



VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES
REGULAR MEETING AGENDA

MEETING DATE: January 9, 2024

AGENDA ITEM SECTION: Resolutions

AGENDA ITEM NO. : 2

AGENDA ITEM:

Resolution: Consider a resolution to authorize the Village Administrator to renew the agreement with Parkmobile for parking payment services

ITEM BACKUP DOCUMENTATION:

1. Draft resolution
2. Parking Services Agreement – November 17, 2020

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF DOBBS
FERRY AUTHORIZING THE VILLAGE ADMINISTRATOR TO EXECUTE AN
AGREEMENT WITH PARKMOBILE FOR PARKING PAYMENT SERVICES**

WHEREAS, the Village of Dobbs Ferry has utilized the services of Parkmobile for parking services since November 2020; and

WHEREAS, that agreement with Parkmobile is due for renewal; and

NOW, THEREFORE, BE IT

RESOLVED, that the Village of Dobbs Ferry Board of Trustees of the Village of Dobbs Ferry hereby authorizes the Village Administrator to execute a service agreement with Parkmobile, subject to the review of the terms by the Village Attorney, and

RESOLVED, that this Resolution shall take effect immediately.

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PARKING SERVICES AGREEMENT

This Parking Services Agreement ("Agreement") is between Parkmobile, LLC, a Delaware limited liability company, with offices at 1100 Spring St NW, Suite 200, Atlanta, GA 30309 ("Parkmobile") and the Village of Dobbs Ferry a New York municipal corporation, with offices at 112 Main Street, Dobbs Ferry, NY 10522 ("Client"). This Agreement will become effective as of the last signature date below (the "Effective Date").

RECITALS:

WHEREAS, Parkmobile is engaged in the business of providing integrated solutions for the management of parking-related matters, which may include providing a system for the electronic payment of on-demand, reservation and/or permit parking, related back-office administration, and assistance with and a system for the marketing and sale of such parking through the Internet and Parkmobile proprietary websites and mobile applications (collectively, the parking services purchased by Client hereunder and as further described in Schedule 1 are referred to as the "Parkmobile Services"); and

WHEREAS, Parkmobile is also an awarded vendor with the National Cooperative Purchasing Alliance to provide integrated parking management systems to public agencies at established rates ("NCPA Rate"); and

WHEREAS, Client states that its Procurement Code authorizes the use of other contracts, including the NCPA Rates, as an acceptable method of procurement of competitively bid prices; and

WHEREAS, Parkmobile and Client desire to enter into a mutually beneficial arrangement pursuant to which Parkmobile will provide the Parkmobile Services to Client upon the terms and subject to the conditions in this Agreement and the NCPA rates.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

Except as otherwise expressly indicated in this Agreement, the following terms if used in this Agreement will have the following meanings (such meanings to be applicable equally to the singular and plural forms of the terms defined):

1.1 "Agreement" means this Parking Services Agreement, any additional terms and conditions which are acknowledged or agreed upon by Client in connection with the Parkmobile Services, and any agreements or orders referencing this Parking Services Agreement, all as amended from time to time.

1.2 "Application" means Parkmobile's proprietary mobile applications and other properties as Parkmobile may develop for use in connection with the Parkmobile Services, including for the purpose of scheduling, starting, extending and completing Transactions and making payment for all related charges and fees.

1.3 “Emerging Parking Revenue” means the Total Price generated by Users using an Emerging Payment Method less User Fees charged by Parkmobile, Transaction Processing Fees, and any applicable bank transfer and other third-party fees.

1.4 “Facility” means the parking facilities listed in Schedule 3, which is attached hereto and incorporated herein, and any additional parking facilities agreed upon in writing by the parties from time to time.

1.5 “Fees” means any and all fees charged by Parkmobile in connection with the Parkmobile Services.

1.6 “Inventory” means parking space inventory at the Facilities.

1.7 “IVR System” means Parkmobile’s interactive voice response system.

1.8 “Law” means any applicable laws, rules or regulations, as amended and updated from time to time.

1.9 “Net Parking Revenue” means the Total Price generated by Users using a Traditional Payment Method, less User Fees charged by Parkmobile, Transaction Processing Fee, and any applicable bank transfer and other third-party fees.

1.10 “Parking Fee” means, for each Transaction, the amount set by Client for a given Transaction. Parking Fees do not include the User Fee.

1.11 “Parking Permit” means a pre-paid parking permit featuring a bar-code, alphanumeric combination or other identification credential (e.g. license plate, Transaction number, beacon identification, RFID tag, sticker, proxy cards, etc.) to be scanned upon arrival at a Facility and which will grant the User a license to park one (1) vehicle at the Facility for a specified period of time, subject to the applicable rules and regulations for use of the Facility as determined by Client.

1.12 “Personal Information” means any information that identifies or could be used to identify an individual.

1.13 “Platform” means collectively the Application; Parkmobile Services; Site(s); IVR System; Technology; any Parkmobile technologies, functions, servers, databases, and parking management systems; other Parkmobile products, services, content, features, technologies, functions, applications, and related websites or other applications; and any updates, changes, revisions or additions thereto.

1.14 “Report” means a detailed statement of information related to the Transactions, as more particularly described in Schedule 2 attached to this Agreement and incorporated herein.

1.15 “Service Fee” means the fees charged by Parkmobile in connection with the Parkmobile Services and listed as Service Fees on Schedule 3.

1.16 “Site(s)” means any website owned or controlled by Parkmobile.

1.17 “Technology” means any and all Parkmobile technology (including, but not limited to, application programming interfaces, software, etc.) provided by Parkmobile to Client that is necessary for Client to use and access the Parkmobile Services solely as contemplated hereunder.

1.18 "Total Price" means the total amount to be charged to the User for each type of Transaction, including (as applicable) the Parking Fee, any User Fee, Service Fee or other fees which may be charged in accordance with this Agreement, including Schedule 3.

1.19 "Transaction" means a User's purchase through the Platform of the right to use a parking space, charging station, or other service for a certain period of time.

1.20 "Transaction Processing Fee" means merchant processing, gateway and related fees at \$0.15 plus 3% of the Parking Fee per authorized Transaction or such other amount as expressly set forth on Schedule 3.

1.21 "User" means the individual end user using the Platform other than Client.

1.22 "User Data" means all data collected from Users in connection with their use of the Platform, including during the registration process and which may include Personal Information.

1.23 "User Fee" means the fees charged by Parkmobile in connection with the Parkmobile Services and listed as User Fees on Schedule 3.

ARTICLE 2 PARKMOBILE SERVICES

2.1 Services Provided by Parkmobile. During the Term (as defined below), Parkmobile shall provide the Parkmobile Services for Client. The parties mutually shall agree upon the launch date for the Parkmobile Services. Parkmobile shall provide the Parkmobile Services in accordance with the service levels set forth on Schedule 2, as the same may be amended by Parkmobile from time to time. If Client desires additional services that are not expressly agreed upon in this Agreement, the parties shall negotiate regarding such additional services, including the amount of additional compensation to Parkmobile, and will memorialize their agreement, if any, in either a separate written contract or an amendment to this Agreement.

2.2 Help and Support. Parkmobile agrees to use commercially reasonable efforts to assist Client with technical support that Client may reasonably require in relation to the Parkmobile Services. Parkmobile agrees to provide Client with the preventative maintenance, corrective maintenance, adaptive maintenance and online, on-site and telephone support with respect to the Parkmobile Services that it generally provides to clients.

2.3 Error Corrections. Each of Parkmobile and Client shall promptly notify the other of any errors or interruptions in the Parkmobile Services. In the event of any errors or interruptions in the Parkmobile Services, Parkmobile's sole and exclusive obligation shall be to use commercially reasonable efforts to repair or restore that portion of the Parkmobile Services as promptly as possible. The form of such repair or restoration will be determined by Parkmobile.

2.4 Publicity of Services. Subject to Section 5.7 below, all brochures and promotional materials to be distributed by Client in connection with the Parkmobile Services shall be in a form mutually agreed upon by the parties, which approval shall not be unreasonably withheld or delayed.

2.5 Cooperation. Each party shall reasonably cooperate with the other party to permit such party to perform its duties and obligations under this Agreement in a timely manner.

2.6 Exclusivity. Parkmobile shall be the exclusive provider of electronic payment on-demand parking services for Client during the Term.

2.7 Authority of the Parties. Each party acknowledges and agrees that it has no authority to act on behalf of the other party other than as expressly set forth in this Agreement or to enter into any contract or to incur any liability on behalf of the other party. Each party covenants that it shall not at any time represent, either orally or in writing, that it has any right, power or authority with respect to the other party.

2.8 Status Meetings. On periodic basis, but not less than twice per year, an appropriate representative of each party shall conduct a joint meeting to discuss the status of the Parkmobile Services and the parties' relationship hereunder, as well as to answer questions, gather information and resolve disputes that may occur from time to time. It is the expectation of the parties that the representatives of the parties shall communicate directly with one another and work directly with one another to work to ensure that all Parkmobile Services are completed on a timely and complete basis. All meetings pursuant to this Section 2.8 may be face to face, video or telephonic meetings as may be agreed upon by the parties. Each party shall bear its own costs of attending or participating in such meetings.

2.9 Parking Information. Client is responsible for setting rates and zones and other required information regarding its parking inventory offered through the Parkmobile Services and for keeping such information up to date within the Parkmobile Services.

ARTICLE 3 FEES; EXPENSES

3.1 Fees. The Fees applicable to the Parkmobile Services are set forth on Schedule 3. For each Transaction, Parkmobile shall charge the User the Total Price. Parkmobile reserves the right to increase Fees upon sixty (60) days notice to Client which notice may be via email, web portal or other method.

3.2 Merchant of Record.

(a) If Parkmobile is the merchant of record ("MOR") for the Parkmobile Services as shown in Schedule 3, then Client shall provide to Parkmobile: (a) a Client Electronic Funds Authorization Form (in the form of Schedule 4 attached to this Agreement and incorporated herein), (b) a W-9, and (c) a copy of a voided check or bank letter with account info (collectively, the "Distribution Information") prior to remittance by Parkmobile of any amounts due hereunder. Parkmobile will retain all amounts due Client without penalty until Parkmobile receives the Distribution Information from Client. Thereafter, Parkmobile shall remit amounts due Client as set forth in Schedule 3 on the 15th of the following month. Client hereby appoints Parkmobile as its limited agent to accept and process payments in connection with the Parkmobile Services and acknowledges that receipt of payment from Users in connection with the Parkmobile Services by Parkmobile shall be deemed the same as receipt by Client itself.

(b) If Client is the MOR as shown in Schedule 3, Client shall pay Parkmobile all amounts due Parkmobile not later than thirty (30) business days after the date of Parkmobile's invoice. Late payment interest of the lesser of ten percent (10%) per annum or the maximum rate permitted by Law may be assessed by Parkmobile on any payment past due, in which case such interest shall accrue from the payment due date to the date payment is received.

(c) Client hereby appoints Parkmobile as its limited agent to accept and process payments in connection with the Parkmobile Services and acknowledges that receipt of payment from Users

in connection with the Parkmobile Services by Parkmobile shall be deemed the same as receipt by Client itself.

3.3 Taxes. Except as otherwise noted herein, Parkmobile's prices do not include sales, use, revenue, excise or similar taxes. Accordingly, in addition to the prices specified herein, the amount of any sales, use, revenue, excise or other similar tax applicable to the Parkmobile Services provided hereunder shall be paid by Client, or, in lieu thereof, Client shall provide Parkmobile with a tax exemption certificate issued by the appropriate taxing authority.

3.4 Billing Disputes. Client shall not be entitled to suspend payment of any disputed invoices. Any disputes must be submitted to Parkmobile in writing with an explanation of the reason for the dispute. If any payment dispute is resolved by Parkmobile in favor of Client, Parkmobile shall credit Client on the immediately subsequent invoice issued to Client.

3.5 Expenses. Except as otherwise provided herein, Parkmobile shall not charge Client any costs for the integration of Client's system(s) or for the management of the Parkmobile Services. Parkmobile shall charge Client for ordinary, necessary and reasonable third-party costs on a direct cost basis and only after the prior approval of Client.

ARTICLE 4 TERM; TERMINATION

4.1 Term. The initial term of this Agreement shall commence as of the Effective Date and end three (3) years from the Effective Date (the "Term").

4.2 Termination for Cause.

(a) Either party may terminate this Agreement, including the rights granted herein, if the other party breaches any provision of this Agreement and fails to remedy such breach within forty-five (45) days after receiving written notice thereof.

(b) Should a party (i) make a general assignment for the benefit of creditors; (ii) institute liquidation proceedings or proceedings to be adjudicated as voluntarily bankrupt; (iii) consent to the filing of a petition of bankruptcy against it; (iv) be adjudicated by a court of competent jurisdiction as being bankrupt or insolvent; (v) seek reorganization under any bankruptcy act; (vi) consent to the filing of a petition seeking such reorganization; or (vii) have a decree entered against it by a court of competent jurisdiction appointing a receiver, liquidator, trustee, or assignee in bankruptcy or in an insolvency covering all or substantially all of such party's property or providing for the liquidation or dissolution of such party's property or business affairs; then, in any such event, the other party, at its option and without prior notice, may terminate this Agreement effective immediately.

4.3 Termination for Convenience. Either party, in its sole discretion, may terminate this Agreement at any time without cause by providing at least 60 days' prior written notice to the other party.

4.4 Effect of Termination.

(a) Upon termination or expiration of this Agreement (i) each party shall pay the other party any amounts then accrued and properly payable under this Agreement; (ii) each party promptly shall return to the other party all Confidential Information of such other party, (iii) Client promptly shall return to Parkmobile all materials in its possession provided by Parkmobile or otherwise created or produced by

Parkmobile in connection with the performance of the Parkmobile Services hereunder; and (iv) Client shall discontinue all use of the Technology and any and all intellectual property of Parkmobile.

(b) Notwithstanding the exercise by any party of its rights under this Article 4, no termination of this Agreement shall relieve either party of its liability for the payment or performance of any obligation accrued prior to the Termination Date (including any indemnification obligation arising hereunder, whether or not notice of such indemnification claim has been given before such termination).

ARTICLE 5

ADDITIONAL COVENANTS OF THE PARTIES

5.1 Confidentiality. Each party ("receiving party") acknowledges that all non-public information and data (including trade secrets) of the other party ("disclosing party") including, but not limited to, information and data relating to the other party's products, services, employees, customers, pricing, software, business, finances, marketing and promotions is the confidential and proprietary information of the disclosing party ("Confidential Information"). User Data is the property of and deemed the Confidential Information of Parkmobile. Except as otherwise set out herein, neither party shall disclose any Confidential Information of the other party to any third party or use it for its own benefit or the benefit of a third party, and each party shall take reasonable measures to protect the confidentiality of Confidential Information of the disclosing party and prevent its disclosure to others.

(a) Each receiving party may disclose the Confidential Information of the disclosing party to its affiliates and their respective employees and agents who are directly involved in the performance of this Agreement, who have a need to know and who are obligated in writing to honor the restrictions on disclosure and use of such Confidential Information set forth in this Agreement (the persons to whom such disclosure is permissible being collectively known as "Representatives"). Each receiving party shall be responsible for any breach of this Section 5.1 by its Representatives. Each receiving party shall not disclose, without the prior written consent of the disclosing party, any of such disclosing party's Confidential Information that it has learned either during the course of this Agreement or in discussions and proposals leading up to this Agreement, except as expressly permitted hereunder or as may be required by Law. Each receiving party shall not use the Confidential Information of the disclosing party for any purpose other than that for which it was disclosed in order to exercise its rights and perform its obligations hereunder.

(b) Each disclosing party's Confidential Information shall remain the property of such disclosing party. Upon the disclosing party's request and any termination or expiration of this Agreement, the receiving party shall deliver, erase or destroy (at the disclosing party's option) the disclosing party's Confidential Information, and shall confirm to the disclosing party in writing that all such documents and things have been so provided, erased or destroyed.

(c) The foregoing obligations shall not apply to any Confidential Information that: (i) is in the public domain without breach of this Agreement by the receiving party; (ii) a receiving party can demonstrate was rightfully known prior to receipt from the disclosing party; or (iii) was subsequently received by the receiving party from a third party without any obligation of confidentiality to the disclosing party.

(d) Additionally, the receiving party may disclose the disclosing party's Confidential Information if the information is disclosed by the receiving party pursuant to a requirement of a governmental agency or by operation of law; provided however, that the receiving party shall first notify disclosing party prior to disclosure, if allowed by Law, in order to give the disclosing party a reasonable opportunity to seek an appropriate protective order or waive compliance with the terms of this Agreement and shall disclose only that part of the Confidential Information which the receiving party is required to

disclose. To the extent a party determines it is advisable to file a copy of this Agreement with a governmental agency, including the United States Securities and Exchange Commission, that party and its counsel shall work with the other party and its counsel to obtain confidential treatment of relevant portions of this Agreement, including, without limitation, product and service specifications and pricing information.

(e) Each party agrees that irreparable damage may occur, and that monetary damages may be an insufficient remedy at law, in the event that any of the provisions of this Section 5.1 is not performed by the other party and that each party shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

(f) Each receiving party's obligation with respect to the Confidential Information of a disclosing party shall expire three (3) years after the termination or expiration of this Agreement; provided, however, that each party's obligations with respect to the trade secrets of a disclosing party shall remain in effect throughout the Term and at all times thereafter, but only for so long as such information remains a trade secret.

5.2 Information. Subject to Section 5.1 and any applicable Law, each party shall provide the other party with all information regarding itself and the transactions under this Agreement that the other party reasonably believes is required to comply with all applicable Law and to satisfy the requesting party's obligations hereunder. Any information owned by one party that is provided to the other party pursuant to this Agreement shall remain the property of the providing party. Except as set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights, licenses or otherwise in any such information.

5.3 Records. Each party shall maintain and retain records related to this Agreement, including the provision of the Parkmobile Services hereunder, consistent with such party's historical policies regarding retention of records. Subject to this Section 5.1, as needed from time to time during the Term and for three (3) years following expiration or termination of the Agreement, unless otherwise prohibited by applicable Law, the parties shall provide each other with records related to this Agreement to the extent that (a) such records exist in the ordinary course of business, and (b) such records are reasonably necessary for the requesting party to comply with its obligations under this Agreement or applicable Law.

5.4 Privacy & User Data. Each of Parkmobile and Client agree that it will use reasonable security practices and procedures appropriate to the nature of any Personal Information obtained in connection with this Agreement (including as part of the User Data) to safeguard such information. Each of Parkmobile and Client agree to comply with all applicable Law with regard to their use, disclosure, access and maintenance of Personal Information. Client shall be fully responsible and liable for any use or misuse of any User Data and Personal Information which Client accesses or obtains hereunder.

5.5 Insurance. Parkmobile shall keep all of its insurable properties adequately insured against losses, damages and hazards as are customarily insured against by businesses engaging in similar activities or owning similar properties and at least the minimum amount required by applicable Law.

5.6 Technology Sublicense.

(a) During the Term, Parkmobile hereby grants Client a personal, limited, nonexclusive, non-transferable, non-sublicensable, revocable right and sublicense to use the Technology solely in connection with the Parkmobile Services and as contemplated by this Agreement.

(b) Client shall not use the Technology for any use other than in connection with the Parkmobile Services and shall be fully responsible and liable for any use or misuse of the Technology.

Client has and acquires no interest in or right to use the Technology or any improvements thereto or modifications thereof except as expressly set forth herein. In all instances, Client's use of the Technology shall inure to Parkmobile's benefit. During the Term or at any time thereafter, Client shall not commit, or cause any third party to commit, any act challenging, contesting or impairing or attempting to impair Parkmobile's right, title and interest in and to the Technology or the validity thereof.

5.7 Trademark License & Branding.

(a) Each party ("licensor") grants the other party ("licensee") a personal, limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use licensor's trademarks, trade names and logos (the "Marks") during the Term solely in connection with the Parkmobile Services as provided hereunder. Any such use by licensee is subject to and must be in accordance with licensor's guidelines (as updated from time to time) if and as provided by licensor to licensee. In addition, any use by licensee of licensor's Marks is subject to licensor's prior written (which includes email) approval. Client agrees to use commercially reasonable efforts to obtain for Parkmobile a license to use the Marks and photos or video assets associated with a Facility (including where Client is not the Facility owner) and any tenants of a Facility in connection with Parkmobile's marketing of the Parkmobile Services as available at such Facility. If Client cannot obtain such license(s), Parkmobile has no obligation to include or use such Marks in connection with the Parkmobile Services provided hereunder. Parkmobile reserves the right to change its name, branding and signage at any time during the Term.

(b) Licensee shall not make any use of licensor's Marks in a manner that dilutes, tarnishes or blurs the value of such Marks. Licensor owns all Marks and any and all goodwill associated with such Marks and all such goodwill and other propriety rights created by or resulting from licensee's use shall inure to the benefit of licensor.

5.8 Ownership of Intellectual Property. Client acknowledges and agrees that Parkmobile or its licensors are the owners of all right, title and interest in and to the Platform, User Data, the Technology, all deliverables created by Parkmobile hereunder, any other Parkmobile intellectual property and all appurtenant patent, copyright, trademark, trade secret and other intellectual property or proprietary rights associated with any of the foregoing. To the extent Parkmobile provides any deliverable to Client for its use hereunder (e.g. material for inclusion on a Client-hosted website to direct Users to a Site), Client is hereby granted a limited, revocable, non-sublicensable and personal right to use such deliverable solely during the Term in accordance with any instructions provided and solely in connection with the Parkmobile Services. The provision of any such deliverable to Client does not constitute a sale of such deliverable. Client shall not assign, sublicense, transfer, pledge, lease, rent or share any rights under the foregoing license to any third party unless expressly permitted in writing by Parkmobile. Client shall be fully responsible and liable for any use or misuse of the foregoing. Client further agrees that all deliverables shall be deemed Parkmobile Confidential Information.

5.9 Reservation of Rights. All rights not expressly granted to Client under this Agreement are reserved to Parkmobile. All intellectual property rights related to the Platform, including but not limited to the Parkmobile Services, as well as any additional services, software, technology or systems developed by Parkmobile, belong to Parkmobile.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION

6.1 Representations and Warranties. Each of Parkmobile and Client hereby represents, warrants and covenants to the other party hereto as follows:

(a) It is duly organized and validly existing under the laws of the state of its incorporation and has full power and authority to carry on its business and to own and operate its properties and assets;

(b) The execution, delivery and performance of this Agreement by such party has been duly authorized by all requisite corporate, governmental or limited liability company action, as applicable;

(c) It has the power and authority to execute and deliver this Agreement, perform its obligations and grant any licenses granted hereunder;

(d) It has all rights, titles and interests necessary to grant any licenses granted hereunder;

(e) The execution, delivery and performance by it of this Agreement and its compliance with the terms and provisions hereof do not and will not conflict with or result in a breach of any of the terms or provisions of or constitute a default under the provisions of its charter documents or bylaws, any order, writ, injunction or decree of any court or governmental authority entered against it or by which any of its property is bound, or any agreement with or obligation to a third party; and

(f) It at all times shall comply with applicable Law.

6.2 Disclaimer of Warranties. THE PLATFORM, INCLUDING THE PARKMOBILE SERVICES, ARE PROVIDED "AS IS" AND WITH ALL FAULTS. CLIENT ACKNOWLEDGES AND AGREES THAT PARKMOBILE SHALL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY OR NONCONFORMITY IN THE PLATFORM, INCLUDING THE PARKMOBILE SERVICES. WITHOUT LIMITING THE FOREGOING, CLIENT ASSUMES ALL RISKS ASSOCIATED WITH THE PLATFORM, INCLUDING THE PARKMOBILE SERVICES. OTHER THAN AS SPECIFICALLY SET FORTH HEREIN, NEITHER OF THE PARTIES MAKES ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, DIRECTLY OR INDIRECTLY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF CONDITION, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, WITH RESPECT TO, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE PARKMOBILE SERVICES TO BE PERFORMED HEREUNDER, OR THE RESULTS OBTAINED THEREBY.

6.3 Indemnification.

(a) Parkmobile (an "Indemnifying Party") shall indemnify, defend and hold harmless Client, its affiliates, and their respective successors, assigns, officers, directors, employees, and representatives (each a "Client Indemnified Party") from and against any liability, damage, loss, cost, expense (including reasonable attorneys' fees and expenses), claim, lien, demand, payment, suit, action, recovery and judgment of every nature and description ("Claim") incurred by such Client Indemnified Party or made, brought or recovered against such Client Indemnified Party by a third party to the extent resulting from or arising out of: (i) the error, omission or other negligence or willful misconduct of Parkmobile or its employees, agents or contractors, (ii) the breach or inaccuracy of any of Parkmobile's representations or warranties in this Agreement; (iii) the breach of any of Parkmobile's covenants or agreements in this Agreement; or (iv) any violations of Law by Parkmobile or its employees, agents or contractors in performing its obligations in connection with this Agreement. The duty to defend is separate from the duty to indemnify.

(b) Client (an "Indemnifying Party") shall indemnify, defend and hold harmless Parkmobile, its affiliates, and their respective successors, assigns, officers, directors, employees, and representatives (each a "Parkmobile Indemnified Party") from and against any Claim incurred by such Parkmobile Indemnified Party or made, brought or recovered against such Parkmobile Indemnified Party by a third party to the extent resulting from or arising out of: (i) the error, omission or other negligence or willful misconduct of Client or its employees, agents or contractors, (ii) the breach or inaccuracy of any of the Client's representations or warranties in this Agreement; (iii) the breach of any of Client's covenants or agreements in this Agreement; or (iv) any violations of Law by Client or its employees, agents or contractors in connection with this Agreement. The duty to defend is separate from the duty to indemnify.

(c) If the Indemnified Party seeks indemnification under this Section 6.3, it shall promptly notify the Indemnifying Party of the Claim and allow the Indemnifying Party a reasonable opportunity to exercise control over defense and settlement of the Claim using Indemnifying Party's counsel. Provided the Indemnifying Party actively assumes control of defense, its indemnification obligations shall not apply to amounts paid in settlement entered into without the Indemnifying Party's consent which will not be unreasonably withheld or delayed. The Indemnifying Party shall not settle or consent to a judgment that materially and adversely affects the rights or interests of the Indemnified Party, requires the Indemnified Party to admit liability of any kind or imposes obligations on the Indemnified Party, without the prior express written consent of the Indemnified Party which will not be unreasonably withheld or delayed. The Indemnified Party and its employees and agents shall cooperate with the Indemnifying Party in its investigation and defense at the Indemnifying Party's expense.

6.4 Limitation of Liability. THE AGGREGATE LIABILITY OF PARKMOBILE FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER (WHETHER SUCH CAUSE IS BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) UNDER THIS AGREEMENT SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE TOTAL AMOUNT EARNED BY PARKMOBILE IN CONNECTION WITH THE PARKMOBILE SERVICES HEREUNDER OR THE AMOUNT OF INSURANCE COVERAGE AVAILABLE TO SATISFY OR APPLICABLE TO A CLAIM AT THE TIME A CLAIM IS MADE. EACH PARTY HERETO AGREES THAT EACH OTHER PARTY SHALL NOT BE LIABLE TO SUCH PARTY OR ANYONE ACTING THROUGH SUCH PARTY UNDER ANY LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL THEORY) FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT.

ARTICLE 7 MISCELLANEOUS

7.1 Force Majeure. Neither party shall be liable for failure or delay in performance of its obligations under this Agreement to the extent such failure or delay is caused by an act of God, act of a public enemy, war or national emergency, rebellion, insurrection, riot, epidemic, quarantine restriction, fire, flood, explosion, storm, earthquake, interruption in the supply of electricity, power or energy, terrorist attack, labor dispute or disruption, or other event beyond the reasonable control of such party and without the fault of or negligence by such party (each, a "Force Majeure Event"). If a party's performance under this Agreement is affected by a Force Majeure Event, such party shall give prompt written notice of such event to the other party, stating the date and extent of such suspension and the cause thereof, and shall at all times use commercially reasonable efforts to mitigate the impact of the Force Majeure Event on its performance under this Agreement; provided, that such party shall take measures to overcome the condition that are consistent in all material respects with the measures taken in connection with such party's business. The parties shall promptly confer, in good faith, on what action may be taken to minimize the impact, on

both parties, of such condition. In the event of a Force Majeure Event that affects either or both parties' ability to perform under this Agreement, the parties agree to cooperate in good faith to resume the affected services as soon as commercially possible to the extent commercially reasonable.

7.2 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered (a) in person; (b) by any national overnight courier or other service providing evidence of delivery, or by registered or certified mail (postage prepaid, return receipt requested); or (c) by facsimile with a copy delivered the next business day by any overnight courier or other service providing evidence of delivery, to the respective parties at the following addresses:

To Parkmobile: Parkmobile, LLC
1100 Spring Street NW, Suite 200
Atlanta, Georgia 30309
Attention: Legal Department
Telephone: (770) 818-9036
Email: legal@parkmobile.io

To Client: Village of Dobbs Ferry
112 Main Street
Dobbs Ferry, New York 10522
Attention: Alissa Fasman
Telephone: _____
Email: afasman@dobbsferry.com

or to such other address (or fax number, if applicable) as the party to whom notice is given may have previously furnished to the other in writing in the manner set forth above (provided that notice of any change of address or fax number shall be effective only upon receipt thereof).

7.3 Independent Contractors. Except as expressly set forth herein, the parties are independent contractors under this Agreement, which shall not be construed to create any employment relationship, partnership, joint venture, or franchisor-franchisee or agency relationship, or to authorize any party to enter into any commitment or agreement binding on the other party except as expressly stated herein. The parties have no authority to make statements, warranties, or representations or to create any liabilities on behalf of the other.

7.4 Entire Agreement. This Agreement and the documents and schedules referred to herein contain the complete agreement between the parties hereto and supersede any prior understandings, agreements or representations by or between the parties, written or oral, with respect to the subject matter hereof.

7.5 Amendment and Waiver. The parties hereto may not amend or modify this Agreement or waive any provision, default or breach hereunder, except as may be agreed upon in a written instrument executed by both parties.

7.6 Successors and Assigns. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated by Client without the prior written consent of Parkmobile (which consent shall not be unreasonably withheld or delayed). Parkmobile may assign its rights, interests or obligations under this Agreement without the consent of Client to (i) any affiliate of Parkmobile; (ii) any lender to Parkmobile or its affiliates as security

for borrowings, and (iii) any purchaser of a majority interest in or assets of Parkmobile. If any assignment by Parkmobile requires Client's consent, such consent will not be unreasonably withheld or delayed by Client.

7.7 Third-Party Beneficiaries. The parties to this Agreement do not intend this Agreement to benefit or create any right or cause of action in or on behalf of any person or entity other than Parkmobile and Client.

7.8 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

7.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction.

7.10 Reserved.

7.11 No Strict Construction; Headings. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. The headings used in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

7.12 Counterparts; Delivery. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that this Agreement may be executed and delivered by facsimile or other electronic transmission.

7.13 Survival. The parties' obligations under the following Agreement provisions will survive the expiration or termination of the Agreement: Sections 2.7, 4.4, 5.1, 5.3, 5.4, 5.7(b), 5.9, 6.2, and 6.4; Article 7; and any indemnification, defense and hold harmless obligations herein, including in Section 6.3 and Schedule 1, as applicable.

IN WITNESS WHEREOF, this Parking Services Agreement has been executed as of the day and year first above written.

PARKMOBILE, LLC

By: _____

Name: Tony Stewart

Title: General Counsel / Secretary

Date: 11/17/2020

VILLAGE OF DOBBS FERRY, NEW YORK

By: _____

Name: Edmond Manley

Title: Village Administrator

Date: 11-17-2020

SCHEDULE 1

ON DEMAND PARKING SERVICES

Parkmobile offers a service to User's that facilitates the activation of and payment for on-demand parking using Parkmobile's Platform ("On-Demand Parking"). Parkmobile charges certain fees in connection with On-Demand Parking as shown in Schedule 3.

Parkmobile accepts several electronic payment methods from Users in connection with On-Demand Parking:

- a. Parkmobile accepts traditional credit card payments from Visa, MasterCard, Discover, and American Express (collectively, "Traditional Payment Methods").
- b. Parkmobile also accept Emerging Payment Methods. "Emerging Payment Methods" are alternative payment methods offered in addition to the Traditional Payment Methods and generally offer the use of virtual account-based membership profiles that a User can utilize to transact purchases based upon the User's individual payment preferences. Examples of Emerging Payments Methods include PayPal, Parkmobile's Stored Value Wallet, Android Pay, Samsung Pay, ACH, and ApplePay.

Users may begin and, if applicable, end a parking Transaction in a variety of ways: (1) visiting www.parkmobile.io; (2) calling Parkmobile's IVR System, or (3) using the Application. In order to register with Parkmobile and begin a parking session, end users simply provide Parkmobile with the information required by Parkmobile to create an account, including payment method information and license plate number. Credit card information is stored in a secure, PCI Level 1 compliant environment. Thereafter, subsequent parking sessions only require the User to enter or select the applicable parking duration available for the applicable location.

The parking zone code of the Client parking areas are indicated on parking signs or on parking meters. Enforcers of the Client check the validity of parking status real time against the Parkmobile database via a web service offering, provided as part of the Parkmobile Services, to determine if a valid parking right exists. This information can be accessed by using a handheld terminal, mobile device or personal digital assistant ("PDA").

Parkmobile does not provide or pay for Client's use of handheld terminals, mobile devices or PDAs for enforcement or any data plans or other items needed for communication between such items and the Parkmobile Services.

At their option, Users will receive parking alert services from Parkmobile via SMS, Application push notification or email. The User may be notified, for example, when parked for an extended period of time or when the maximum parking time nears expiration.

Users can use On-Demand Parking anywhere the Parkmobile Services are available.

All parking charges are automatically charged to the User's payment method, and Users have real time access to an online account-based personal page accessible from www.parkmobile.io to access and print parking history, receipts, and statements.

SCHEDULE 2

SERVICE LEVELS

1. **Operation, Management and Maintenance of the Parkmobile Services.** Parkmobile uses commercially reasonable efforts to perform maintenance on the Parkmobile Services outside of Client's business hours. However, circumstances may require maintenance during business hours and in such situations, Parkmobile will endeavor to provide Client at least twenty-four (24) hours advance notice of such maintenance although such notice may not be possible for emergency maintenance. Parkmobile makes a daily backup of Parkmobile Services data which data Parkmobile retains for up to three (3) months.

2. **Errors and Interruptions.** When an error or interruption occurs in the Parkmobile Services, whichever party identifies the error or interruption promptly will inform the other party. Parkmobile will confirm its receipt of any Client notification in writing which may be by email. Parkmobile will work diligently to identify and resolve the error or interruption. If Client and Parkmobile disagree regarding whether an error or interruption has occurred or been resolved, Client and Parkmobile shall discuss in good faith and attempt to reach a mutual resolution of the issue. Any time spent by Parkmobile to restore and support errors or interruptions caused by Client and not attributable to Parkmobile will be charged to Client at the hourly rate of \$180.

3. **Credentials.** Parkmobile shall provide Client with user names and passwords to access the Parkmobile Services. Client agrees to protect the confidentiality of such user names and passwords and shall be liable for all activity under such accounts. Client shall ensure that only authorized Client personnel are issued and use the Parkmobile user names and passwords and that such user names and passwords are not shared. An up-to-date list of all such authorized personnel must be kept by Client and Client must notify Parkmobile to terminate access of any such authorized personnel whose engagement or employment is terminated or who no longer carries out tasks in connection with the Parkmobile Services for which access to the Parkmobile Services is necessary.

4. **Reports.** Parkmobile shall provide the following information to Client:

- a) Unique Transaction ID
- b) Transaction Date/Time
- c) Parking Session Start Date/Time
- d) Parking Session End Date/Time
- e) Total Price Charged to End User
- f) Price Breakdown (where applicable)
 - i) Parking Fee
 - ii) Service Fee
 - iii) Discount Amount
 - iv) Total Paid
- g) Payment Method

SCHEDULE 3

ON DEMAND PARKING SERVICES FEES

1. **User Fee.** Parkmobile shall charge the User a User Fee of \$0.30 per Transaction. User Fees do not include any merchant processing or other third-party fees.
2. **Processing Fees.**
 - **Traditional Payment Method.** Parkmobile is the MOR and passes real time authorized debit/credit card transactions daily in batch format to Parkmobile's payment processor, subsequently funded directly into a Parkmobile-controlled escrow account. Parkmobile pays Client the Net Parking Revenues in accordance with Parkmobile's standard settlement procedures.
 - **Emerging Payments Fees.** Parkmobile will collect the Total Price for each Emerging Payment Method Transaction and pay Client the Emerging Parking Revenue in accordance with Parkmobile's standard settlement procedures.
3. **Other Terms and Conditions.**
 - ***Signage.*** Parkmobile will be responsible for the cost of standard signage for the initial deployment and subsequent expansions of Client's use of the Parkmobile Services. Client will be responsible for all installation of signage and any related costs, and for the cost of custom signage and its installation.
 - ***Stickers.*** Parkmobile will be responsible for the cost for initial standard stickers. Client will be responsible for all installation of stickers and any related costs.
 - ***Standard Marketing.*** The cost of the marketing included in Parkmobile's standard marketing program will be borne by Parkmobile.
 - ***Administrative Portal.*** ParkMobile will provide Client with access to the ParkMobile 360 Administrative Portal.
 - ***Additional Services.*** At the request of Client and upon the written agreement of the parties, Parkmobile may provide the following development activities and additional services for a fee(s) to be determined by Parkmobile:
 1. Customized Reporting
 2. Integration to Client requested third parties (for whom Client will be fully responsible)
 3. Citation or Enforcement support
 4. Replacement Signage or Stickers
 5. Additional Training

SCHEDULE 4

CLIENT ELECTRONIC FUNDS AUTHORIZATION FORM BANKING INFORMATION

This form authorizes Parkmobile, LLC to make payment to a business electronically. All payments will be paid in the account designated by the voided check or bank letter attached to this form. It is the responsibility of the client to notify Parkmobile, LLC of any changes pertinent to electronic payments, such as changes in banking information or email address.

PAYEE/CLIENT INFORMATION

CLIENT NAME:
ADDRESS:
CONTACT PERSON:
TELEPHONE NUMBER:
PRIMARY FINANCE CONTACT EMAIL:
SECONDARY FINANCE CONTACT EMAIL:
SIGNATURE & TITLE OF AUTHORIZED OFFICIAL:

FINANCIAL INSTITUTION INFORMATION

BANK NAME:
ADDRESS:
CONTACT PERSON:
TELEPHONE:
EMAIL:
NINE DIGIT ROUTING TRANSIT NUMBER:
DEPOSITOR ACCOUNT TITLE:
DEPOSITOR ACCOUNT NUMBER:
TYPE OF ACCOUNT:
PLEASE BE SURE TO ATTACH A VOIDED CHECK OR BANK LETTER TO VERIFY THE ABOVE ACCOUNT INFORMATION

This form authorizes Parkmobile, LLC to send credit entries and appropriate debit and adjustment entries electronically or by any other commercially accepted method to the account indicated above and to other accounts specified by Client in the future (collectively, the "Account"). This form authorizes the financial institution holding the Account to post all such entries. This authorization will be in effect until Parkmobile receives a written termination notice from Client and has a reasonable opportunity to act on it.