that the total number of gunfire incidents being counted is equal to or greater than: (i) thirty (30) incidents for systems of up to three (3) square miles of Coverage Area, or (ii) ten (10) incidents multiplied by the number of square miles of Coverage Area for systems where one or more Coverage Areas are three (3) square miles or larger.

EXHIBIT D - CONTRACTS AND COMPLIANCE PROVISIONS

1. Business Tax Certificate

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

2. Inspection of Books and Records/Right to Audit

- (a) During the term of this Agreement, and for a period of four (4) years after the termination of this Agreement, or two (2) years after the closure of any disputed matter, whichever occurs later, (the "Audit Period"), Contractor shall maintain financial and operational records related to this Agreement or to any other Agreement with City. Contractor shall make all books and records open to inspection by the governing agency, City Auditor or their individually assigned designee during normal business hours at a location within a twenty-five (25) mile radius of the City of Oakland for the period of this contract and for a period of four years after the close of each contract year.
- (b) During the Audit Period, Contractor hereby grants to City or its designee(s), upon one (1) days prior notice to Contractor, access to and the right to make copies of any of Contractor's books, statements, documents, papers or records ("Financial Information") which arise from or relate to the terms and conditions of this Agreement and the performance of any services pursuant to this Agreement, or any other Agreement between the parties, in order to permit City to conduct audits, examinations, excerpts and transition audits (collectively hereafter referred to as "Audit or Audits"). Contractor authorizes the City Auditor or his designee to obtain such information directly from these sources. City's right to Audit and to make copies shall apply whether such Financial Information is located at Contractor's offices or at Contractor's banks, financial institutions or lenders, or at the offices of Contractor's financial consultants, accountants or bookkeepers. For the purposes of such Audit, Contractor waives its right to the confidentiality of all Financial Information and Contractor authorizes the City or its designee(s) to access, obtain and make copies of Financial Information directly from Contractor's banks, financial institutions or lenders, or from Contractor's financial consultants, accountants or bookkeepers.
- (c) Such Audits may be performed by City through its employees or by its designees including, without limitation, a third party auditor retained by City. City's right to Audit under this Section 21 is independent, separate and distinct from any right to audit such books and records reserved by law or contract, or as a condition of funding, by the county, state or federal government.
- (d) If any Audit of Contractor's invoices or other records reveals any variance from any invoice to City, or of any amount of funds provided to Contractor by City which is in excess of the amount actually due to Contractor by City, then: Contractor shall

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

3. Non-Discrimination/Equal Employment Practices

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

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

4. Americans With Disabilities

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

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

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

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

<https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>.

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

Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

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

6. **Other Applicable Ordinances:**

(a) **Living Wage Ordinance**

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

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

- a. Minimum compensation – Said employees shall be paid an initial **hourly wage rate of \$15.30 with health benefits or \$17.56 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, contractor shall pay adjusted wage rates.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least **\$2.26 per hour**. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.

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

(b) Minimum Wage Ordinance

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

For further information, please go to the following website:

<https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges>

(c) Equal Benefits Ordinance

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

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

The Ordinance shall only apply to those portions of a Contractor's operations that occur (1) within the City; (2) on real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City; and (3) elsewhere in the United States where work related to a City

contract is being performed. The requirements of this chapter shall not apply to subcontracts or sub-contractors.

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

(d) Nuclear Free Zone

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

7. City of Oakland Campaign Contribution Limits

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

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

8. Insurance

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

9. Political Prohibition

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

10. Religious Prohibition

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

11. **Prompt Payment Ordinance**

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

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

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

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

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that

delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

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

12. Arizona and Arizona-Based Businesses

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

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

13. Dispute Disclosure

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

14. Border Wall Ordinance

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

Mexico border wall; The City of Oakland shall be prohibited from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" individual, firm, or financial institution who provides any services, goods, equipment or information technology or cloud- based technology or services, to construction of the a wall along any part of the United States – Mexico border.

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

15. Sanctuary City Contracting and Investment Ordinance

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