

BINDING MEMORANDUM OF UNDERSTANDING

This Binding Memorandum of Understanding (“MOU”) is made and entered into as of ___ day of _____, 2020 by and between RUBICON GLOBAL, LLC, having a principal place of business at 950 East Paces Ferry Road, Suite 1900, Atlanta, Georgia 30326 (“Rubicon”) and the City of Milwaukee, Wisconsin having a principal place of business at 200 E Wells St, Milwaukee, WI (the “City”) (Rubicon and the City are hereinafter referred to as the “Parties”).

SECTION 1 - BACKGROUND

1.01 Rubicon has developed a technology-enabled suite of systems and methods for monitoring waste management services provided by waste hauler vehicles in real-time, enabling users to effectively measure and manage the impact and efficiency of waste removal services.

1.02. The City’s Operations Division includes a fleet of approximately 110 waste and recycling daily assigned vehicles (“Waste Service Vehicles”) that service approximately 181,000 households within the City limits.

1.03 The Parties are interested in conducting a joint 3-month waste data pilot project (the “Pilot Project”), allowing the City to test Rubicon’s technology-enabled suite of products to improve the impact and efficiency of its residential waste and recycling systems.

SECTION 2 - PURPOSE OF THE MOU

2.01 The purpose of this MOU is to: (a) provide the basis for the Parties’ relationship under the Pilot Project; and (b) describe at a high level the key principles and terms which will apply to the Pilot Project.

SECTION 3 - PILOT PROJECT

3.01 Pilot Project: Rubicon and the City agree to participate in the Pilot Project to help the City demonstrate the power of Rubicon’s technology to improve residential waste and recycling systems in cities like Milwaukee. Rubicon agrees to donate hardware and software, training, and support as described below.

3.02 Pilot Project Hardware: For use in each of the City’s approximately 10 Waste Disposal Vehicles, Rubicon will donate the following hardware devices: (1) a smartphone with service plan, (2) a pod device, (3) a phone case, (4) a vehicle mount for smartphone, and (5) a vehicle charger and cable for the smartphone. Rubicon will also donate charging stations for charging the smartphones while not in use in a Waste Service Vehicle.

3.03 Pilot Project Software and Services: Rubicon will donate to the City access to its proprietary app-based software on the donated smartphones to monitor and collect data regarding activity of the Waste Service Vehicles. Rubicon will also donate to the City access to a customized web portal providing access to real-time and historical information as derived from data collected by the donated smartphones using Rubicon’s proprietary technology and information (“Portal Information”). Additionally, Rubicon will donate to the City training and support services for its proprietary and customized software.

3.04 Duration: Rubicon will donate the Pilot Project hardware, software, and services described in sections 3.01 - 3.03, from the date such technology-enabled suite of systems is substantially implemented in the Waste Service Vehicles and notice of completion of such implementation is provided from Rubicon to the City until the three month anniversary of such date (the "Termination Date"). Within 2 weeks of the Termination Date, the City agrees to return all donated hardware and software to Rubicon. The City's access to Rubicon's customized web portal shall be discontinued 6 months after the Termination Date. Notwithstanding the foregoing, any terms of this MOU, which by their explicit language or their nature, including, without limitation, the provisions of Section 3.07 and Section 3.09, shall survive Termination of this MOU.

3.05 Liability: Rubicon assumes liability for breakage, theft, or loss of the donated Pilot Project Hardware that is not the result of gross negligence by the City, its agents or employees. Rubicon also agrees to provide reasonable maintenance for the Pilot Project Hardware for the duration of the Pilot Project, and the City agrees to provide Rubicon reasonable access to the Waste Service Vehicles to provide such maintenance. The Parties will agree on an appropriate mechanism for the Parties to inform one another of any maintenance issues with the Pilot Project Hardware and for Rubicon to have access to the Pilot Project Hardware to provide such maintenance.

3.06 Value: It is estimated that the total value of hardware, software and services donated to the City during the Pilot Project is up to twelve thousand, two hundred and eighty dollars & forty nine cents. (\$12,280.49).

3.07 Intellectual Property:

- (a) Rubicon will retain ownership of all of its intellectual property including all intellectual property embodied in or used by the Pilot Project Hardware and Software and any other intellectual property necessary to conduct the Pilot Project. Rubicon grants the City a non-exclusive license under such intellectual property solely for the conduct of the Pilot Project for the duration of the Pilot Project. Such non-exclusive license will terminate upon completion of the Pilot Project.
- (b) Any intellectual property, including, but not limited to, any inventions, patents, copyrights, trade secrets, or know-how, made or acquired as a result of the Pilot Project whether solely by either of the Parties, or jointly by the Parties ("Project Intellectual Property") will be owned by Rubicon. The City hereby assigns all right, title, and interest in any such Project Intellectual Property to Rubicon.
- (c) Rubicon will retain ownership of any and all data in its possession prior to commencement of the Pilot Project, or that Rubicon otherwise generates or collects after commencement of the Pilot Project, but that is unrelated to the Pilot Project ("Rubicon's Pre-Existing Data"). The City will not be given access or any license to Rubicon's Pre-Existing Data.
- (d) The City will retain ownership of data in its possession prior to commencement of the Pilot Project that it provides to Rubicon in conjunction with the Pilot Project, including, but not limited to addresses, routes, vehicle and operator identification, and/or waste services data gathered or prepared by the City ("City's Pre-Existing Data"). The City hereby grants Rubicon the ability to use the City's Pre-Existing Data for internal study and analysis of data, incorporation of the data with other data of

Rubicon, and development of products or technology based on the data, but only to the extent that the City's Pre-Existing Data shall be in an anonymized aggregated format.

(e) Rubicon will own and retain the data generated and collected under the Pilot Project ("Project Data"), excluding any of the City's Pre-Existing Data which is not in an anonymized aggregated format. Rubicon will share Project Data with the City to the greatest extent possible in a reasonable format that will enable the City to gather information regarding its solid waste and recycling programs.

3.08 Additional Responsibilities of the City of Milwaukee:

(a) The City will provide Rubicon reasonable access to the Waste Service Vehicles and the City's appropriate facilities to install the Pilot Project Hardware. The Parties will agree on an appropriate time and location for such installation.

(b) The City will make the operators of the City's Waste Disposal Vehicles, managers, supervisors, and dispatchers of the City's Operations Division fleet of Waste Service Vehicles, and any other City employees who will participate in the Pilot Project available for the purpose of training on Pilot Project Hardware and Pilot Project Software set forth in Sections 3.02 and 3.03. The Parties will agree on an appropriate time and location for such training.

(c) The City agrees to provide Rubicon the right to disclose any non-confidential information about the Pilot Project in external communication (e.g. website, marketing materials, press release) and for other relevant business purposes.

(d) The City will provide Rubicon with City's Pre-Existing Data concerning:

(i) the costs associated with providing waste collection and disposal services, including all data collected by the City representing the City's costs to provide curbside collection services in the City's limits for each of the past 12 months, including labor costs for Waste Service Vehicle operators, managers, supervisors and helpers/slingers, as well as maintenance and fuel costs associated with Waste Service Vehicles; and

(ii) the amount of waste and recyclable materials it collected through curbside collection services in the City within the past 12 months, including the date and net weight of each load of waste and recyclable materials collected by a City Waste Service Vehicle.

3.09 Confidentiality: All Project Data generated and collected under the Pilot Project, and Rubicon's Pre-Existing Data will be considered proprietary and confidential. The City agrees not to publish or otherwise make publically available any Portal Information without the written permission of Rubicon unless required under Wisconsin's open records laws.

SECTION 4 - FUTURE EXPECTATIONS

4.01 The Parties understand and agree that this Memorandum of Understanding, including the Pilot Project described herein, Rubicon's donation of goods and services during the Pilot Project, and the Parties' respective interests in the various forms of Intellectual Property contemplated, does not expressly or by implication obligate the City to purchase any goods or

services from Rubicon or guarantee that the City will purchase any goods or services from Rubicon.

SECTION 5 – MISCELLANEOUS

5.01 Public Records Law: Rubicon understands that the City is bound by the Wisconsin Public Records Law, Wis. Stat. § 19.21, *et. seq.* Pursuant to Wis. Stat. § 19.36(3), City may be obligated to produce, to a third party, Rubicon’s records that are “produced or collected” under this MOU (“Records”). Rubicon is further directed to Wis. Stat. § 19.21 *et seq.*, for the statutory definition of records subject to disclosure under this paragraph, and Rubicon acknowledges that it has read and understands that definition. Irrespective of any other term of this MOU, Rubicon is (1) obligated to retain Records for seven years from the date of the Record’s creation, and (2) produce such Records to City if, in City’s determination, City is required to produce the Records to a third party in response to a public records request. Rubicon’s failure to retain and produce Records as required by this paragraph shall constitute a material breach of this MOU and Rubicon must defend and hold City harmless from liability due to such breach.

SIGNATURES ON FOLLOWING PAGE

The Parties, by authorized representatives, have executed this Binding Memorandum of Understanding as of the Effective Date.

CITY OF MILWAUKEE, WISCONSIN

RUBICON GLOBAL, LLC

JEFFREY POLENSKE
Commissioner, Department of Public Works

MICHAEL ALLEGRETTI
Chief Strategy Officer

KATHRYN Z. BLOCK
Assistant City Attorney
As to Content, Form, and Execution