



**CITY OF BROADVIEW HEIGHTS
RESOLUTION NO. 2025-67**

INTRODUCED BY MAYOR AND ENTIRE COUNCIL

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT BETWEEN THE CITY OF BROADVIEW HEIGHTS AND ZOLL
DATA SYSTEMS, INC. FOR HEALTH INFORMATION EXCHANGE ON FIRE
DEPARTMENT EMS RUN REPORTS IN THE CITY OF BROADVIEW HEIGHTS
AND DECLARING AN EMERGENCY**

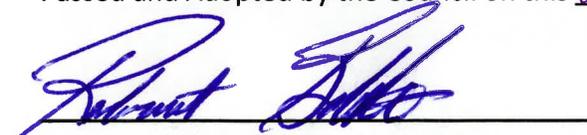
WHEREAS, the City Council has determined that it is in the best interest of the City to enter into an agreement between the City of Broadview Heights and Zoll Data Systems, Inc. for Health Information Exchange on Fire Department EMS Run Reports in the City of Broadview Heights.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BROADVIEW HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. The Mayor is hereby and herein authorized to enter into an agreement between the City of Broadview Heights and Zoll Data Systems, Inc. for Health Information Exchange on Fire Department EMS Run Reports in the City of Broadview Heights as delineated in Exhibit "A" attached hereto and made a part hereof as if fully rewritten.

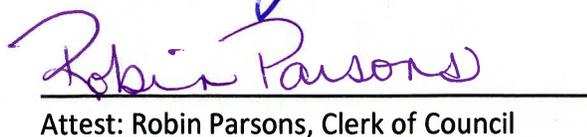
SECTION 2. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, peace, safety and welfare for the reason stated in the Preamble hereof, and provided it receives the affirmative vote of five (5) or more of the members of Council and signature of the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed and Adopted by the Council on this 28th day of April, 2025


Robert Boldt, President of Council


Samuel J. Alai, Mayor

April 28, 2025
Date


Attest: Robin Parsons, Clerk of Council

April 28, 2025
Date

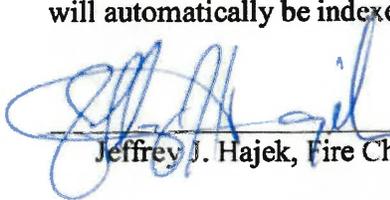
Council Transmittal Document

Transmittal No. _____

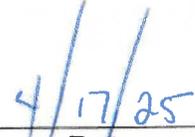
To: Council President Robert Boldt
From: The Fire Department
Date: April 16, 2025
Subject: Third Party Access and Use Agreement

Please include the subject referenced above on the next scheduled council work session agenda.

Enclosed is an agreement between The City of Broadview Heights and ZOLL Data Systems, Inc. (ZOLL) to be executed and returned to MetroHealth. This agreement will satisfy the Health Information Exchange Project in which Broadview Heights Fire Department EMS Run reports will automatically be indexed into Epic patient charting.



Jeffrey J. Hajek, Fire Chief



Date

Approved by: _____
Samuel J. Alai, Mayor

Date

c: Clerk of Council
Department File

THIRD PARTY ACCESS AND USE AGREEMENT

Please return to col-datacontracts@zoll.com once signed by Third Party

THIS THIRD PARTY ACCESS AND USE AGREEMENT ("Agreement"), effective as of the date on which both parties have signed below, is entered into by and between City of Broadview Heights ("Third Party") and ZOLL Data Systems, Inc. ("ZOLL") for the purpose of allowing Third Party limited access to the Services (defined below).

1. **Access and Use.** Subject to the terms and conditions of this Agreement, ZOLL grants Third Party a limited, revocable, non-exclusive right to access and use www.zollonline.com, <https://zoll.emscharts.com> or <https://analytics.emscharts.com>, including the access software, software-as-a-service or services offered there (the "Services"), solely for one of the following purposes (the "Access and Use"): (a) if Third Party is an emergency medical services provider, solely for the purpose of submitting patient care records to (i) one or more entities identified as receiving hospitals for Third Party or (ii) a third-party medical billing company for Third Party, in each case only with respect to the patients named in such records; (b) if Third Party is a hospital, solely for the purpose of viewing patient care records for which Third Party has been identified as the receiving hospital with respect to the patients named in such records; (c) if Third Party is a third-party medical billing company, solely for the purpose of viewing patient care records of the patients of the authorizing customer of ZOLL, to the extent Third Party is providing third-party medical billing services to such customer; or (d) for the purpose of delivering products or services integrated into, accessing data in, receiving data from, or providing data to, the Services on behalf of the authorizing ZOLL customer. ZOLL reserves the right to monitor such Access and Use and use the results of such monitoring for any lawful purpose.

2. **Authorization.** Third Party represents, warrants and covenants that (a) it has the full right, power and authority (including but not limited to any legally required consents or authorizations) for the Access and Use; (b) Third Party's Access and Use do not violate any agreement, law, regulation or other legal standard, including but not limited to any business associate agreement or other requirement of Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act") and the regulations promulgated under HIPAA or HITECH, each as amended; (c) ZOLL will not as a result, or arising out, of the Access and Use (i) be an agent of Third Party; (ii) receive, maintain, create or transmit protected health information on behalf of Third Party; or (iii) make any representation or warranty, or have any liability, to Third Party; (d) Third Party will not be a third party beneficiary under an agreement between ZOLL and any customer (including, but not limited to, Customer); and (e) Third Party will not have the right to support or maintenance services for the Services.

3. **Restrictions.** Without limiting any other term or condition of this Agreement, Third Party will not, and will not permit any other third party to: (a) reproduce, modify, adapt, alter, translate, decompile or create derivative works from, reverse engineer, decompile, disassemble, or otherwise attempt to alter (i) the Services, (ii) the software or software-as-a-service that underlies the Services (including Source Code (as defined in Section 8) or object code), as modified, updated and enhanced from time to time (the "Underlying Software") or (iii) the documentation or users manuals made available or published by ZOLL for the Services (the "Instructions"); (b) merge the Services, Underlying Software or Instructions with other software or services; (c) sublicense, distribute, sell, use for or offer for use in a service bureau, lease, rent, loan, or otherwise transfer or allow access to the Services, Underlying Software or Instructions to any third party; (d) derive the Source Code for the Services or Underlying Software; (e) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the Services, Underlying Software or the Instructions; (f) use the Services in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Services or Underlying Software; (g) introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful; (h) otherwise attempt to interfere with the proper working of the Services; or (i) otherwise access or use the Services, Underlying Software or Instructions in a manner not expressly permitted by this Agreement. Third Party agrees not to use the Services in excess of its authorized login protocols. Third Party will immediately report to and notify ZOLL of any unauthorized use of Third Party's login ID, password or account, or other breach of security. If Third Party becomes aware of any actual or threatened activity subject to the restrictions or limitations on use set forth in this Agreement, Third Party will, and will cause its users to, immediately take all reasonable measures necessary to stop the activity or threatened activity and to mitigate the effect of such activity including: (i) discontinuing and limiting any improper access to any data or the Services; (ii) preventing any use and disclosure of improperly obtained data; (iii) destroying any copies of improperly obtained data that may have been made by Third Party or its users; (iv) mitigating any harm from such events; and (v) immediately report to, and notifying ZOLL of, any such event so that ZOLL may also attempt to remedy the problem and prevent its future occurrence.

4. **Confidentiality.** "Confidential Information" means any information, technical data, or know-how, including, without limitation, information relating to the Services and Underlying Software (including without limitation any routines, subroutines, directories, tools, programs, or any other technology included in the Services or Underlying Software), Instructions, products, software, services, customers, personnel, markets, research, intellectual property, inventions, processes, designs, marketing, future business strategies, trade secrets, finances and other nonpublic information of, from or regarding ZOLL. Third Party will not use any Confidential Information for any purpose not expressly permitted by this Agreement, and will further disclose the Confidential Information only to the employees or contractors of Third Party who have a need to know Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than Third Party's duty hereunder (such recipients being "Authorized Recipients"). Third Party will protect Confidential Information from unauthorized use, access, or disclosure in the same manner as Third Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care and is responsible for the compliance of its Authorized Recipients with the confidentiality and non-disclosure obligations of this Agreement. Third Party's obligations under this Section 4 with respect to any Confidential Information will terminate if and when Third Party can establish that such information: (a) was lawfully known to Third Party prior to the time of disclosure by or on behalf of ZOLL; (b) is obtained by Third Party in good faith from a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of Third Party has become, generally available to the public; or (d) is independently developed by Third Party without access to, or use of, Confidential Information. Third Party may disclose Confidential Information to the extent that such disclosure is: (i) approved in writing by ZOLL, (ii) necessary for Third Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court or similar judicial or administrative body or proceeding, provided that Third Party will, to the extent legally permitted, notify ZOLL of such required disclosure in writing prior to making such disclosure and cooperate with ZOLL, at ZOLL's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

5. **Warranties.** THE SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. ZOLL SPECIFICALLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. THIRD PARTY ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES AND THAT NO WARRANTIES ARE MADE HEREIN BY ZOLL OR ANY OF ITS REPRESENTATIVES OR SUPPLIERS WITH RESPECT TO THE SERVICES AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS.

6. **Limitation on Liability.** IN NO EVENT WILL ZOLL OR ANY OF ITS REPRESENTATIVES OR SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST DATA, LOST PROFITS AND COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THE SERVICES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF ZOLL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Third party acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability, and Third Party agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers.

7. **Indemnification.** Third Party will defend any action against ZOLL, its affiliates, licensors, suppliers and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns (the "ZOLL Parties") and will indemnify and hold the ZOLL

Parties harmless from liabilities, damages, judgments, awards, losses, costs, expenses or fees, including reasonable attorneys' fees finally awarded against the ZOLL Parties arising out of or relating to Third Party's violation of this Agreement or access to, and use of, the Services other than as expressly authorized in this Agreement. ZOLL will: (i) notify Third Party promptly in writing of any such action or claim; (ii) give Third Party sole control of the defense thereof and any related settlement negotiations, provided, however that Third Party may not settle any action or claim in a manner that admits fault on behalf of or commits the resources of any ZOLL Party(ies) without the advance written consent of ZOLL; and (iii) cooperate with Third Party and, at Third Party's request and expense, assisting in such defense.

8. **Ownership.** All right, title and interest, including but not limited to all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know how, moral rights, contract rights, and proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing ("**Intellectual Property Rights**"), in and to the following are the exclusive property of ZOLL (or, as the case may be, its licensors and suppliers): (i) the Services, Underlying Software and Instructions and all proprietary technology used by ZOLL to perform its obligations under this Agreement; (ii) all software, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that ZOLL makes, develops, conceives or reduces to practice, whether alone or jointly with others; (iii) the fully compiled version of any of the Services, Underlying Software or other foregoing software programs that can be executed by a computer and used without further compilation (the "**Executable Code**"); (iv) the human readable version of the Services, Underlying Software and any of the other foregoing software programs that can be compiled into Executable Code (the "**Source Code**"); (v) all enhancements, modifications, improvements and derivative works of each and any of the foregoing; and (vi) all ideas, suggestions or other comments provided by Third Party or its representatives to ZOLL regarding each of the foregoing or otherwise in any form, manner or place (collectively, the "**ZOLL Property**"). If any derivative work is created by Third Party from any ZOLL Property, ZOLL will own all right, title and interest in and to such derivative work. Any rights not expressly granted to Third Party hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be). To the extent Third Party acquires any rights in any ZOLL Property or any derivative work created by Third Party, by operation of law despite the terms of this Agreement, Third Party hereby assigns those rights to ZOLL and agrees to take such further actions as necessary to give effect to this section.

9. **Termination.** Either party may terminate this Agreement immediately upon notice to the other party. Upon termination of this Agreement: (a) all rights granted to Third Party pursuant to this Agreement will immediately cease; and (b) Third Party must promptly discontinue all use of the Services and return or destroy all copies of Instructions in Third Party's or its users' possession or control.

10. **Notices.** All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, reputable overnight delivery service with delivery confirmation (such as FedEx, UPS, or USPS overnight/next day), or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth below such party's signature and, in the case of ZOLL, to the attention of the Chief Financial Officer (or to such other address or person as from time to time provided by such party in accordance with this Section), and will be effective upon receipt).

11. **Assignment.** Third Party may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party without ZOLL's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void.

12. **Amendment.** This Agreement may not be amended except in writing signed by both parties. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be a waiver of any other provision or of such provision on any other occasion, and any waiver must be in writing signed by an authorized representative of the waiving party.

13. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision will be changed and interpreted by the court to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

14. **No Third Party Beneficiaries.** Neither this Agreement nor the provision of the Services will be construed to create any duty or obligation on the part of ZOLL to any third parties. This Agreement does not provide any other person or party with any right, privilege, remedy, claim or cause of action against ZOLL, its affiliates, officers, employees, agents, contractors, licensors or suppliers.

15. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. Those provisions of this Agreement that may be reasonably interpreted as surviving termination of this Agreement or the survival of which is necessary for the interpretation or enforcement of this Agreement will continue in full force and effect in accordance with their terms notwithstanding the termination hereof including, but not limited to, Section 4 (Confidentiality), Section 5 (Warranties), Section 6 (Limitation on Liability), Section 7 (Indemnification), Section 8 (Ownership), Section 10 (Notices), Section 13 (Severability), Section 14 (No Third Party Beneficiaries), and Section 15 (Entire Agreement).

16. **Counterparts and Signature.** This Agreement may be executed by electronic signatures (such as through the exchange of signed PDFs) and/or encrypted digital signatures (such as through the use of DocuSign, Adobe eSign or otherwise). Each party represents and covenants on its own behalf that the individual signing this Agreement on its behalf is fully authorized to sign on behalf of and bind it, and that it has the power and authority to enter into it.

IN WITNESS WHEREOF, each party has executed this Agreement on the date that appears below such party's name.

ZOLL Data Systems, Inc.

THIRD PARTY: City of Broadview Heights

By: _____
Name: _____
Title: _____
Date: _____
Address: 11802 Ridge Parkway, Suite 400
Broomfield, CO 80021

By: Samuel J. Alai
Name: Samuel J. Alai
Title: Mayor
Date: April 28, 2025
Address: 9543 Broadview Rd
Broadview Heights, OH 44147