

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 50

Council Meeting Date: January 23, 2024

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: E. Michael Leonard, CAO *EL*

SUMMARY EXPLANATION:

Resolution authorizing entry into Professional Services Agreement for Uninsured Motorist Identification and Stolen Vehicle Program with Securix Mississippi, LLC

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract Minutes _____ Plans/Maps _____ Deed _____ Lease

Other (Specify): Exhibit A: Professional Services Agreement

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	Councilmember	Yes	No	AFR	ABST	Councilmember	Yes	No	AFR	ABST
	Lawrence	___	___	___	___	Tisdale	___	___	___	___
	Gines	___	___	___	___	Glavan	___	___	___	___
	Newman	___	___	___	___	Barrett	___	___	___	___
	Deming	___	___	___	___					

ACTION TAKEN:

Resolution No.

**RESOLUTION AUTHORIZING ENTRY INTO PROFESSIONAL SERVICES AGREEMENT
FOR UNINSURED MOTORIST IDENTIFICATION AND STOLEN VEHICLE PROGRAM
WITH SECURIX MISSISSIPPI, LLC**

WHEREAS, Securix Mississippi, LLC (“Securix”) is experienced in the enforcement of mandatory vehicle insurance through a diversionary program and has previously contracted with the cities of Senatobia, Pearl, Batesville, Saltillo and New Albany, as well as coordinating such enforcement and collection with the Mississippi Department of Public Safety;

WHEREAS, under the terms and condition of the Professional Services Subscription (the “Agreement”), attached hereto as Exhibit “A,” Securix will assist the City with enforcement of mandatory vehicle insurance and identification of stolen and other vehicle identified as potentially involved with criminal activity;

WHEREAS, Securix services will not be used for enforcement of speeding laws or red-light laws;

WHEREAS, Securix will be compensated for its services from payments collected from violators and will receive 44.444% of all such payments, with the City receiving 31.746% and the Mississippi Department of Public Safety receiving the remaining 23.810% of all such payments;

WHEREAS, the City share on a fully paid violation of the Mississippi Uninsured Motorist Law equates to One Hundred and 00/100 Dollars (\$100.00), which is the statutory fine for such violations under Miss. Code Ann. §63-15-4;

WHEREAS, under the Agreement, the City will be assessed a fee of One Thousand Two Hundred Fifty and 00/100 Dollars (\$1,250.00) each month for access to registered vehicle insurance information, to be deduced from the City’s portion of payments collected;

WHEREAS, in addition, the City will be assessed a fee of Five Hundred and 00/100 Dollars

(\$500.00) each month for auditing of citations issued to ensure accuracy, with the fee to be deduced from the City's portion of payments collected;

WHEREAS, in the event the City's portion of payments collected is insufficient to pay the above referenced fees, the City shall have no obligation to provide additional funds;

WHEREAS, it is the recommendation of the Administration that the City enter the Agreement with Securix.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT:

SECTION ONE: The findings, conclusions, and statements of fact contained in the foregoing preamble are hereby adopted, ratified, and incorporated herein.

SECTION TWO: The Mayor, on behalf of the City of Biloxi, is hereby authorized to execute the Professional Services Subscription, attached hereto as Exhibit "A," with Securix Mississippi, LLC.

SECTION THREE: This resolution shall take effect and be in force from and after adoption.



PROFESSIONAL SERVICES

AGREEMENT

UNINSURED MOTORIST
IDENTIFICATION AND STOLEN
VEHICLE PROGRAM

For

BILOXI, MISSISSIPPI

THIS AGREEMENT (herein called The Agreement) is made and entered into this _____ day of _____, 2024, or date of last signing by and between BILOXI, MISSISSIPPI, having its principal office at 140 Lameuse Street, Biloxi, Mississippi 39530 hereinafter the "CITY", and,

Securix Mississippi LLC, a Mississippi Company with its address being P.O. Box 1023, Ridgeland, Mississippi 39158, ("COMPANY"). Both CITY and COMPANY may each be referred to individually as "Party" and collectively as "Parties. This agreement sets forth the terms, conditions, and obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed as follows:

CITY has authorized and wishes to contract with COMPANY to provide services to assist with mandatory vehicle insurance enforcement and identification of stolen and other vehicles identified as potentially involved with criminal activity.

COMPANY and CITY agree that such services will not be used for enforcement of speeding laws or enforcement of red-light laws.

By signing below, the Parties agree to the terms and conditions of this Agreement. This Agreement contains the complete and exclusive statement of agreement between the Parties relating to all matters referenced herein and replaces any prior oral or written representations or communications between them. Each individual signing below represents that he has the requisite authority to execute this Agreement on behalf of the entity which he represents and that all the necessary requirements to do so are met.

By: _____ Date: _____

Jonathan Miller, Owner
Securix Mississippi LLC

By: _____ Date _____

A. M. Gilich, Jr., Mayor
City of Biloxi

This Agreement is effective on the date of execution by the last signatory to this document.

GENERAL TERMS AND CONDITIONS

1. TERM

The contract shall be in full force and effect upon the signature date herein. The initial term of the agreement shall be four (4) years and it shall automatically extend for additional three (3) year terms unless CITY provides written notification prior to 60 (sixty) days prior to date of termination. COMPANY shall provide CITY a written notice of renewal 120 (one hundred and twenty), days prior to the end of each active term so the CITY may evaluate its renewal options. Notwithstanding, either Party may terminate this agreement at any time by providing a sixty (60) day advance written notice to the other party. A written notice of cancellation must be sent from one party to the other via Certified Mail, Return Receipt Requested, or, by Overnight Delivery with proof of signature required.

During the initial term of the Agreement, Securix agrees it will not contract with any other municipalities or counties on the I-10/I-110 interstates. This condition will remain in effect unless Biloxi terminates the Agreement.

2. ASSIGNMENT

Neither party may assign all or any part of this agreement without prior written consent of the other. Consent shall not be unreasonably withheld or delayed. However, this shall not prohibit assignments by operation of law (such as mergers) and corporate transactions involving the sale of all or substantially all of the assets of COMPANY. COMPANY may sell, assign, transfer or convey any interest in this contract in whole or in part without consent of the CITY. CITY would, however, retain the right to terminate at any time and for any reason without penalty.

3. FEES AND PAYMENT

COMPANY shall be paid for all the services based on schedule: **Exhibit A, "Schedule of Fees"**.

3.1 COMPANY will contract with the appropriate agencies to collect all payments from violators electronically online and transfer the funds collected as follows: CITY 31.746%, Mississippi Department of Public Safety 23.810%, and COMPANY 44.444%, and also provide complete and accurate records for proper reconciliation of Parties. COMPANY commits that revenues generated in this manner will be provided directly to CITY's account(s) daily along with full accounting and complete reconciliation and that further, as many accounts and payment recipients as CITY directs will be paid in this manner. Any alternative forms of payment submitted directly to CITY shall be dispersed according to the aforementioned percentage breakdown.

3.2 If contract is terminated, CITY will owe COMPANY no funds other than COMPANY's share of revenues from uncollected notices as such notices are paid by violators over the following ninety (90) days and these funds due referenced above if any exist.

4. CONFIDENTIAL INFORMATION

All information given by COMPANY to CITY will be considered of a confidential nature, unless specifically designated in writing as non-proprietary and non-confidential by the COMPANY. Provided however, nothing in this paragraph shall be construed as contrary to the terms and provisions of

any "Open Records Act" or similar laws insofar as they may be applicable. COMPANY shall not use any information acquired by this program, which begins with transfer of images to servers under law enforcement control, with respect to any violations or the CITY's law enforcement activities, for any purpose other than this program.

5. OWNERSHIP

It is understood and agreed by CITY that the system being installed by the COMPANY is and shall remain the sole property of the COMPANY. All creations developed either wholly or partly by COMPANY pursuant to this Agreement, including all intellectual property rights therein, shall be owned by COMPANY. All rights, title, and interest in and to the concepts, methodologies, processes, techniques, inventions and tools, (including computer hardware and software where applicable), that COMPANY uses to produce deliverables or perform Services under this Agreement, other than elements owned specifically by CITY, (to include the actual data itself), shall remain the property of COMPANY, the System is being provided to the CITY only under the terms and for the term of this specific subscription agreement. All images are provided to CITY. Images are property of CITY.

6. INDEMNIFICATION AND INSURANCE

The COMPANY shall comply with all laws, ordinances and regulations governing the use of LPR, (license plate recognition), systems applicable to this agreement and shall comply with the maintenance procedures and manufacturer's recommendations for operation of the SECURIX, (Company) equipment, which affects this agreement, and shall indemnify and save harmless the CITY against claims arising from violations of maintenance procedures and manufacturers' recommendations for operation of equipment as a result of willful misconduct and/or negligence of the COMPANY, its officers and directors, agents, attorneys and employees but excluding any agents or employees of the CITY.

COMPANY is a service provider acting only as agent of government but shall obtain and maintain at all times during the term of this agreement, at its sole cost and expense commercial general liability insurance with a minimum limit of \$1,000,000 per occurrence as well as other insurance required by law.

7. REPRESENTATIONS AND WARRANTIES

7.1 COMPANY warrants that it has full authority to enter into this agreement.

7.2 CITY warrants that it has full authority to enter into this agreement.

8. APPLICABLE LAW AND DISPUTE RESOLUTION

All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good faith negotiation between senior management of both parties, followed if necessary within thirty (30) days by professionally assisted mediation.

In the event of any question or dispute arising between the parties as to the interpretation of any term or condition of this Agreement, or with respect to any matter of compliance or non-compliance with the terms of this Agreement, resolution shall be governed by the Laws of the State of Mississippi and be heard in Harrison County, without regard to conflict of laws provisions.

9. TERMINATION

The COMPANY's services may be terminated:

- 9.1 By mutual written consent of the parties.
- 9.2 By either Party at any time and without cause providing thirty (30) days advance written notice.
- 9.3 Upon termination of this Agreement by mutual agreement, for no cause, for cause or, because it has reached the end of its term and not been renewed, the Parties recognize that the CITY must continue handling violations that are currently "in the pipeline", and that the COMPANY must assist with processing those notices in this regard. Accordingly, the Parties shall take the following actions and shall have the following obligations which shall survive termination during the wind- down period:
 - CITY shall cease using the SECURIX System to capture violations.
 - COMPANY shall continue to process all images taken on behalf of CITY and provide customary services in accordance with the Agreement through the final date of termination.
 - COMPANY shall be able to collect any (differed) unpaid fees due from the CITY from "Pipeline" Notice fees.
 - COMPANY shall continue to receive Notice payments in its credit card_portal for as long as outstanding notices continue to be paid and that agency will continue to forward such payments to Parties daily.
 - CITY shall return or allow COMPANY to recover equipment within a reasonable time.

10. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions herein. This Agreement shall be construed as if the invalid, illegal or enforceable provision has not been contained herein and the Agreement shall be otherwise enforced to the maximum extent possible. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. PRIOR AGREEMENTS INVALID

This Agreement constitutes the sole and only agreement of the Parties and supersedes any prior understanding, written or oral, between the Parties.

12. NO AGENCY

The COMPANY is an independent contractor providing services to the CITY. The employees, agents and contractors of the COMPANY shall in no event be considered to be the employees, agents or contractors of the CITY. This contract is not intended to create an agency relationship between the COMPANY and the CITY other than that COMPANY has authority to conduct itself as Agent of CITY regarding the specific tasks detailed in this contract but no others.

13. FORCE MAJEURE

As noted in Section 8., above, neither party will be liable to the other or be determined to be in breach of this Agreement for any failure or delay in rendering performance arising from causes beyond reasonable control other than its fault or negligence. Such causes may include but are not limited to: Acts of God terrorism, loss or interruption of services caused by factors outside the control and dominion of COMPANY, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargos, unusually severe weather, or governmental authority's approval delays which are not caused by any act or omission by the COMPANY. Most especially, neither Party shall be required to perform any installment obligation hereunder for the period of time that is directly or indirectly prevented by delays of vendors or suppliers, or any other cause whatsoever beyond the reasonable control of either Party. The Party whose performance is affected agrees to notify the other promptly of the existence and nature of the delay.

14. HDI Solutions, Inc.

A. The Mississippi Department of Public Safety has contracted with HDI Solutions, Inc. (HDI) of Auburn, Alabama for maintaining and producing a weekly list of insured vehicles in the State of Mississippi. HDI instituted a fee of \$2,500.00 per participating city to obtain this data on a weekly basis. Securix and the City shall equally divide said fee, that being \$1,250.00 each per month. The City's fee will be deducted from fees it receives from Securix. In the event that any month there is insufficient revenue generated to the City under this Program to pay the City's share of the HDI fee, the City shall have no liability whatsoever to pay said fee.

B. HDI instituted a fee of \$5,000.00 per month to audit citations issued within the State under the Securix Mississippi Program. The purpose of the audit is to ensure the accuracy of the uninsured motorist citations issued. You will be charged a fee of \$500.00 per month for the audit. The City's fee will be deducted from fees its receives from Securix. In the event that any month there is insufficient revenue generated by the City under the Program to pay the City's share of the ACI audit fee, the City shall have no liability whatsoever to pay said fee.

15. NOTICES

NOTICES. Any notices provided under this Agreement will be in writing in the English language and will be deemed to have been properly given if delivered personally or if sent by (i) a recognized overnight courier, (ii) certified or registered mail, postage prepaid, return receipt requested, or (iii) facsimile, if confirmed by mail. COMPANY's address for such notices is set forth below. CITY's address for such notices will be the address on file with COMPANY as provided by CITY if not listed below. Such address or contact information may be revised from time to time by provision of notice as described in this Section. All notices sent by mail will be deemed received on the tenth (10th) business day after deposit in the mail. All notices sent by overnight courier will be deemed given on the next business day after deposit with the overnight courier. All notices sent by facsimile will be deemed given on the next business day after successful transmission. Where possible, sender should obtain tracking info from carrier and signature or delivery information shall be considered "proof of delivery" to the Parties. Notices should be sent to the parties at the following addresses:

Address of COMPANY:

Securix Mississippi, LLC
Attn: Jonathan Miller, Owner
Post Office Box 1023
Ridgeland, Mississippi 39158

Address of CITY:

City of Biloxi
Attn: City Attorney
Post Office Box 140
Biloxi, Mississippi 39533