

## Agreement for Visitor Research 2023

Cobalt Community Research (Cobalt) is pleased to provide this contract for research collaboration between Cobalt and

Organization Name (the Partner)	Organization Address

Cobalt Community Research ([www.cobalt360.org](http://www.cobalt360.org)) is a 501c3 nonprofit organization with a mission to provide research and educational tools that help organizations thrive as changes emerge in the economic, demographic and social landscape. Cobalt's address is PO Box 416, Charlotte, MI 48813; (877) 888-0209; E-mail: [wsaintamour@cobaltcommunityresearch.org](mailto:wsaintamour@cobaltcommunityresearch.org)

### DELIVERABLES (SECTION 1)

Visitor360™ Report Deliverables	1 Report	5-10 Reports	11+ Reports
2+ year look-back period	Included	Included	Included
Number of visitors	Included	Included	Included
Demographics of visitors/trade area	Included	Included	Included
Psychographics of visitors/trade area	Included	Included	Included
Average spending of visitors/trade area	Included	Included	Included
Home location	Included	Included	Included
Routes taken	Included	Included	Included
Locations before /after visit	Included	Included	Included
Visit duration	Included	Included	Included
<b>Cost per Report</b>	<b>\$775</b>	<b>\$675</b>	<b>\$595</b>

Work Order Details	Quantity	Cost	Notes
Number of reports requested		\$ -	
Date range for visitor trends (options from January 2017 to Present)			
Date range for core statistics (weekend, season, year, etc.)			
Population to study (visitors to POI, residents of POI, employees in POI)			
Include study area heatmaps (\$95 each)		\$ -	
Include demographic comparison/DEI (\$95 each)		\$ -	
Specify range for comparison, if applicable (10-mile radius, county, state, etc.)			
Include favorite places spreadsheet with physical locations (\$95 each)		\$ -	
Include favorite chains spreadsheet (\$95 each)		\$ -	
CSV files on counts per day/week/month, based on availability		\$ -	
<b>Total Cost</b>	<b>\$</b>	<b>-</b>	

Pricing valid for 30 days from the date of this document. For orders under \$10,000, payment due upon receipt of reports. For orders over \$10,000, 50% of quoted amount upon the signing of this agreement. Remaining balance upon delivery of reports. Delivery should be expected within 10 business days of data release (within 5 days of the requested data range).

This agreement includes all of the terms and conditions agreed to by the parties. Any changes to these terms and conditions must be made in writing and signed by both parties to be effective.

### ACCEPTANCE

This agreement with the Terms and Conditions shall be deemed accepted after it is signed by a representative of the Partner and a representative of Cobalt. Acceptance may be made by facsimile and the agreement executed in one or more counterparts, each which when fully executed, shall be deemed to be an original, and all of which shall be deemed to be the same agreement.

**Nondisclosure Statement:** All materials contained in this agreement are confidential and proprietary property of Cobalt Community Research. The information is provided by Cobalt Community Research for evaluation by the Partner. Dissemination to other parties is prohibited.

Authorized Representative Signature

*William St. Amour*

Cobalt Community Research, Executive Director

Date

6/2/23

Date

## TERMS AND CONDITIONS

### 1. TERM OF CONTRACT

This Agreement shall be effective as of the date it is signed by both parties and shall remain in full force and effect for a period of twelve (12) months (the "Initial Term") or until all reports have been provided. This Agreement may be renewed for successive renewal terms (each, a "Renewal Term"). The Initial Term and any Renewal Term are collectively referred to as the "Term." This section is subject to the cancellation rights stated elsewhere in the Agreement.

### 2. COBALT'S RESPONSIBILITIES

Cobalt shall provide the services described in the Statement of Work (the "Services") in accordance with the terms and conditions of this Agreement. In the course of providing the Services, Cobalt shall deliver to the Partner all deliverables arising from or related to the Services and agreed upon by the parties. Any change in the scope of Services shall be agreed upon in writing by the parties.

### 3. CONFIDENTIALITY AND PROPRIETARY INFORMATION

Cobalt has created, acquired or otherwise has rights in, and may, in connection with the performance of services hereunder, employ, provide, modify, create, acquire or otherwise obtain rights in, various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, templates, software systems, user interfaces and designs, data, documentation, and other confidential and proprietary information and processes ("Cobalt Technology and Data"). All Cobalt Technology and Data is and will remain the sole property of Cobalt, and the Partner shall acquire no right or interest in such property. To the fullest extent allowed by law, Partner shall maintain the confidentiality of Cobalt Technology and Data and shall not disclose or disseminate any Cobalt Technology or Data to any third party.

### 4. INDEMNIFICATION AND LIMITATION OF LIABILITY

The Partner agrees to indemnify, defend and hold harmless Cobalt, its trustees, officers, agents and employees from and against any and all claims, damages, losses, liabilities, suits, costs, charges, expenses (including, but not limited to reasonable attorney fees and court costs), judgments, fines and penalties, of any nature whatsoever, arising from the performance of services under this Agreement, arising as a result of the City's negligence only.. In no event will either party be liable to the other party or any person claiming through such other party for any indirect, incidental, special, consequential, punitive, or similar damages, including, but not limited to, lost profits, loss of data, or business interruption losses, resulting from any cause whatsoever or arising under any legal theory. Further, in no event will the total, aggregate liability of Cobalt to Partner exceed the amount of payments received by Cobalt from the Partner under this Agreement.

### 5. MODIFICATION AND CANCELLATION

This Agreement may not be modified, amended, or augmented except by a writing executed by the parties. Cobalt may cancel this Agreement or suspend performance immediately if Partner fails to (i) cure its default of the payment terms of this Agreement within 15 days of written notice or (ii) fails to comply with the restrictions, prohibitions and its obligations contained in Section 3. Cobalt may cancel this Agreement or suspend performance immediately if legal or legislative changes alter the availability of the data used in this service. Partner may cancel this Agreement on 30 days' written notice to Cobalt. In the event of cancellation of this Agreement by Subscribing Member for any reason other than Cobalt's breach of this Agreement, or in the event of Cobalt's cancellation of this Agreement for the Partner's breach of this agreement, Partner shall be liable for all fees due or to be due hereunder for the remainder of the Term.

### 6. GOVERNING LAW AND ARBITRATION

This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of 60 days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled through mediation. . Suits, if any, shall be brought in Waukesha County Circuit Court. The prevailing party in any dispute or arbitration hereunder shall be entitled to recover its reasonable attorneys' fees and costs.

### 7. PRICE AND PAYMENT TERMS

For single-year and multi-year plans, the initial year's fee is due upon Agreement execution and Cobalt shall issue invoices to Partner for subsequent terms up to 30 days prior to the start of each subsequent Term. Subsequent terms are subject to increase of up to 5% per year to reflect increases in costs and expenses incurred by Cobalt. All invoices are due upon receipt. Invoices not paid within 30 days are subject to a finance charge of 1.5% per month until paid in full.

### 8. ASSUMPTIONS

All research is subject to imprecision based on scope, imprecision of extrapolation, imprecision of source data, differences in collection periods, sampling error, response error, etc. All research is designed to reduce uncertainty, but it can never eliminate it. The Partner must evaluate all information thoroughly and independently and balance it with other sources of information, legal requirements, safety standards, and professional judgment before taking action based on research information. In addition, the availability of data, the structure of data, and the timing of data may vary, so Cobalt reserves the right to modify the data as changes and improvements occur. Significant changes will be communicated with the Partner. Cobalt makes no representation or warranty as to the accuracy of the information produced for Partner or as to its fitness for a particular purpose.

### 9. ACCEPTANCE OF TERMS AND CONDITIONS

The failure of a party to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of this Agreement. Each provision of this Agreement shall be deemed to be severable from all other provisions of this Agreement and, if one or more of the provisions of this Agreement shall be declared invalid, the remaining provisions of this Agreement shall remain in full force and effect.

### 10. NOTICE

Any notice required or permitted to be made or given by either party hereto pursuant to this Agreement shall be in writing and shall be deemed effective if sent by such party to the other party by mail, overnight delivery, postage or other delivery charges prepaid, to the addresses set forth above, and to the attention of the Executive Director for Cobalt and Subscribing Member's designated contact person. Either party may change its address by giving notice to the other party stating its desire to so change its address.

### 11. SURVIVAL

Sections 3, 4, 6 and this Section 10 shall survive the termination of this Agreement.