



Board of Aldermen Request for Action

MEETING DATE: 11/19/2024

DEPARTMENT: Administration

AGENDA ITEM: Resolution 1424, Approving an Agreement With Placer Labs, Inc.

REQUESTED BOARD ACTION:

A motion to approve Resolution 1424, authorizing and directing the Mayor to enter into an agreement with Placer Labs, Inc.

SUMMARY:

Over the past two years, the city has been in a cooperative agreement with Clay County, MO for participation in a subscription service for Replica, Inc. The subscription service provided analytical data including population, transportation, economic and workforce information. After two years of participation, Clay County and participating cities decided not to renew the service with Replica, Inc.

Once notified, staff began researching alternative services for economic data. Placer Lab, Inc. (PlacerAI) provides data to help with business attraction, public event marketing, tourism, traffic data, and sales tax and revenue estimation. The software can be used for economic development, parks and recreation, grant applications, long-term planning, and budget forecasting. Additionally, staff can automate reports to aid in easier access to data on a regular basis. Based on the level of detail and regular timing of updates on the Placer Venue Analytics Platform, staff is recommending approving the agreement with PlacerAI to aid in economic development initiatives and marketing enhancements.

The City was offered a discounted rate for a two-year agreement. The first year of the agreement is discounted at \$10,000, the second year at \$12,000.

PREVIOUS ACTION:

POLICY ISSUE:

Supports the Strengthened Business & Economic Development Pillar of the Strategic Plan and Comprehensive Plan Goals.

FINANCIAL CONSIDERATIONS:

Sufficient funds exist in the Administration Department's FY2025 budget.

ATTACHMENTS:

- ☐ Ordinance
- ☒ Resolution
- ☐ Staff Report
- ☒ Other: Agreement

- ☐ Contract
- ☐ Plans
- ☐ Minutes

RESOLUTION 1424

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH PLACER LABS, INC.

WHEREAS, the City of Smithville would like to enter into an agreement with Placer Labs, Inc. for a subscription to their Placer Venue Analytics Platform; and

WHEREAS, the City of Smithville would benefit from having access to the subscription; and

WHEREAS, Smithville wishes to enter into an agreement with Placer Labs, Inc pursuant to City Code Section 150.080; and

WHEREAS, the City was offered a discounted rate for a two-year agreement. The first year of the agreement is discounted at \$10,000, the second year at \$12,000.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI:

THAT the Mayor is authorized and directed to enter into an agreement with Placer Labs, Inc.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, this 19th day of November, 2024.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk



PLACER LABS, INC.

ORDER FORM

Smithville, MO	(“Customer”)	Placer Labs, Inc.	(“Placer”)
Address:	107 West Main St Smithville, MO 64089	Address:	440 N Barranca Ave., #1277 Covina, CA 91723
Contact Person:	Gina Pate	Contact Person	Sam Ireland
Email:	gpate@smithvillemo.org	Billing Contact Person:	Jason Tsui
Phone:	816-532-3897	Billing Email*:	billing@placer.ai
Billing Contact Email:	gpate@smithvillemo.org	Billing Phone*:	415-228-2444 ext 806

*Not for use for official notices.

1. Services.

The services provided under this Order Form (the “**Services**”) include:

- Chain Report Expanded which displays chain-level demographic and psychographic data.
- Access, via Placer Venue Analytics Platform (“Placer’s Platform”), to all major venues within the following U.S. state(s): US-MO
- Customer may not provide access to any third party agents acting on its behalf (including any consultants, contractors, or other agents of Customer) without prior written consent from Placer. Any such approved access may be subject to an additional fee pursuant to a written amendment to this Order Form
- Access, via Placer’s Platform, to reports, including Visits, Trade Areas, Customer Journey, Customer Insights, Dwell Times, and Visitation by Hour/Day
- Actionable insights include:
 - Foot traffic counts and dwell time
 - True Trade Areas displaying frequent-visitors-density by home and work locations
 - Customers’ demographics, interests, and time spent at relevant locations
 - Where customers are coming from and going to, and the routes they take
 - Benchmarking of Foot Traffic, Market Share, Audiences, and other key metrics
 - Competitive insights
 - Void Analysis Reports
- Access to Xtra reports per ad hoc needs; in Excel, KML, Tableau, and other formats: Quarterly Maximum of 26 credits; Annual Maximum of 104 credits
- Access to STI Demographics Bundle + Mosaic Data Set, and AGS CrimeRisk. The applicable Advanced Demographics and Psychographics are generated using the Input Datasets from the data vendors as set forth below:

Description	Input Datasets Used
STI Demographics Bundle	PopStats
	Spending Patterns
	Workplace
	Market Outlook
Experian Mosaic	Mosaic Segmentation
AGS CrimeRisk	CrimeRisk

2. Permitted Uses

Customer may use Placer Data solely for the following purposes (“**Permitted Uses**”): (a) Customer may use Placer Data for Customer’s internal business purposes; and (b) Customer may incorporate Placer Data into Research Data, as described and subject to the restrictions below.

“**Placer Data**” means the data, information and materials accessible via the Services.

“**Research Data**” means datasets and other materials created by Customer that result in any part from Customer’s use of Placer Data: (a) Research Data may contain limited excerpts and discrete portions of Placer Data (“**Excerpts**”) so long as: (i) such Excerpts are only supportive of, and do not independently form a substantial part of, the Research Data; (ii) Research Data does not include full copies or substantial portions of Placer Data; and (iii) any such Research Data is distributed to no more than a limited number of Customer’s clients and prospective clients and is not commercially or generally distributed; (b) The Customer may share Research Data with current and potential customers, and in marketing materials; provided that the Customer shall cite Placer as a provider of such information (for such purpose only, Placer grants Customer the rights to use the Placer.ai name and logo, provided that any such use of the Placer.ai name and logo must clearly indicate that Placer is the provider of data only, and is not involved in any analysis, conclusion, recommendation); and (c) Customer shall not, directly or indirectly, resell, distribute, sublicense, display or otherwise provide Placer Data to any third parties, except that Customer may display Placer Data as part of Research Data.

No part of the Placer Data or Research Data may be used: (i) in connection with, or to enable development of machine learning, rules engines, or other similar automated processes; or (ii) to train third-party artificial intelligence (“**AI**”) technologies, models, software, platforms or tools including, without limitation, ChatGPT, Bard and similar AI technologies. None of the Placer Data, or any part thereof, may be shared externally with any third-party AI technology service providers unless the third-party AI service providers are contractually prohibited from: (i) using the Placer Data to develop or improve the AI technology, (ii) storing any portion of the Placer Data; and (iii) redistributing any portion of the Placer Data to any third party.

3. Term and Termination.

Initial Term: The initial term of this Order Form will begin as of the last signature date set forth below, and will continue for 24 consecutive months thereafter (the “**Initial Term**”). Each renewal or additional term, if any, is referred to as “**Additional Term**,” and the Initial Term and any Additional Terms are referred to collectively as the “**Term**.”

Additional Term: This Order Form shall continue on the same terms and conditions set forth herein for additional periods of 12 months, if mutually agreed in writing by both parties (email would be sufficient).

Termination: Either party may terminate this Order Form upon thirty (30) days’ notice if the other party materially breaches any of the terms or conditions of this Order Form or the Agreement (as defined below), and the breach remains uncured during such thirty (30) days. In addition, Placer may immediately suspend Customer’s access to the Services, or terminate the Order Form, in the event of non-payment by the Customer or breach by Customer of any restrictions regarding usage of the Services.

Post-Termination Rights and Obligations:(a) Upon any termination or other expiration of this Order Form all rights and licenses granted to Customer to use the Services and Placer Data shall cease; (b) Within ten (10) days after such termination or expiration, Customer will permanently delete or destroy all elements of Placer Data under its control; provided however, Customer shall not be required to immediately purge from its hard-copy, electronic or email files Placer Data that Customer accessed or otherwise used in compliance with the terms of this Order Form or the Agreement which are contained in such hard-copy, electronic or email files (the “**Post-Termination Information**”), so long as any Post-Termination Information is (i) solely retained for ordinary corporate systems backup, legal or

regulatory purposes, (ii) not used, copied, distributed or displayed for internal research or marketing or for any other commercial purposes and (ii) ultimately deleted in accordance with Customer's data retention policy; and (c) upon request from Placer, Customer shall certify in writing its compliance with this provision.

4. Fees.

Fees for the 24-month Initial Term are \$22,000.

- Year 1 Fees are \$10,000 and will be invoiced in full upon signing this Order Form
- Year 2 Fees are \$12,000 and will be invoiced in full October 1, 2025
- Additional Terms of 12 months, if any, will be invoiced in full at the start of the Term

Additional Terms of 12 months, if any, shall be paid within thirty (30) days of the invoice date.

Invoice sent electronically to Customer's billing contact email via NetSuite.

Customer shall pay the fees set forth above in this Order Form. Customer agrees that if any event occurs that will result in a material increase in Customer's usage of the Services (whether due to a merger or acquisition or otherwise), Customer will notify Placer in writing no later than thirty (30) days following the date of such event and Placer reserves the right to increase the Customer's Annual Fee accordingly. If such event consists of Customer's merger with or acquisition of another customer of Placer, the Annual Fee increase shall be in an amount no less than the pro-rated annual fee of such other customer.

Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection.

Customer is responsible for all applicable taxes arising directly from the Services other than U.S. taxes based on Placer's net income.

If Customer believes that Placer has billed Customer incorrectly, Customer must contact Placer no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared in order to receive an adjustment or credit. Inquiries should be directed to Placer's customer support department at support@placer.ai.

Placer may increase the Fees any time following the Initial Term (but not more frequently than once in any twelve (12) month period). The amount of such annual increase will equal the greater of CPI or five percent (5%) per annum.

All billing will be sent via electronic invoice to the Customer contact indicated above. Customer shall pay all fees within thirty (30) days of the invoice date.

In the event of any termination, Customer will pay in full for the Services.

5. Support.

Placer will use commercially reasonable efforts to provide customer service and technical support in connection with the Services on weekdays during the hours of 9:00 A.M. through 5:00 P.M. Pacific Time, with the exclusion of federal holidays. For any such support, please contact us at support@placer.ai.

6. Mutual NDA.

Each party (the "**Receiving Party**") understands that the other party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Placer includes, without limitation, non-public information regarding features, functionalities and performance of, and pricing for, the

Services. The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted by the Agreement) or disclose to any third party any Proprietary Information. The foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, (b) was in the possession of or known to the Receiving Party, prior to disclosure thereof by the Disclosing Party, without any restrictions or confidentiality obligations, (c) was rightfully disclosed to it, without any restrictions or confidentiality obligations, by a third party, (d) was independently developed without use of any Proprietary Information of the Disclosing Party, or (e) is required to be disclosed by law, provided that the Receiving Party provides the Disclosing Party with prompt written notice of such requirement and reasonably cooperates with the Disclosing Party to limit or challenge such requirement. These provisions regarding Proprietary Information shall apply in perpetuity and shall survive any termination of the Order Form or the Agreement.

7. Miscellaneous.

Notices. All notices under the Order Form and the Agreement will be in writing and will be deemed to have been duly given (a) upon delivery by a recognized delivery service (e.g., FedEx) with delivery confirmation, (b) upon receipt, if sent by U.S. certified or registered mail, return receipt requested, or (c) when sent via email, if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient. Notices shall be sent to the addresses set forth in the Order Form, which addresses may be subsequently modified by written notice given in accordance with these provisions.

Trial Offering. If Placer provides Customer with additional Services or Placer Data during the Term and identifies such Services or Placer Data as for evaluation or trial purposes only (a “**Trial Offering**”), access to the Trial Offering is permitted only during the period designated by Placer (or if not designated, 30 days from receipt of access) (“**Trial Subscription Term**”), unless the Trial Offering is earlier terminated as provided below. During the Trial Subscription Term, Customer may only use the Trial Offering for internal evaluation purposes and may not otherwise use or distribute the Trial Offering for any other purposes. Notwithstanding any provision included in this Order Form or the Agreement to the contrary, in respect of the Trial Offering Customer acknowledges and agrees that: (i) either party may terminate the Trial Subscription Term immediately and without liability upon written notice to the other party; (ii) any Trial Offering is provided “as is”; (iii) Placer provides no warranty, service levels or indemnity for any Trial Offering and (iv) Placer's liability related to any Trial Offering will not exceed USD \$100. Notwithstanding the foregoing, the Services and Placer Data provided in this Order Form is not considered a Trial Offering.

Funding Failure Termination Right. If funds for continued payments under this Agreement by the Customer are at any time unavailable or are insufficient for the Initial Term or any Additional Term, through failure of any entity, including the Customer itself, to appropriate such funds, then the Customer shall, within ten (10) days of such determination, provide notice to Placer and both Placer and the Customer shall have the right to immediately terminate this Order Form without penalty or further payment by the Customer.

Public Records Laws. Placer acknowledges that if Customer is subject to the applicable public records laws and regulations for Missouri state (“Public Records Laws”), that all obligations imposed by this Agreement are subordinate to Customer’s obligations under Public Records Laws. Notwithstanding the foregoing, Customer agrees that it will keep Placer's Proprietary Information (including any Placer Data) confidential in accordance with this Order Form and the Agreement unless otherwise required by applicable law, including Public Records Law.

License Agreement Amendments. For the purposes of this Order Form only, the Agreement is hereby amended as follows:

- If applicable law prohibits Customer from indemnifying Placer, then Section 5.b of the Agreement, beginning “Customer shall defend, indemnify and hold Placer harmless...”, is hereby deleted in its entirety.

- The third to the last sentence of Section 8 of the Agreement is hereby removed in its entirety and replaced with the following: “This Agreement shall be governed by the laws of the State of Missouri without regard to its conflict of laws provisions.”

Promotional Use. Customer grants Placer the right to use Customer’s company name and company logo, for Placer’s promotional purposes.

This Order Form is entered into by and between Customer and Placer effective as of the date of the last signature below. This Order Form and use of the Services are governed by, and Customer and Placer agree to, the License Agreement located at <https://www.placer.ai/placer-license-agreement/> (the “**Agreement**”); provided, however, that in the event of any conflict between this Order Form and the Agreement, this Order Form shall control. Unless otherwise defined in this Order Form, capitalized terms herein have the same meaning as in the Agreement.

“Customer”

Smithville, MO
By:
Name:
Title:
Date:

“Placer”

Placer Labs, Inc.
By:
Name:
Title:
Date: