

AUSTIN POLICE DEPARTMENT AUTOMATED LICENSE PLATE READER INFORMATION SHARING & NON-DISCLOSURE AGREEMENT

This Austin Police Department Automated License Plate Reader Information Sharing & Non-Disclosure Agreement (the “agreement”), is between The City of Austin, Texas, acting by and through its Austin Police Department (APD), a home-rule municipal corporation formed under the laws of the state of Texas; and

OTHER LAW ENFORCEMENT ENTITY REQUESTING ALPR DATA (“**Recipient**”).

Recipient has contacted APD to request information gathered by APD through one or more of its Automated License Plate Readers (ALPR). Recipient has represented to APD that it is seeking this ALPR information for the purpose of investigating or prosecuting certain criminal activity (license plates listed as stolen, wanted individuals with any Class A offense or greater warrant, Class B and Class C hate crimes, or Class B and Class C sex crimes), or for the purpose of locating missing or endangered persons (BOLO, SILVER, and AMBER alerts) (the “**Purpose**”). To fulfill its mission of detecting and mitigating crime and protecting public-safety, APD needs to share this ALPR information with Recipient. To fulfill its obligations pursuant to Austin City Council Resolution No. 20220915-056, APD and Recipient must agree to certain restrictions with respect to Recipient’s use and handling of the ALPR information.

The parties therefore agree as follows:

1. Confidential Information. “**Confidential Information**” means all nonpublic ALPR information that APD discloses to Recipient relating to the Purpose, whether disclosed orally or in written, electronic, or other form or media, including, information collected by an APD ALPR that is provided by APD to Recipient or its representatives in connection with the Purpose.
2. Exclusions from Confidential Information. Except as required by applicable federal, state or local law or regulation, Confidential Information does not include information that (a) is generally available to and known by the public other than as a result of any violation of this agreement; (b) is available to Recipient on a non-confidential basis from a third-party source, provided that, to the actual knowledge of Recipient, the third party was not prohibited from disclosing Confidential Information to the Recipient; (c) was known by or in the possession of a Recipient prior to being disclosed under this agreement; or (d) was independently developed by a Recipient, without reference to or use of any of APD’s Confidential Information.
3. Recipient obligations. The Recipient must:
 - (a) protect and safeguard the confidentiality of all Confidential Information with at least the same degree of care as the Recipient would protect its own information that it considers confidential law enforcement information, but in no event with less than a commercially reasonable degree of care;
 - (b) only use APD’s Confidential Information to achieve the Purpose;
 - (c) not use APD’s Confidential Information to:

(i) target any person based on their actual or perceived race, color, religion, creed, sex, gender, gender identity, sexual orientation, age, national origin, ethnicity, disability, veteran status, marital status, partnership status, pregnancy status, political affiliation or beliefs, and, to the extent permitted by law, alienage or citizenship status;

(ii) employ ALPR systems to intimidate or harass any individual or group;

(iii) obtain, attempt to obtain, or convert any data obtained with ALPR for personal use or the unauthorized use of another person. Recipient's personnel shall only access and use the ALPR system for official and legitimate law enforcement purposes consistent with the Purpose;

(iv) investigate persons who are, or were, exercising their First Amendment right, including freedom of speech, assembly, association, and exercise of religion, such as attending political rallies, organizational meetings, public demonstrations, and religious gatherings, unless doing so to achieve the Purpose;

(v) conduct warrant round-up operations, operations focused on collecting past due traffic fines, enforce Class C Misdemeanors (other than as consistent with the Purpose), or any other similar purpose of generating revenue or collecting money owed by the public; or

(vi) conduct criminal investigations on immigration status or access to reproductive health services to the extent legally possible;

(d) not disclose any Confidential Information to any person or entity, except to the Recipient's employees who:

(i) need to know the Confidential Information to achieve the Purpose;

(ii) are informed by the Recipient of the confidential nature of the Confidential Information; and

(iii) are subject to confidentiality duties or obligations to the Recipient that are no less restrictive than the terms and conditions of this agreement.

4. Required disclosure. The Recipient may disclose APD's Confidential Information when required by applicable federal, state or local law or regulation, including the Texas Public Information Act, or a valid order issued by a court or governmental agency of competent jurisdiction; *provided*, that prior to making any disclosure and as permitted by law, a subject Recipient must make reasonable efforts to provide APD with prompt written notice of the requirement so that the APD may seek, at its sole cost and expense, a protective order or other remedy. If, after providing notice as required in this agreement, the Recipient remains subject to a legal obligation to disclose any Confidential Information, the Recipient may not disclose more than specifically required.

5. Destruction of Confidential Information. To the extent permitted by applicable law, at any time during or within one year after the termination of this agreement, at APD's written request, or at the time the Recipient no longer needs the Confidential Information to achieve the Purpose, whichever occurs

first, the Recipient must promptly destroy all copies, whether in written, electronic or other form or media, of the Confidential Information, and certify in writing to APD that the Confidential Information has been destroyed.

6. Term. This agreement shall remain in effect for a period of five (5) years from the effective date.

7. Remedies. Each party acknowledges and agrees that money damages might not be a sufficient remedy for any breach or threatened breach of this agreement by the party. Therefore, in addition to all other remedies available at law (which neither party waives), the non-breaching party is entitled to specific performance and injunctive and other equitable relief as a remedy for any breach or threatened breach.

8. Governing law, jurisdiction and venue. Texas law governs this agreement, without regard to its conflicts of laws principles. Venue for any dispute arising out this agreement is proper only in the state courts of Travis County, Texas.

9. Notices. All notices under this agreement must be in writing and will be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such notices must be sent to the respective parties at the addresses set forth below (or to such other address that may be designated by a party from time to time in accordance with this section).

If to APD:

[CONTACT PERSON]

If to Recipient:

[CONTACT INFO]

10. Assignment. Neither party may assign any of its rights or obligations under this agreement.

11. Entire Agreement. This agreement constitutes the entire understanding of the parties and supersedes all prior and contemporaneous agreements and representations, written or oral, with respect to the subject matter. This agreement may only be amended, modified or supplemented by written agreement signed by both parties.

12. Severability. If any part of this agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, that will not affect any other part of this agreement.

13. Waivers. No waiver by any party of any of the provisions of this agreement may be effective unless explicitly set forth in writing and signed by the waiving party.

The parties are signing this agreement as of the date first stated above.

City of Austin, acting by and through the
Austin Police Department

By _____
Signature

Name: _____

Title: _____

[RECIPIENT]

By _____
Signature

Name: _____

Title: _____