

CITY OF BOSTON
SMART COMMUNITIES / VISION ZERO
PILOT AGREEMENT

THIS PILOT AGREEMENT ("Pilot Agreement" or "Agreement") is made and entered into as of the date of the later of the two signatures below (the "Effective Date") by and between "Verizon," which refers to Celco Partnership d/b/a Verizon Wireless and any other Verizon affiliates providing services hereunder (individually and collectively "Verizon"), with offices located at One Verizon Way, Basking Ridge, NJ 07920 and the City of Boston, located at One City Hall Square, Boston, MA 02201 ("the City") (each a "Party" and collectively the "Parties"). This Pilot Agreement is binding upon execution by both Parties.

BACKGROUND

Mayor Walsh's administration has made it a priority to use data to provide excellent services and improve the quality of life for the people of Boston. As "Smart City" and "Internet of Things" (IoT) technologies are developed, the City's goal is to ensure that these solutions and the data they collect can help address key public challenges such as roadway safety. In order to build on Boston's innovative spirit, this Pilot Agreement allows the City to test and provide input on these types of solutions.

The City of Boston is a participant in the global Vision Zero initiative that aims to improve roadway safety and eliminate fatalities from traffic crashes. In December 2015, the city launched its Vision Zero Action Plan which detailed, among other things, the city's goal of adopting technology and data to better understand the behavior of roadway users in order to improve street design, and support other interventions that increase safety.

As part of its Vision Zero commitment, the City of Boston will collaborate with Verizon to implement and test IoT-based smart communities solutions for capturing and analyzing traffic behavior at one or more high volume road intersections. This Pilot Agreement sets forth the terms and conditions of parties' collaboration in furtherance of the Vision Zero initiative.

The opportunity to conduct a Pilot is open to any partner who can meet requirements similar to those laid out in this Agreement, subject to such Pilot furthering the City's administrative, policy formation, and information gathering needs, as determined by the City in its sole discretion. The Pilot is for informational purposes only, and no contract will be awarded as a result. Participating in a Pilot is entirely voluntary, and a vendor's participation in a Pilot, or lack thereof, will have no impact on evaluation of responses to any subsequent Request for Proposals (RFP) or other procurement, if one is issued. Participation in a Pilot by the City is a policy formation and information gathering exercise, and does not obligate the City to make any future commitments, policies, contracts, or purchases.

GENERAL TERMS AND CONDITIONS

1. Services and Scope of Work.

1.1 **Services.** Verizon will provide City a free limited Pilot of the following solutions, as set forth in one or more Statements of Work ("SOWs") attached hereto as exhibits under the terms of this Pilot Agreement.

- (a) Intelligent Video provides real time awareness of surveillance activities. Intelligent Video leverages advanced edge-based analytics to trigger alerts and to capture and potentially transfer relevant video to the Intelligent Video Management System (IVMS).
- (b) Intelligent Lighting includes LED lights with intelligent control modules and wireless gateways which allow for intelligent data analytics and data driven insight.
- (c) Intelligent Traffic provides real-time awareness of traffic conditions and reports regarding traffic analytics.
- (d) ThingSpace is a web-based platform for data analysis, dashboards, visualization and reporting. Processed traffic and other data made available to City via ThingSpace will be hereafter referred to as "ThingSpace Data."

Hereafter, the solutions outlined in this subsection 1.1 shall be referred to as the "Services." The Services include ThingSpace Data.

In addition to complying with all local laws and permitting requirements, Verizon shall use commercially reasonable efforts to minimize any disruption to pedestrian and/or vehicular traffic at the Pilot sites, working in tandem with City officials. To the extent practicable and within its control, Verizon will use commercially reasonable efforts to deploy Services in a manner that will leave intact manufacturer's and related warranties of existing equipment and products at the Pilot Site. Verizon will ensure all designs and associated permits are approved by the city before installing any technology.

- 1.2 **Performance of Services.** Verizon controls the means, methods, places and time of its performance of the Services (including the use of subcontractors and consultants); references to "Verizon" in this Pilot Agreement include all Verizon agents and contractors. City agrees to cooperate with Verizon in the installation, evaluation and testing of the Service and City will provide such assistance and resources as are reasonably necessary to allow Verizon to install, evaluate, and test the Pilot Services. To the extent the Pilot includes onsite work by Verizon resources, Verizon will abide by City's stated rules for the site. Verizon is not responsible for any failure or delay resulting from City's failure to fulfill its obligations under the Pilot Agreement or SOW in a timely manner. Verizon will be required to obtain all necessary permits, including permits from the City, necessary to perform the Services.
- 1.3 **Statements of Work.** Attached to this Pilot Agreement are SOWs, which define the scope and nature of the Services Verizon will provide to the City. Each SOW may identify key expectations on which the SOW is based ("Conditions"). Each Party will notify the other promptly if it determines that a Condition has not been met or is unlikely to be met. If the Parties reasonably determine that either has been materially and adversely affected by the failure of a Condition to be met, and either Party proposes an SOW amendment to cure it, the parties will work diligently to reach agreement on an SOW amendment to cure the material, adverse effect on Verizon, and Verizon may suspend work on the Services until the parties have reached that agreement. All amendments to an SOW must be in writing and mutually approved by authorized representatives of each party.
- 1.4 **Acknowledgement of Service Testing.** City acknowledges and agrees that the Services may contain bugs, defects and errors and that the Services are not expected to function fully or meet City's requirements or that the use or operation of the Services will be uninterrupted or error-free. Verizon and City acknowledge and agree that the Services are being provided to City in exchange for City permitting Verizon to evaluate and test the Services. Subject to the SOWs, Verizon will provide technical support for the Services as Verizon, in its sole discretion, determines is reasonably necessary to conduct the evaluation and testing of the Service; however, Verizon makes no warranties or representations with respect to such technical support. City agrees to exercise reasonable efforts to use the Services regularly in the normal course of business. Except as otherwise expressly stated herein, City agrees to provide any equipment, and all software, development and other services necessary to use the Services. City further agrees to bear its own expenses relating to the use of the Services, including, without limitation, (i) software, wiring, and/or power sources needed to use the Services; and (ii) all applicable federal, state, local, value added and foreign sales or other taxes, if any, associated with City's use of the Services.
- 1.5 **Service Delivery.** Participation in the Pilot of the Services does not obligate Verizon to provide all or any part of the Service to City on a commercial basis, nor does it obligate City to accept the Services from Verizon on a commercial basis or make any future purchase or use of Services. Verizon reserves the right to abandon all or any part of the Services and/or the commercial product at any time and without any obligation or liability to City, and this Agreement does not prevent Verizon or City from entering into similar arrangements with third parties. City expressly agrees that neither this Pilot Agreement nor the performance of Services hereunder will limit in any way Verizon's eligibility to participate in future opportunities or provide products or services to City, including, without limitation, eligibility to participate in City's Requests For Proposals.
- 1.6 **Service Disruption Resolution Policy.** During the training process, Verizon shall provide to City a training manual detailing the Verizon contacts for resolution of any service disruption issues.

2. **Personnel.**

- 2.1 **Independent Contractors.** The Parties are independent contractors to one another, and nothing in this Pilot Agreement creates an agency, partnership, or joint venture relationship between them. Nothing in this Agreement creates an employer-employee relationship between City and either Verizon or any employee or agent of Verizon.

- 2.2 **Third Party Products and Services.** As part of this Pilot Agreement, Verizon may direct City to third parties having products or services which may be of interest to City for use in conjunction with the Services. Notwithstanding any Verizon recommendation, referral or introduction, City will independently investigate and test third-party products and services and will have sole responsibility for determining suitability for use of third-party products and services, and for any contracts City enters into with third parties. Furthermore, the City is under no obligation to investigate, test, or otherwise use any third-party product and both parties acknowledge that any such investigation or use by the City will comport with state and local procurement laws. Verizon has no liability with respect to claims related to or arising from use of third-party products and services. This provision does not apply to the work of subcontractors or other agents that is done on Verizon's behalf.
3. **Free Pilot.** Verizon will provide the Services described in the SOW at no charge. Unless otherwise stated in a SOW, any equipment temporarily installed or used by Verizon in the provision of the Services to the City shall be removed by Verizon at the conclusion of the Pilot at Verizon's expense. All equipment used by or installed by Verizon in connection with providing the Services shall be Verizon's property at all times.
4. **Pilot Preparation and Management.** For each Pilot pursuant to this Pilot Agreement, Verizon and/or City will do the following:
- 4.1 **City Responsibilities Prior to Pilot.** Prior to launching a Pilot, City will provide access to site infrastructure through the appropriate permitting process to permit Verizon to install or locate equipment used to provide the Services during the Pilot. City will provide a designated technical main point of contact with responsibility for Pilot deployment.
- 4.2 **Verizon Responsibilities Prior to Services.** Prior to launching Services, Verizon will:
- Survey the project site and gather necessary information for Pilot deployment.
 - Provide a detailed Pilot design document
 - Provide documents required to receive necessary permits
 - Obtain required permits, licenses, or other forms of permission necessary to perform the Services or install hardware related thereto, including satisfying any insurance, indemnification, bond, or repair obligations.
- 4.3 **Pre-Kickoff Meeting.** Pre-Kickoff meeting working sessions:
- Verizon distributes pre-requisite documentation;
 - Verizon and City develop the problem statement, which includes a mutual understanding of the Pilot and defines any required applications for integration.
 - Verizon and City discuss inclusions/exclusions;
 - Verizon and City discuss key assumptions;
 - Verizon and City discuss evaluation criteria/metrics;
 - Verizon and City discuss stakeholder's roles and responsibilities;
 - Verizon and City discuss Pilot timeline and work flow; and
 - Verizon and City prepare kickoff meeting presentation.
- 4.4 **Pilot Management**
- 4.4.1 **Pilot Kickoff Meeting.** Verizon and City will schedule and participate in a kick off meeting to discuss results of the pre-kick-off meetings and working sessions prior to Pilot commencement.
- 4.4.2 **Pilot Lead Managers.** Verizon will appoint a Pilot Lead Manager that will:
- Serve as Verizon's single point of contact for interfacing with City's Pilot Lead Manager;
 - Contact City's Pilot lead manager to discuss pre-Pilot kick-off meeting materials required;
 - Coordinate scheduling of the Pilot kick-off meeting;
 - Facilitate the Pilot kick-off meeting;
 - Create Pilot timeline and milestones;
 - Coordinate and lead Pilot reviews;
 - Manage day-to-day Pilot activities;
 - Coordinate and participate, as needed, in Pilot meetings;
 - Communicate Pilot status updates to City's Pilot Lead Manager; and

- Provide Pilot deliverables to City's Pilot Lead Manager.

4.4.3 **City Lead Manager.** City shall appoint a Pilot Lead Manager that will:

- Serve as City's single point of contact for interfacing with Verizon's Pilot Lead Manager;
- Coordinate and lead Pilot reviews;
- Manage day-to-day Pilot activities;
- Coordinate and participate, as needed, in Pilot meetings;
- Procure, manage, and direct resources (including contractors' or third party vendors, if any) as needed
- Communicate Pilot status updates to Verizon's Pilot Lead Manager; and
- Provide Pilot deliverables to Verizon's Pilot Lead Manager.

5. **Promotional Activities.**

5.1 **Vision Zero Boston Program.** During the Term, City grants to Verizon a royalty-free, worldwide, irrevocable, non-exclusive right and license to use names and logos, images and other content related to City and its Vision Zero Boston program described in greater detail at <http://www.visionzeroboston.org/> ("Vision Zero Boston Program") for Verizon's marketing and promotional purposes, subject to approval by the City in its discretion of all such marketing and promotions. The City shall not be obligated to approve any such use. In addition, City may include on its website, information regarding Verizon's involvement in the project, subject to Verizon's prior review and approval.

5.2 **Press Releases.** Each party will have the right, during the term, subject to the other party's prior approval, not to be unreasonably withheld or delayed, to issue a press release announcing its participation in the Pilot of the services set forth in this Pilot Agreement. The press release shall include results of the Pilot, including what technologies have materially shown their abilities to meet the Vision Zero objective.

5. **Term and Termination.** This Pilot Agreement will commence on the Effective Date and continue until the termination or expiration of all of the SOWs issued hereunder (the "Term"). Verizon may terminate this Pilot Agreement and any SOW by providing City five (5) days prior written notice. Verizon can, without notice, limit, suspend, or cancel City's access to or use of the Services for good cause which shall include, but is not limited to: (a) City breach of this Agreement and (b) City use of the Services in a way that adversely affects Verizon's network or City's. Upon termination or expiration of this Agreement: (a) any and all licenses and access rights granted to City and its Users hereunder shall terminate, and the City shall have no further right under this Agreement to the Services or any of the Verizon equipment used to provide the Services during the Pilot.

6. **Confidentiality.** Commencing on the date City executes this Pilot Agreement and continuing for a period of one (1) year from the termination of this Pilot Agreement, each party shall protect as confidential (and protect it from disclosure using the same degree of care it uses for its own Confidential Information, but no less than a reasonable degree of care), and shall not disclose to any third party except as provided herein, any information received from the disclosing party or otherwise discovered by the receiving party while this Pilot Agreement is in effect (in whatever form) designated as confidential by the disclosing party by conspicuous markings (if tangible Confidential Information) or by announcement at the time of initial disclosure (if oral Confidential Information) or if not so marked or announced should reasonably have been understood as confidential to the disclosing party (or one of its affiliates or subcontractors), either because of legends or other markings, the circumstances of disclosure or the nature of the information itself and that (i) relates to this Pilot Agreement or changes to this Pilot Agreement; (ii) relates to the disclosing party's pricing, technology, business affairs, marketing, sales plans, customers, products, services, developments, trade secrets, know-how or personnel; and (iii) is received by the receiving party from the disclosing party during the term of this Pilot Agreement; (collectively the "Confidential Information"). The Parties shall use Confidential Information only for the purpose of this Pilot Agreement. Verizon and City may disclose Confidential Information to subcontractors and consultants solely for the purpose of performing and using the Services as applicable. The foregoing restrictions on use and disclosure of Confidential Information do not apply to information that: (a) is in the possession of the receiving party at the time of its disclosure and is not otherwise subject to obligations of confidentiality; (b) is or becomes publicly known, through no wrongful act or omission of the receiving party; (c) is received without restriction from a third party free to disclose it without obligation to the disclosing party; (d) is developed independently by the receiving party without reference to the Confidential Information; (e) is required to be disclosed by law, regulation, or court or governmental order; or (iv) is comprised of statistical information, or other aggregated information insofar as such information does not identify City or its computer network or computer systems. The Parties acknowledge that the City is subject to the Massachusetts Public Records

Law. If the City receives a public records request to which any material covered by this section is responsive, the City will notify Verizon and afford Verizon an opportunity to inform the City of the possible application of any exemptions to the Public Records Law.

7. License Grant of Services.

7.1. **License.** Subject to the terms and conditions of this Agreement, Verizon grants City a limited, nonexclusive, revocable, non-transferable license (without the right to sublicense) during the Term to use and evaluate the Services, including the ThingSpace Data, for use in connection with the Vision Zero Boston Program. The City shall also have the right to copy, record, use and share ThingSpace Data generated in the Pilot after the Term of this Agreement for any purpose consistent with this Agreement.

7.2. **Ownership.** Verizon and its suppliers shall own and retain all right, title and interest in and to the Services, which include, without limitation, the ThingSpace Data, all intellectual property rights in the Services, and any derivative works thereof. The City does not acquire any other rights, express or implied, in the Services. VERIZON RESERVES ALL RIGHTS NOT EXPRESSLY GRANTED HEREUNDER.

7.3. **Feedback.** Upon Verizon's request, City agrees to participate in review meetings to be held at mutually agreeable times in order to review and discuss the results of City's testing activities, and to respond to any specific inquiries regarding City's use of the Services. In order to further the City's goal in this Pilot of gaining information and understanding of how technology can help address public challenges, the City will exchange information with Verizon regarding the functionality and performance of the Services included in the Pilot. Verizon and the City will jointly discuss the technology's potential to address Vision Zero goals and other public purposes.

7.4. **Restrictions.** Unless required by public records law or court order, the City will not, and will not permit any third party to resell, sublicense, rent, lease, time-share, copy, modify, create derivative works of, translate, reverse engineer, decompile, disassemble, or otherwise access or use the Services for purposes of benchmarking or creating a competitive product. City shall not publish or disclose to any third party any Feedback relating to the Services.

9. City's Right to Use Deliverables

9.1 **Deliverables.** Verizon may provide City with reports and/or documentation, as more specifically described in the SOW ("Deliverable(s)"). Verizon shall retain ownership, including all intellectual property rights, in any and all (i) portions of any Deliverable that were not unique to City and created by Verizon in the performance of this Pilot Agreement for and provided to City, and (ii) all underlying materials owned by Verizon that are incorporated into any Deliverable (i.e., materials developed other than as part of the Services, such as templates, forms, underlying methodologies) (collectively "Verizon Underlying Materials"). To the extent any Verizon Underlying Materials are incorporated into any Deliverable, Verizon hereby grants to City a perpetual, non-exclusive, royalty-free license to use such Verizon Underlying Materials; provided that City may only use such Verizon Underlying Materials in connection with the Deliverable and not as a standalone product. The Verizon Underlying Materials shall be subject to the confidentiality obligations found in this Pilot Agreement.

9.2 **City Reservation of Rights.** City shall retain ownership in any and all underlying materials owned by City or licensed to City from third parties (other than Verizon) that are provided to Verizon and incorporated into any Deliverable (collectively "City Underlying Materials"). Verizon's rights to any Deliverable shall be subject to City's rights to City Underlying Materials.

9.3 **Verizon Reservation of Rights.** Except as expressly granted herein, City receives no ownership, license, or other interest in any intellectual property created or delivered by Verizon, whether in connection with its performance of this Agreement or otherwise.

10. Warranties and Disclaimers

- 10.1 **Warranty Disclaimer.** THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND. VERIZON AND ITS SUPPLIERS AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PILOT SERVICES, THEIR AVAILABILITY, QUALITY OR PERFORMANCE. VERIZON SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, OR FITNESS FOR A PARTICULAR PURPOSE. USE OF THE PILOT SERVICES IS AT CITY'S OWN RISK.
- 10.2 **Disclaimer of Certain Damages.** Neither party shall be liable to the other for any indirect, consequential, exemplary, special, incidental or punitive damages, including without limitation loss of use or lost business, revenue, profits, or goodwill, or loss of data arising in connection with this Pilot Agreement, under any theory of tort, contract, indemnity, warranty, strict liability or negligence, even if the party knew or should have known of the possibility of such damages.

11. **Compliance with Laws.**

- 11.1 City agrees to use the Services for lawful purposes only and in compliance with all applicable laws, rules and regulations. City acknowledges that the export, import, and use of certain hardware, software, and technical data provided hereunder is regulated by the United States and other governments and agrees to comply with all applicable federal, state and local laws and regulations, including the U.S. Export Administration Act, the regulations promulgated thereunder by the U.S. Department of Commerce, and any other applicable laws or regulations (collectively, "Laws"). Without limiting the generality of the foregoing the Parties further agree:
- (a) City shall not export, re-export, release, transfer or allow the diversion of any items, hardware, software, technology, or the direct product of such technology obtained by City under this Pilot Agreement without first complying fully with all applicable Laws.
 - (b) City shall not conduct business with any company, individual, organization or country that is subject to trade sanctions, embargoes, or other restrictions under any Laws, nor any entity that is involved in an end use prohibited under any Laws.
 - (c) City shall cooperate with and provide all necessary information to Verizon in order to facilitate full compliance with all Laws.
 - (d) City is not subject to any U.S. government or other relevant government order suspending, revoking or denying export privileges.
- 11.2 This Agreement is made subject to all laws of the Commonwealth of Massachusetts.

Verizon shall provide, at its sole expense, all necessary licenses, permits or other authorizations required by the City, the Commonwealth of Massachusetts or any other governmental agency with proper Jurisdiction.

Verizon shall where applicable take out and maintain during the term of this Agreement such Worker's Compensation insurance as may be reasonably necessary under General Laws c. 152 (the Worker's Compensation Law). Verizon shall at all times maintain professional, liability, and other appropriate insurance in an amount and type of Insurance coverage sufficient to cover the performance.

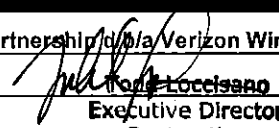
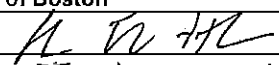
Verizon agrees and shall require any subcontractor to agree not to discriminate in connection with the performance of work under the Contract against any employee or applicant for employment because of sex, race, color, sexual orientation, gender identity or expression, marital status, parental status, ex-offender status, prior psychiatric treatment, military status, religious creed, disability, national origin, ancestry, source of income, or age, unless based upon a legally permissible and bona fide occupational qualification. Verizon agrees and shall require any subcontractor to agree to post in conspicuous places notices to be provided by the Massachusetts Commission Against Discrimination, setting forth provisions of the Fair Employment Practice Law of the Commonwealth.

**VERIZON CONFIDENTIAL
FOR DISCUSSION PURPOSES ONLY**

Verizon's attention is called to General Laws c. 268A (the Conflict of Interest Law). Verizon shall not act in collusion with any City officer, agent, or employee, nor shall Verizon make gifts regarding this Agreement or any other matter in which the City has a direct and substantial interest.

Verizon shall keep itself fully informed of all City Ordinances and Regulations, and State and Federal laws, which in any manner affect the work herein specified. Verizon shall at all times observe and comply with said ordinances, regulations or laws, and shall defend, hold harmless, and indemnify the City, its officers, agents and employees against any claim or liability arising from or based on the violations of such ordinances, regulations or laws, caused by the negligent actions or omissions of Verizon, its agents, or employees.

12. **Data.** The attached SOW describes all data collected during this project and how it will be stored/secured, used, and shared. Verizon will immediately notify the City in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, Verizon will cooperate fully with the City and provide access to any relevant information relating to the security breach and Verizon will be fully responsible for any damages associated with the breach including but not limited to G.L. c. 214, s. 3B.
13. **Assignment.** Neither party shall assign this Pilot Agreement without the prior written consent of the other party, which shall not be unreasonably withheld.
14. **Notice.** All notices, requests, or other communications (excluding invoices) hereunder shall be in writing and transmitted via overnight courier, electronic mail, hand delivery or certified or registered mail, postage prepaid and return receipt requested to the parties at the address listed in the preamble of this Pilot Agreement. Except as otherwise provided, notices will be deemed to have been given when sent to the address listed in the preamble of this Pilot Agreement for each party.
15. **Governing Law.** This Pilot Agreement shall be governed by the laws of the Commonwealth of Massachusetts without regard to its choice of law principles.
16. **Entire Agreement.** This Pilot Agreement and attached SOW(s) (and other documents incorporated herein by reference) constitute the entire agreement between the Parties with respect to the Services and supersede all other representations, understandings or agreements that are not expressed herein, whether oral or written. Except as otherwise set forth herein, no amendment to this Pilot Agreement shall be valid unless in writing and signed by both Parties. Any requirement for a signature in this Pilot Agreement or any amendment may be satisfied by email or facsimile transmission of an original signature.

Cellco Partnership d/b/a Verizon Wireless	City of Boston
By: 	By: 
Name: Tom Locisano Executive Director Contracting	Name: Jascha Franklin-Hodge
Title:	Title: Chief Information Officer
Date: 21-NOV-2016	Date: 11/17/16