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OAKLAND

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# AGENDA REPORT

**TO:** JOHN A. FLORES  
INTERIM CITY ADMINISTRATOR

**FROM:** David McPherson

**SUBJECT:** Contract Extension for ACS/Xerox  
Parking Citation Administration and  
Revenue Reconciliation

**DATE:** February 26, 2015

City Administrator  
Approval

Date

3/10/15

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

Staff recommends that the City Council adopt: a resolution waving the request for qualifications ("RFQ"), competitive selection advertising and competitive bidding requirements and authorizing the City Administrator to execute a Third Amendment to the Agreement with ACS State and Local Solutions Inc. ("ACS/Xerox"), extending the term of the Agreement for a period not to exceed one-year, starting April 2, 2015 and terminating April 1, 2016, to provide a parking citation administration and revenue reconciliation ("CARR") system; and compensate ACS/Xerox under the current terms of the agreement in an amount not to exceed \$900,000.

## OUTCOME

Authorization of the attached Resolution will result in a contract extension of the ACS/Xerox Agreement ("Agreement") to a term not to exceed one year, starting April 2, 2015 and terminating April 1, 2016. The contract extension will allow the City to continue CARR operations and provide sufficient time for the City to finalize an RFQ and award a new Agreement to the prevailing proposer based on the RFQ process. By not adopting the Resolution to extend the Agreement, there will be a disruption with the City's parking management program, the City will be unable to manage parking citations and will be unable to collect parking citation revenues. For Fiscal Year 2013-14 the CARR system assisted the City in collecting over \$20 million in parking citation revenues and over \$100,000 in residential parking permits. With the adoption of the Resolution, there will be no disruption in parking administrative services and revenues will not be impacted by executing this agreement.

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## **BACKGROUND/LEGISLATIVE HISTORY**

On February 16, 2010, the City Council authorized Resolution No. 82531<sup>1</sup>, authorizing the City Administrator to negotiate and execute a contract between ACS/Xerox to provide the City a CARR system. The City Council authorized a contract with a term of three years with two one-year options for renewal (*Attachment 1*). The initial three-year contract term expired April 1, 2013, and the City exercised a one-year renewal option that expired April 1, 2014 (*Attachment 2*). The City executed the final option that will expire on April 1, 2015 (*Attachment 3*). With the final one-year contract expiring on April 1, 2015, to continue providing this service, management of parking citations and collection of subsequent revenues, the City is required to advertise a RFQ for a parking citation administration and revenue collection service to replace the expired Agreement.

The City benefits from the ACS/Xerox's eTIMS CARR system, as the system provides a cost effective way to process parking citations from citation issuance, through enforcement, processing and revenue collections. Furthermore, the CARR system also provides parking operation analytics, which aids in the development of the City's parking program. In addition to the processes related to parking citations, the CARR system also provides cost effective processing guidelines to the issuance and processing of residential and business parking permits.

The main components to the CARR system are listed below:

### *1. Citation Issuance and Parking Enforcement*

The Electronic Citation Issuance and Reporting System (ECIRS) is used to issue and process parking citations with image enabled handheld devices. The benefit of having these devices is to provide photographic evidence to support that a violation occurred and to verify the violating vehicle. Having this information reduces the rate of parking citation appeals. The issued citation data and photographic images are transferred to and loaded into the CARR system for processing. With the assistance of eTIMS, the City easily has real-time access to the State of California Department of Motor Vehicle database that provides motor vehicle registration documentation and ownership, which is critical to processing parking citations.

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<sup>1</sup> Reso. 82531 C.M.S. Resolution Authorizing the City Administrator to negotiate and execute a contract between the City of Oakland and ACS State & Local Solutions, Inc., to provide a Parking Citation Administration and Revenue Reconciliation System (CARRS) at an estimated cost of Nine Hundred Thousand Dollars (\$900,000) per year for a term of three years beginning March 1, 2010 with two one-year options to renew. Note: ACS State & Local Solutions merged with Xerox Corporation to form ACS/Xerox.

2. Citation Processing, Permitted Parking Tracking and Revenue Collections

A Parking Citation Processing System (PCPS) that is browser-based, Web-enabled, and a fully automated, self-sufficient, and modular parking management system, that provides solutions to assist the City with the collection of parking revenue, parking permit tracking, collections noticing, boot and tow noticing. The PCPS collects parking citation payments by various means, Pay-by-Phone, Pay-by-Web, Pay-by-Mail, and payments made thru the ACS/Xerox processing lockbox.

3. Enforcement Management System

The Enforcement Management System (EMS) combined with the PCPS component of the CARR system, the City has the ability to accurately record citations and document a citation's information. The CARR system provides the City with valuable real-time parking analytics and statistical tools for report generation, status reports, and performance dashboards.

ANALYSIS

As the expiration of the final one-year extension approaches, staff recommends extending the contract not to exceed a one-year term to provide sufficient time to finalize an RFQ and award a replacement contract for the necessary services. With the City Council's authorization to extend the Agreement with ACS/Xerox, the City will continue to receive the benefits of the CARR system provided by the Contractor at the current terms and conditions of the Agreement authorized by Resolution 82531 (*Attachment 4*). Section 3 of the Agreement, "Time of Performance," allows for the continuation of the Agreement after the expiration of the "Option Terms" (the two one-year options for renewal), which staff recommends to exercise. Compensation to the Contractor will continue to comply with the approved funding for services provided in Resolution 82531, and adopted Resolution 84776<sup>2</sup>, which further clarified the financial terms of the Agreement and established the necessary spending authority required to fulfill the City's contractual fiscal responsibilities between the City and ACS/Xerox for the CARR system (*Attachment 5*). The financial terms of the Agreement will continue as directed in Resolutions 82531 and 84776 during the one-year extension term. Funding for the contract extension is provided in General Purpose Fund account: 1010.08921.54211.IP60.

<sup>2</sup> Reso 84776 Resolution of the City Council of the City of Oakland clarifying that the contract amount for the existing contract with ACS State and Local Solutions Inc., for parking citation administration and revenue collection services, is estimated at nine hundred thousand dollars (\$900,000) plus 30% of the fees contractor collects from motorists, and authorizing an appropriation upon receipt of collection fee revenues in an annual amount not to exceed two million, eight hundred thousand dollars (\$2,800,000), as required and equal to the thirty percent (30%) special collection fee on all assigned citations, which is imposed by the contractor in addition to the motorist's outstanding citation.

Staff recommends that based on the reasons and circumstances set forth above, the City Council, pursuant to Oakland Municipal Code (O.M.S.) Sections 2.04.050.I and 2.04.051.B, finds and determines that it is in the best interests of the City to waive the formal advertising and competitive bidding of the RFQ process and requirements, and authorizes the City Administrator to execute a Third Amendment to the Agreement for a period not to exceed one-year.

**PUBLIC OUTREACH/INTEREST**

This item does not require any additional public outreach other than the required posting on the City's Website.

**COORDINATION**

This report was prepared by the Revenue Management Bureau in coordination with the City Attorney's Office and the Controller's Bureau.

**COST SUMMARY/IMPLICATIONS**

The contract extension will comply with the terms and conditions of the contract requirements established by Resolution No. 82531 and Resolution No. 84776. Resolution No. 82531 stipulates the City will compensate ACS/Xerox at an estimated cost of under \$900,000 (based on 0.99 cents per citation issued), for the use of eTIMS system application, software and hardware, and citation handhelds. In addition, the City will compensate ACS/Xerox in an amount of 0.46 cents per citation payment processed thru the ACS/Xerox payment lock box.

Resolution No. 84776 stipulates a collection fee of equal to 30 percent will be imposed by ACS/Xerox in addition to the citation fee of each successful parking citation collected. Specifically, to maintain adherence to generally accepted accounting practices, the Agreement requires ACS/Xerox to remit all collected funds to the City, including their collection fee, and then invoice the City separately for the collection fee and for the use of the CARR system. The collection fee is a pass-thru or fluid and dependent upon successful collection of delinquent parking tickets. Resolution No. 84776 has negligible fiscal impact, as it only requires the use of City resources (the sunk costs of staff time and supplies) to process two additional invoices per Agreement year.

The financial cost implication of not adopting the Resolution will be the disruption of the collection of parking permit and citation revenue. Based on the revenue collected in FY 2013-14, the average monthly revenue was \$1.6 million. For FY 2013-14 the CARR system assisted the City in generating over \$20 million in parking citation revenues and over \$100,000 in

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residential parking permits, with the adoption of the Resolution, there will be no disruption in parking and citation revenue.

**SUSTAINABLE OPPORTUNITIES**

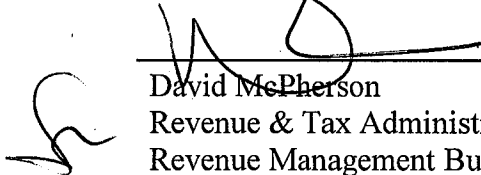
***Economic:*** No economic opportunities have been identified.

***Environmental:*** There are no environmental impacts associated to this report.

***Social Equity:*** There are no social equity issues associated with this report.

For questions regarding this report, please contact David McPherson, Revenue & Tax Administrator at (510) 238-6650.

Respectfully submitted,



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David McPherson  
Revenue & Tax Administrator  
Revenue Management Bureau

Reviewed by:  
Margaret O'Brien - Principle Revenue Analyst  
Revenue Management Bureau

Prepared by:  
Andrew Best – Principal Revenue Analyst  
Revenue Management Bureau

**Attachments:**

- 1 Contract: ACS State & Local Solutions, Inc.
- 2 Amendment 1: Contract Extension Expiring April 1, 2014
- 3 Amendment 2: Contract Extension Expiring April 1, 2015
- 4 Resolution No. 82531
- 5 Resolution No. 84776

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**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF OAKLAND  
AND ACS STATE & LOCAL SOLUTIONS, INC.**

This Professional Services Agreement ("Agreement") is entered into on this 2<sup>nd</sup> day of April 2010 ("Effective Date") by and between the CITY OF OAKLAND, a California municipal corporation, acting by and through its Finance and Management Agency ("City"), and ACS STATE & LOCAL SOLUTIONS, INC., a New York corporation ("Contractor").

RECITALS

WHEREAS, the City desires to provide a comprehensive system for managing parking citations and enforcement within the City of Oakland; and

WHEREAS, the City's Purchasing Ordinance requires that the City conduct a competitive process (Request for Proposals/ Request for Qualifications) for professional services agreements in excess of \$25,000 [(OMC section 2.04.051(A)]; and

WHEREAS, a competitive Request for Proposals for a Parking Citation Administration and Revenue Reconciliation System ("System") was issued August 7, 2009 and two companies submitted proposals responsive to the City's request; and

WHEREAS, through both an internal and external rating process the proposal submitted by Contractor was determined to best meet the needs of the City; and

WHEREAS, Contractor is qualified and able to provide an integrated parking citation management system for the City of Oakland within the requirements set forth by the City; and

WHEREAS, on February 16, 2010, the City Council of the City of Oakland authorized the City Administrator to negotiate and execute an agreement with Contractor; and

WHEREAS, Contractor is highly qualified to perform the services required hereunder by virtue of its substantial experience with large municipalities; and

WHEREAS, the parties hereto wish to enter into an agreement pursuant to which Contractor provides the System and services as described herein for the consideration and under the terms provided herein;

NOW, THEREFORE, in consideration of the promises and covenants set forth herein, the parties hereto covenant and agree as follows:

**1. Exhibits**

The articles and the exhibits set forth below are attached to and form a part of this Agreement. In the event of any conflict in the definition or interpretation of any word, responsibility, service schedule, or contents of a deliverable product between the Agreement and exhibits, or between exhibits, said conflict or inconsistency shall be resolved by giving precedence first to the

Agreement, then to **Exhibit A**, Modifications to Contractor's Proposal, then to **Exhibit B**, the City's Request for Proposals, and then to **Exhibit C**, Contractor's Proposal.

EXHIBIT A – Modifications to Contractor's Proposal  
EXHIBIT B - Request for Proposals dated August 7, 2009  
EXHIBIT C - Contractor's proposal

2. **Scope of Services**

Contractor will perform the services required by this Agreement and as specified in Contractor's proposal (**Exhibit C**), as modified by Modifications to Contractor's Proposal (**Exhibit A**). Contractor will comply with all provisions of the City's RFP (**Exhibit B**). Contractor will not directly collect payments from persons to whom City has issued citations, except if authorized so in writing by the City if and when the City elects to use the "lock box" optional service offered by Contractor, and except after an account has been assigned to collections. Contractor will not directly respond to inquiries from persons to whom City has issued citations, except after an account has been assigned to collections.

The Project Manager for the City shall be Thomas DiSanto, Administrative Services Manager. The Project Manager for Contractor will be Reneee Jordan. If a Party wishes to change its Project Manager, that Party will notify the other in writing.

Contractor's Project Manager will meet with the City on a monthly basis, or more often if requested by the City, to review reports on citation processing and payment, and to discuss Contractor performance related to citation processing and collections.

3. **Time of Performance**

The period of performance under this Agreement shall commence upon the Effective Date, and shall expire after an initial period of three (3) years from the Effective Date, if not extended as provided herein. City shall have the option, in its sole discretion, to extend this Agreement for two additional one-year terms ("Option Terms") upon ninety (90) days' notice to Contractor prior to the commencement of the additional term. By mutual consent, City and Contractor may continue this Agreement on a month-to-month basis after the expiration of the initial term of contract including the possible Option Terms.

4. **Compensation and Method of Payment**

a. Compensation shall be made in monthly payments, within 20 days of receipt of vendor invoice, for each month of work, unless the City determines services have not been performed in full compliance with **Exhibit B** (City's RFP), **Exhibit C** (Contractor's Proposal) and **Exhibit A**, Modifications to Contractor's Proposal. If there are disagreements on the services performed between the City and the Contractor, the City and the Contractor will attempt to resolve them expeditiously. To ensure control of expenditures and to improve the reporting of deliverables and services provided by Contractor and received by City, Contractor will submit to City's Project Manager a monthly invoice in accordance with Scope of Services of this Agreement, which shall include but is not limited to the following information: (1) Description of services and or deliverables rendered during the period; and (2) Detailed accounting of billable services rendered during the period. All invoices submitted by Contractor for payment must have the approval of City's Project Manager or her/his designee. Approval for payment will not be unreasonably withheld. If a portion of an invoice is disputed, City shall notify Contractor of the amount in

dispute and shall approve for payment that portion of the invoice that is not in dispute. City will authorize payment for all sums not under dispute within thirty days of the receipt of the invoice.

b. The breakdown of charges associated with this agreement are as follows:

**(1) Price per ticket.** Per citation processing cost is \$.99 per citation issued (updated or uploaded to the eTIMS system) if the City uses a dedicated server, or \$.93 if the City uses Internet connection, with the following tiered pricing conditions based on annual ticket processing costs to City:

- \$0-\$520,000 in ticket processing costs are \$.99 (\$.93 internet)
- over \$520,000 in ticket processing costs are \$ 0.95 per ticket (\$.90 internet)

Only those tickets first assigned to Contractor after the \$520,000 threshold have been reached will be invoiced as \$0.95 per ticket (\$.90 internet). All tickets assigned to Contractor prior to reaching the \$520,000 threshold shall be invoiced at \$0.99 (\$.93 internet).

**(2) Reimbursable Costs.** Reimbursement for actual cost incurred as approved by City and included in **Exhibit B** (City's RFP), **Exhibit C** (Contractor's Proposal), and/or **Exhibit A**, Modifications to Contractor's Proposal, such as handheld ticket stock, envelopes, postage, credit card fees, etc.

**(3) Lock Box Payment Processing- Optional Service.** City may retain Contractor to provide the lockbox payment processing function offered in Contractor's Proposal. City may also purchase or lease-to-purchase payment processing equipment.

Upon City's written request, Contractor will process lockbox payments on an overflow basis on behalf of the City, in one of two ways, as determined by City:

- Lockbox payment processing by a financial institution with costs not to exceed \$0.44 per payment
- Lockbox payment processing by Contractor lockbox operation with costs not to exceed \$0.41 per payment

If the City wishes to assign all lockbox operations to Contractor on a permanent basis, City will give Contractor thirty days notice thereof.

**(4) Mail Processing Equipment.** Contractor shall be reimbursed for actual cost of mail/citation payment processing equipment provided to the City. Contractor will facilitate payment processing equipment vendors to demonstrate equipment for purchase or lease options that is at a lower price than the option Contractor proposed in **Exhibit C**.

**(5) Consultation Services.** Hourly billing for additional consultation services beyond the Request for Proposal project scope, \$23-75 per hour. Any additional consultation services provided by the Contractor must first be approved in writing by the City's Project Manager.

**(6) Special Collections.** Contractor is authorized to add and collect a 30 percent contingency collection fee on all assigned citations updated or uploaded to eTIMS, so long as the City is not responsible for such fee. If the City voids any citation or citations



three or more weeks after an account is initially assigned to ACS for collection activity, the City will be responsible for the 30% collection fee upon submitting documentation to the City showing that collection activities have been initiated. If the City voids any citation or citations less than three weeks after an account is assigned to ACS for collection activity, ACS will not be entitled to the 30% collection fee.

c. City reserves the right to change any portion of the work required under this Agreement, or amend such other terms and conditions which may become necessary. For any change that does not significantly affect the scope of work as set forth in the Statement of Work, the period of performance, payments, or any term or conditions included under this Agreement, a Change Notice shall be prepared and signed by City's Project Manager and Contractor's Project Manager. Contractor is entitled to an equitable adjustment for any such change which negatively impacts Contractor financially. Contractor may request an equitable adjustment by submitting a claim to the City's Project Manager which shall include back-up for any claimed adjustment. The details of any equitable adjustment shall be subject to the Parties' mutual agreement and good faith negotiations. For any revision that significantly affects the scope of work, period of performance, payments, or any term or condition included in this Agreement, a negotiated Modification to the Agreement shall be subject to approval of Council and execution by the Project Managers.

## 5. Independent Contractor

a. Rights and Responsibilities. It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor's subordinates and employees. Contractor will determine the method, details and means of performing the services described in **Exhibit A** and **Exhibit C**.

b. Contractor's Qualifications. Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of The City. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Contractor shall complete **Schedule M** ("Independent Contractor Questionnaire"), attached hereto.

c. Payment of Income Taxes. Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor will indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.

d. Non-Exclusive Relationship. Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in his or her sole discretion, sees fit.

e. Tools, Materials and Equipment. Contractor will supply all tools, materials and equipment required to perform the services under this Agreement.

f. Cooperation of the City. The City will comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

g. Extra Work. Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

6. **Notices**

The City's Project Manager, or her/his designee, shall execute all notices or demands authorized or required to be given under this Agreement on behalf of City. All notices of demands required or permitted to be given or made hereunder shall be in writing and shall be deemed to have been given if made by hand delivery with signed receipt; or when mailed by first class registered or certified mail, postage prepaid, addressed to City and/or Contractor at their addresses designated below; or at such other address that City or Contractor, as the case may be, shall have furnished in writing to the other.

If to City:

Noel Pinto  
Director of Parking, City of Oakland  
250 Frank Ogawa Plaza, Suite 6300  
Oakland, CA 94612  
510-986-2688

With a copy to:

John A. Russo  
City Attorney  
City of Oakland  
1 Frank Ogawa Plaza, 6<sup>th</sup> Floor  
Oakland, CA 94612  
510-238-3601

If to Contractor:

ACS State & Local Solutions  
Attn.: Doris Carlick  
255 California St., Suite 550  
San Francisco, CA 94111  
415-486-3334

With a copy to:

ACS State & Local Solutions, Inc.  
Attn.: Contracts Department  
12410 Milestone Center Drive  
Germantown, MD 20876

7. **Proprietary of Confidential Information of the City**

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information disclosed by the City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

8. **Ownership of Results**

Any interest of Contractor or its Subcontractors, in specifications, studies, reports, memoranda, computation documents prepared by Contractor or its Subcontractors in drawings, plans, sheets or other connection with services to be performed under this Agreement shall be assigned and transmitted to the City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

9. **Copyright**

Contractor shall execute appropriate documents to assign to the City the copyright to works created pursuant to this Agreement.

10. **Audit**

a. Contractor shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

b. Contractor shall (a) permit the City to have access to those records for the purpose of making an audit, examination or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Contractor under this Agreement.

c. In addition to the above, Contractor will comply with all audit, inspection, record-keeping and fiscal reporting requirements set forth in **Schedule S, *Audit Inspection and Fiscal Reporting Requirements***, which is attached hereto and incorporated by reference.

11. **Agents/Brokers**

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

12. **Assignment**

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

13. **Publicity**

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

14. **Title of Property**

a. Title to all property, real and personal, acquired by Contractor from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Contractor acknowledges it is responsible for the protection, maintenance and preservation of all such property held in custody for the City during the term of the Agreement. The Contractor shall, upon expiration or termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, Contractor shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with "Notice" section of this Agreement.

b. Contractor shall provide to the City Auditor all property-related audit and other reports required in **Schedule S** and under this Agreement. In the case of lost or stolen items or equipment, Contractor shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with the "Notice" section of this Agreement.

c. Prior to the disposition or sale of any real or personal property acquired with City funds, Contractor shall obtain approval by the City Council and City Administrator in accord with the requirements for disposal or sale of real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2.04, Chapter 2.04.120. *Surplus supplies and equipment – Disposal or Destruction.*

15. **Insurance**

Unless a written waiver is obtained from the City's Risk Manager, Contractor must provide the insurance listed in **Schedule Q**. **Schedule Q** is attached and incorporated herein by reference.

**16. Indemnification**

a. Notwithstanding any other provision of this Agreement, Contractor shall indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:

- (i) Breach of Contractor's obligations, representations or warranties under this Agreement;
- (ii) Negligent or wrongful acts or omissions in the course of performance by Contractor under this Agreement;
- (iii) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Contractor;
- (iv) Unauthorized use or disclosure by Contractor of Confidential Information as provided in Section 7 above; and
- (v) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trade mark, or service mark or other proprietary or intellectual-property rights of any third party.

b. For purposes of the preceding Subsections (i) through (vi), the term "Contractor" includes Contractor, its officers, directors, employees, representatives, agents, servants, sub-consultants and subcontractors.

c. City shall give Contractor prompt written notice of any such claim of loss or damage and, shall cooperate with Contractor, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.

d. Notwithstanding the foregoing, City shall have the right if Contractor fails or refuses to defend City with Counsel acceptable to City to engage its own counsel for the purposes of participating in the defense. In addition, if Contractor fails to assume the defense of any claim Contractor is obligated to defend pursuant to this Section 16, City shall have the right to withhold any payments due Contractor in the amount of anticipated defense costs. In no event shall Contractor agree to the settlement of any claim described herein without the prior consultation with the City.

e. Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any action or claim which falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Contractor by City and continues at all times thereafter. Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence or willful misconduct of an Indemnitee.

f. All of Contractor's obligations under this Section 16 are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.

g. The indemnity set forth in this Section 16 shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. City's liability under this Agreement shall be limited to the payment to Contractor in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable. Contractor's liability under this Agreement shall be limited to the payment received from the City under this Agreement or two million dollars (\$2,000,000.00) whichever is greater. The limitation of liability shall not apply to Contractor's intentional misconduct, gross negligence, or any breach of the confidentiality obligation of Section 7, or any infringement claim under Section 16 a. (v), of this Agreement.

**17. Right to Offset Claims for Money**

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of: i) this Agreement, or ii) any purchase order, or iii) any other transaction with Contractor.

**18. Termination on Notice**

a. Either party shall have the right to terminate this Agreement without cause, at no cost except as set forth herein, at any time by giving a minimum of ninety (90) days notice of such termination to the other party. In the event Oakland shall give such notice of termination, Contractor shall immediately cease rendering services pursuant to this Agreement or conform to such other reasonable schedule for "disengagement" as shall be approved by the Project Managers. In the event Oakland shall give such notice of termination and in addition to compensation provided for in Subsection (e) below, Contractor shall be entitled to payment by Oakland equal to a pro-rated portion of the contract inducement payment (on the basis of \$100,000 per year) and compensation for Contractor's unamortized costs associated with the project.

b. Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typing, printing, photocopying and every other means of recording, including pictures, drawings, sounds, symbols or combinations thereof.

c. Oakland shall have full ownership and control of all such Oakland peculiar writings delivered by Contractor pursuant to this Agreement.

d. Contractor shall accomplish data and file transfers as per Section 16.0 "Conversion Procedures."

e. Oakland shall pay Contractor the reasonable value of services rendered by Contractor pursuant to this Agreement; provided, however, that Oakland shall not in any manner be liable for lost profits that might have been made by Contractor had Contractor completed the services required by this Agreement. In this regard, Contractor shall furnish to Oakland such financial information as in the judgment of Oakland's Project Manager is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the

reasonable value of the services rendered by Contractor, the decisions of the Project Manager shall be final. However, the foregoing is cumulative and does not affect any right or remedy that either party may have in law or equity.

f. Notwithstanding the above, in the event that either party is in breach of this Agreement, the non-breaching party may deliver a notice of breach and request to cure such breach within thirty (30) calendar days of receipt of said notice. The breaching party shall provide a cure plan within ten (10) calendar days of receipt of the notice of breach. In the event the breach remains uncured within thirty (30) calendar days of receipt of the notice of termination, the non-breaching party may deliver to the breaching party a notice of termination for cause, the notice period will be ninety (90) calendar days after receipt of written notice by the Project Manager for either party. Cause shall be defined as a substantial breach of this Agreement including, but not limited to, substantial departure from the Performance Standards herein, payment obligations, of timely compliance with necessary data or information submissions that preclude the execution of this Agreement for a period exceeding nine calendar days. Cause shall not include *force majeure* or any event beyond the control of either party.

**19. Conflict of Interest**

a. Contractor

The following protections against conflict of interest will be upheld:

- i. Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- iii. Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor.
- iv. Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 *et seq.*, pertaining to conflicts of interest in public contracting. Contractor shall exercise due diligence to ensure that no such official will receive such an interest.

- v. Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Contractor will promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 *et seq.*) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 *et seq.*).
- vi. Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- vii. Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

b. No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.



20. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1** ("Declaration of Compliance with the Americans with Disabilities Act,") attached hereto and incorporated herein.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

21. Intentionally Omitted

22. Living Wage Ordinance

If the contract amount of this Agreement is equal to or greater than \$25,000 annually, then Contractor must comply with the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service contractors (consultants) of the City and employees of CFARs (Ord. 12050 § 1, 1998). The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the consultant must provide the following to its employees who perform services under or related to this Agreement:

- a. **Minimum compensation** – Said employees shall be paid an initial hourly wage rate of **\$10.83 with health benefits or \$12.45 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1<sup>st</sup> of each year, Contractor shall pay adjusted wage rates.**

- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.56 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) – Contractors shall inform said employees that he or she may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees. There are several web sites and other sources available to assist you. Web sites include but are not limited to: (1) <http://www.irs.gov/efed> for current guidelines as prescribed by the Internal Revenue Service and (2) The 2007 Earned Income Tax Outreach Kit: [www.cbpp.or/eic2007](http://www.cbpp.or/eic2007).
- e. Contractor shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Office of the City Administrator, Contract Compliance & Employment Services Division.

**23. Equal Benefits Ordinance**

a. This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.232.010 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City contractors (consultants) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001)

b. The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

c. The Ordinance shall only apply to those portions of a contractor's operations that occur (1) within the city; (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor

d. The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1 – Equal Benefits-Declaration of Nondiscrimination**.

**24. City of Oakland Campaign Contribution Limits**

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

**25. Nuclear Free Zone Disclosure**

Contractor represents, pursuant to **Schedule P** ("Nuclear Free Zone Disclosure Form"), that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete **Schedule P**, attached hereto.

26. **Political Prohibition**

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

27. **Religious Prohibition**

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

28. **Business Tax Certificate**

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement.

29. **Abandonment of Project**

The City may abandon or indefinitely postpone the project or the services for any or all of the project at any time. In such event, the City shall give thirty (30) days written notice of such abandonment. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Contractor shall have the right to expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor.

Should the project or any portion thereof be abandoned, the City shall pay Contractor for all services performed thereto in accordance with the terms of this Agreement.

30. **Validity of Contracts**

This Agreement shall not be binding or of any force or effect until it is: i) approved by resolution of the City Council as required by the Oakland City Charter, Oakland Municipal Code Title 2.04 and Oakland City Council Rules of Procedure, ii) approved for form and legality by the Office of the City Attorney, and iii) signed by the City Administrator or his or her designee.

31. **Attorneys' Fees**

If either party prevails against the other in a legal action concerning any aspect of this Agreement, such successful party shall be entitled to recover its reasonable attorney's fees and costs incurred in such action from the losing party.

32. **Governing Law**

This Agreement shall be governed by the laws of the State of California.

**33. Entire Agreement of the Parties**

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

**34. Modification**

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

**35. Severability/Partial Invalidity**

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

**36. Time of the Essence**

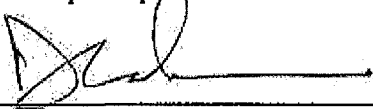
Time is of the essence in the performance of this Agreement.

**[Signatures on following page]**

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

CITY

CITY OF OAKLAND,  
a municipal corporation



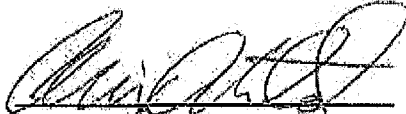
Dan Lindheim  
City Administrator  
Date: 4/2/10



Noel Pinto  
Parking Director

Date: 4/2/10

Approved as to form and legality:



Alix A. Rosenthal  
Deputy City Attorney

CONTRACTOR

ACS STATE & LOCAL SOLUTIONS, INC  
a New York corporation

Name  
Title  
Date:

28008302  
Business Tax Certificate No.

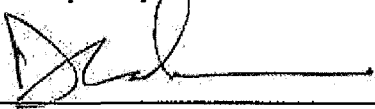
82531 C.M.S.  
Resolution Number

1010-08921-5421  
Accounting Number

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**CITY**

CITY OF OAKLAND,  
a municipal corporation



Dan Lindheim  
City Administrator  
Date: 4/2/10



Noel Pinto  
Parking Director

Date: 4/2/10

Approved as to form and legality:



Alix A. Rosenthal  
Deputy City Attorney

**CONTRACTOR**

ACS STATE & LOCAL SOLUTIONS, INC  
a New York corporation

Name  
Title  
Date:

28008302  
Business Tax Certificate No.

82531 C.M.S.  
Resolution Number

1010-08921-54211  
Accounting Number



IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**CITY:**

CITY OF OAKLAND,  
a municipal corporation

\_\_\_\_\_  
Dan Lindheim  
City Administrator  
Date:

\_\_\_\_\_  
Noel Pinto  
Parking Director

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Alix A. Rosenthal  
Deputy City Attorney

**CONTRACTOR:**

ACS STATE & LOCAL SOLUTIONS, INC.,  
a New York corporation

\_\_\_\_\_  
Name: *M. J. Tello*  
Title: *Vice President*  
Date: *3/29/10*

\_\_\_\_\_  
Business Tax Certificate No.

\_\_\_\_\_  
Resolution Number

\_\_\_\_\_  
Accounting Number

# Exhibit A

## Modifications to Contractor's Proposal

### 1. Contract Inducement

Contractor will pay City \$300,000 within thirty (30) calendar days of executing this Agreement for the initial three-year term of the contract. Contractor shall make additional payments to the City of \$100,000 for each Option Term provided for in the Agreement. For each Option Term, Contractor shall pay the City within thirty (30) calendar days following Contractor's receipt of written notice of the City's exercise of the Option Term. The maximum contract inducement payment made by Contractor hereunder is \$500,000 for a minimum of a full five year contract term.

### 2. Collection Assignment Criteria (Modified San Francisco plan)

Collection Assignment criteria shall be as follows:

- Contractor shall be assigned all unpaid citations meeting one of the following conditions: (i) DMV hold rejects (upon rejection from DMV), (ii) aged DMV holds (defined as citations still unpaid one month after annual registration anniversary); and (iii) citations issued to vehicles with out of state plates; rental and fleet vehicles with outstanding citations unpaid 45 days past the date of issuance. Other Citations may be assigned as determined by the City's Parking Director. At time of assignment, citations will have a 30% collection fee added.
- Contractor will remove the 30% collection fee prior to sending the citations to FTB for tax intercept marking. City will reimburse Contractor for SSN acquisition fees and FTB filing fees (at Contractor cost without-mark-up). If citation is still unsatisfied after FTB process is complete, Contractor will resume collection activities with 30% fee reapplied to the citation balance due.

### 3. Collection Rate Target

Contractor will employ collection techniques as described in the RFP and City will fulfill commitments listed below in Section 4 of this Exhibit A. Contractor will increase the City's current 68% collection rate<sup>1</sup> to 80% after 24 months as follows:

---

<sup>1</sup> Collection rate shall be defined as the percentage of valid citations uploaded to Contractor's system in a given period for which a payment has been received; Valid citations shall not include voids.

All citations issued updated to database:	Evaluated as of: (time periods set forth below begin to run upon the conclusion of the initial three month period)	Minimum Collection Rate Targets:
Starting in operating month three (3)	After 6 months	72%
	After 12 months	74%
	After 18 months	78%
	After 24 months	80%

The first operating month shall be defined as the first full calendar month during which new citations are processed on Contractor's system.

The current City collection rate will be verified by Contractor and City within three months from contract implementation. That shall become the baseline rate for evaluating Contractor's performance relative to the Collection Rate Targets. The foregoing Collection Rate Targets may be adjusted relative to the actual baseline collection rate if it proves to be different than 67.7%. The City and Contractor will mutually agree on methodology to calculate current collection rate and will mutually agree to any changes to the minimum collection rate targets defined above.

#### **4. Collection Program:**

The collection rate targets presented above are expressly conditioned upon the following:

- Contractor will be authorized to utilize its full complement of collection techniques (as described in its Proposal), including but not limited to: collection noticing, DMV holds, outbound calling, credit bureau marking, tax intercepts, and other sanctions as provided for by California state law.
- City ticket dismissal rate, currently estimated at 4%, will not increase by more than one percentage point (i.e. to 5%).
- If the City makes significant changes to payment programs that impact payment behavior, such as amnesty programs, fine or penalty reductions, the City will work with Contractor to make adjustments to the minimum collection rate targets specified above.
- City's booting program and towing programs will be maintained at current or greater resource levels.
- Collection assignments will be system generated weekly based upon criteria specified in Section 2 (Collection Assignment Criteria) of this Exhibit A.

#### **5. Credit Assessments for Contractor's failure to meet Collection Rate Targets**

Contractor shall provide a credit to the City on the Operating Quarter's citation processing invoice for each percentage point that the Collection Rate (rounded up to the highest percentage point) fails to meet the collection rate target for that quarter as follows:

For each percentage point Contractor misses the collection target per the chart in #3 above, Contractor will be assessed 1.5% of its citation processing invoice for the quarter.

The maximum credit assessment in any quarter over the contract term is 10%. A collection rate of 80% will be considered compliant.

For example:

- Citations on the data base for 6 months will be expected to have a Collection Rate of 72% after six months as measured in the following quarter. If instead, they only achieve a collection rate of 70% by the end of following quarter, Contractor shall grant the City a credit equal to 3% of the total amount of its citation invoices for that quarter.
- Citations on the data base for 12 months will be expected to have a Collection Rate of 74% after 12 months as measured in the following quarter. If instead, they only achieve a collection rate of 73% by the end of following quarter, Contractor shall grant the City a credit equal to 1.5% of the total amount of its citation invoices for that quarter.

## **6. Communication lines**

To reduce costs, City will access Contractor's client server via the internet for a trial period of one month from "go live" date, at a processing cost of \$0.93 per citation. Contractor will order T-1 communication lines when the Notice to Proceed is issued, in case internet connectivity is not satisfactory to City at the end of the trial period. If Internet connectivity is satisfactory to City, processing costs will remain at \$0.93 per citation and Contractor will cancel the T-1 line order. If the City is not satisfied with internet connectivity, Contractor will promptly activate T-1 lines in order for the City to connect to Contractor's client system and City processing fee will increase to \$0.99 rate upon installation.

## **7. General Liquidated Damages**

If Contractor does not meet Performance Standards as listed, accepted and clarified in Section 6.3.4.9 of the RFP and Contractor's proposal, Contractor will pay City a penalty not to exceed 10% of total monthly citation processing fees invoiced to the City. Contractor will be subject to and pay these liquidated damages above and beyond the Credit Assessment identified in Section 5 of this Exhibit A.

## **8. Kiosks**

Contractor will provide four payment kiosks as offered in Contractor's Proposal. These kiosks will be accessible to Spanish and Chinese language speakers, in addition to English. Contractor will be responsible for all maintenance and repair of these kiosks.

## **Exhibit B**

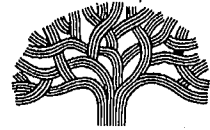
City of Oakland Request for Proposals dated August 7, 2009

**Exhibit C**

Proposal of ACS State & Local Solutions, Inc.

Attachment 2

CITY OF OAKLAND



FINANCE AND MANAGEMENT AGENCY • 150 FRANK H. OGAWA PLAZA, SUITE 5342 • OAKLAND, CALIFORNIA 94612-2093

Revenue Division

(510) 238-2245  
FAX (510) 238-6431  
TDD (510) 238-3254

February 25, 2013

Xerox State & Local Solutions, Inc.  
255 California Street, Suite 550  
San Francisco, CA 94111

Dear XEROX/ACS:

We write in reference to the professional services agreement between our organizations with the effective date of April 02, 2010, wherein Xerox State & Local Solutions, Inc. ("XLS"), formerly "ACS State & Local Solutions, Inc." was engaged to provide services with the City of Oakland, California (The "Agreement").

In accordance with "Section 3. Time of Performance" of the Agreement, the City of Oakland hereby notifies XLS of the City of Oakland exercise of its first One-Year Extension Option. The extended term will then expire as of April 1, 2014, unless extended in the future by the City's exercise of its extension option or other agreement."

Sincerely,

A handwritten signature in black ink that reads "Scott Johnson". The signature is written in a cursive, flowing style.

Scott Johnson  
Assistant City Administrator

Attachment 3

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator  
Deanna J. Santana  
City Administrator

(510) 238-3302  
FAX (510) 238-2223  
TDD (510) 238-2007

December 18, 2013

Xerox State & Local Solutions, Inc.  
255 California Street, Suite 550  
San Francisco, CA 94111

Dear XEROX/ACS:

We write in reference to the professional services agreement between our organizations with the effective date of April 02, 2010, wherein Xerox State & Local Solutions, Inc. ("XSLs"), formerly "ACS State & Local Solutions, Inc." was engaged to provide services with the City of Oakland, California (The "Agreement").


In accordance with "Section 3. Time of Performance" of the Agreement, the City of Oakland hereby notifies XSLs of the City of Oakland exercise of its second and final One-Year Extension Option. The extended term will then expire as of April 1, 2015.

Sincerely,

A handwritten signature in black ink that reads "Deanna J. Santana". The signature is fluid and cursive.

Deanna J. Santana  
City Administrator



Attachment 4  
Approved as to Form and Legality  
  
City Attorney

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2010 FEB 25 PM 2:41

## OAKLAND CITY COUNCIL

RESOLUTION No. 82531 C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A CONTRACT BETWEEN THE CITY OF OAKLAND AND ACS STATE & LOCAL SOLUTIONS, INC., TO PROVIDE A PARKING CITATION ADMINISTRATION AND REVENUE RECONCILIATION SYSTEM (CARRS) AT AN ESTIMATED COST OF NINE HUNDRED THOUSAND DOLLARS (\$900,000) PER YEAR FOR A TERM OF THREE YEARS BEGINNING MARCH 1, 2010 WITH TWO ONE-YEAR OPTIONS TO RENEW**

**WHEREAS**, the City of Oakland wishes to enter into an agreement with ACS State & Local Solutions, Inc. to Provide a Parking Citation Administration and Revenue Reconciliation System (CARRS); and

**WHEREAS**, the City's Purchasing Ordinance, Oakland Municipal Code ("OMC") Chapter 2.04, requires that the City conduct a competitive process (Request for Proposals/ Request for Qualifications) for professional services agreements in excess of \$25,000; and

**WHEREAS**, a competitive Request for Proposals was issued August 7, 2009 and two companies submitted proposals responsive to the City's request; and

**WHEREAS**, upon the City's request, the two companies submitted their "best and final offers" on January 29, 2010; and

**WHEREAS**, through both an internal and external rating process the proposal submitted by ACS State & Local Solutions, Inc. was determined to best meet the needs of the City; and

**WHEREAS**, ACS State & Local Solutions, Inc., is qualified and able to provide an integrated parking citation management system for the City of Oakland within the requirements set forth by the City; and

**WHEREAS**, the City Council finds that the service is professional in nature; and

**WHEREAS**, the City Council finds that the agreement shall not result in the loss of salary or employment by any person having permanent status in the competitive service; and

**WHEREAS**, funds for the agreement are available in the Finance and Management Agency Parking Administration adopted FY 2009-2011 budget in the General Purpose Fund (1010), Organization (08911); now, therefore, be it

**RESOLVED:** That the City Administrator is hereby authorized to negotiate and execute a Professional Service Agreement between the City of Oakland and ACS State & Local Solutions, Inc., to provide a Parking Citation Administration and Revenue Reconciliation System (CARRS) at an estimated cost of Nine Hundred Thousand Dollars (\$900,000) per year for a term of three years beginning March 1, 2010 with two one-year options to renew; and be it

**FURTHER RESOLVED:** That the agreement authorized hereunder is subject to City Attorney approval for form and legality and shall be placed on file in the Office of the City Clerk.

**FEB 16 2010**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2010

**PASSED BY THE FOLLOWING VOTE:**

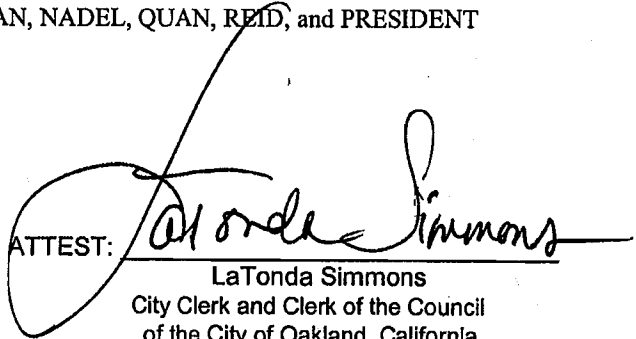
AYES - ~~Brooks, De La Fuente~~; KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 6

NOES - Brooks, De La Fuente - 2

ABSENT - 0

ABSTENTION - 0

ATTEST:

  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

**REVISED**  
12-17-13

*Attachment 5*

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Approved as to Form and Legality

**OAKLAND CITY COUNCIL**

*Katherine M. [Signature]*  
City Attorney

2013 DEC 24 AM 8:38

RESOLUTION NO. 84776 C.M.S.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND CLARIFYING THAT THE CONTRACT AMOUNT FOR THE EXISTING CONTRACT WITH ACS STATE AND LOCAL SOLUTIONS INC., FOR PARKING CITATION ADMINISTRATION AND REVENUE COLLECTION SERVICES, IS NINE HUNDRED THOUSAND DOLLARS (\$900,000) PLUS 30% OF THE FEES CONTRACTOR COLLECTS FROM MOTORISTS, AND AUTHORIZING AN APPROPRIATION UPON RECEIPT OF COLLECTION FEE REVENUES IN AN ANNUAL AMOUNT NOT TO EXCEED TWO MILLION, EIGHT HUNDRED THOUSAND DOLLARS (\$2,800,000), AS REQUIRED AND EQUAL TO THE THIRTY PERCENT (30%) SPECIAL COLLECTION FEE ON ALL ASSIGNED CITATIONS, WHICH IS IMPOSED BY THE CONTRACTOR IN ADDITION TO THE MOTORIST'S OUTSTANDING CITATION**

**WHEREAS**, at the February 16, 2010 regular meeting of the City Council of the City of Oakland, the City Council adopted Resolution 82531 C M S , authorizing the City Administrator to negotiate and execute a Contract between the City of Oakland and ACS State & Local Solutions, Inc ("ACS"), to provide a parking citation administration and revenue reconciliation system ("CARR"), and

**WHEREAS**, the Contract was for a three-year term commencing April 2, 2010, with two one-year options to renew, and

**WHEREAS**, the initial three-year term expired March 31, 2013, and the City exercised a one-year renewal option beginning April 1, 2013 through March 31, 2014, and

**WHEREAS**, there is an additional one-year renewal option available should the City choose to exercise it for the term of April 1, 2014 through March 31, 2015, and

**WHEREAS**, Resolution 82531 C M S resolved that the Contract was for an estimated annual amount of Nine Hundred Thousand Dollars (\$900,000) per year, and

**WHEREAS**, the estimated \$900,000 annual Contract cost is for the CARR system and is inclusive of, (i) per citation processing costs, (ii) reimbursable costs, (iii) lock box payment processing, (iv) mail processing equipment, and (v) as needed consultation services, and

**WHEREAS**, the City's expenditure estimate was accurate in reflecting the costs for the CARR system but did not reflect the Special Collection Fee component of the Contract memorialized in Section 4 b (6) Special Collections Contractor is authorized to add and collect a 30 percent (30%) contingency collection fee ("Collection Fee") on all citations updated or uploaded to eTIMS, so long as the City is not responsible for such fee, and

**WHEREAS**, the Collection Fee is imposed by the Contractor, is separate from and in

addition to the cost of the citation and is calculated by multiplying the citation fee by 30 percent (30%) and

**WHEREAS**, ACS collects and remits all collected parking citation fees, including the Collection Fee, to the City and then invoices the City separately for (1) CARR system services rendered and (11) the Collection Fee in accordance with the Contract, and

**WHEREAS**, the annual value of the Collection Fee is fluid and dependent upon successful collection of delinquent parking tickets by ACS, for example, in Fiscal Year 2012 the Collection Fee passed through to ACS was \$867,848 and in Fiscal Year 2013 the Collection Fee passed through to ACS was \$1,959,714, and

**WHEREAS**, there is a correlation between an increase in ACS' Collection Fee and an increase in the City's delinquent parking citation revenues, Fiscal Year 2012 revenues net of Collection Fee were \$2,372,794 and in Fiscal Year 2013 revenues net of Collection Fee were \$5,590,333, and

**WHEREAS**, Resolution 82531 C M S does not provide sufficient spending authority for the Collection Fee, which necessitates adoption of a Resolution authorizing an appropriation of such funds as required and equal to the Collection Fee and not to exceed \$2,800,000 annually, and

**WHEREAS**, funds for the Contracted CARR system are available in the Department of Administrative Services Fiscal Years 2014 and 2015 adopted budget in the General Purpose Fund (1010), Organization (08921), and

**WHEREAS**, funds collected for the Special Collection Fee will be received as revenue into the General Purpose Fund (1010), appropriated as an offsetting expenditure in an amount equal to the collection fee received, but not to exceed \$2,800,000 annually, and remitted to ACS, now, therefore, be it

**RESOLVED:** That by adoption of this Resolution the City Council of the City of Oakland hereby establishes spending authority on the existing contract with ACS State and Local Solutions Inc , to an amount not to exceed Nine Hundred Thousand Dollars (\$900,000) per year for the remaining terms of the Contract for parking citation administration and revenue reconciliation system, and be it further

**RESOLVED:** That the City Council of the City of Oakland hereby authorizes an appropriation not to exceed Two Million Eight Hundred Thousand Dollars (\$2,800,000) as required and equal to the Thirty Percent (30%) Collection Fee on all assigned citations, which is imposed by the Contractor and is in addition to the motorist's outstanding citation

**JAN 07 2014**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

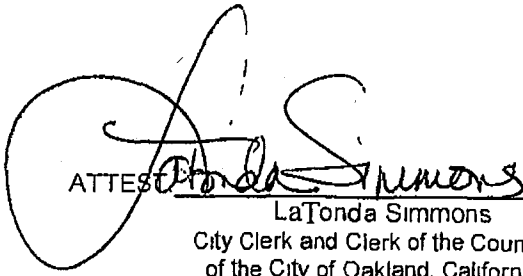
**PASSED BY THE FOLLOWING VOTE**

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN - 8

NOES - 0

ABSENT - 0

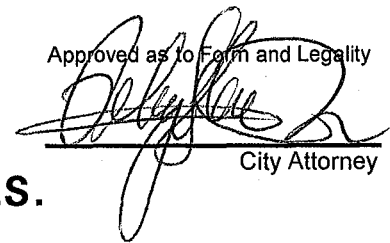
ABSTENTION - 0

ATTEST   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

2015 MAR 12 PM 10:01

# OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION WAIVING THE REQUEST FOR QUALIFICATIONS ("RFQ"), COMPETITIVE SELECTION ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A THIRD AMENDMENT TO THE AGREEMENT WITH ACS STATE AND LOCAL SOLUTIONS INC. (ACS/XEROX), EXTENDING THE TERM OF THE AGREEMENT FOR A PERIOD NOT TO EXCEED ONE-YEAR, STARTING APRIL 2, 2015 AND TERMINATING APRIL 1, 2016 TO PROVIDE A PARKING CITATION ADMINISTRATION AND REVENUE RECONCILIATION ("CARR") SYSTEM; AND COMPENSATE ACS/XEROX UNDER THE CURRENT TERMS OF THE EXISTING CONTRACT IN AN AMOUNT NOT TO EXCEED \$900,000**

**WHEREAS**, at the February 16, 2010 regular meeting of the City Council of the City of Oakland, the City Council adopted Resolution 82531 C.M.S., authorizing the City Administrator to negotiate and execute a Contract between the City and ACS/Xerox, to provide a CARR system; and

**WHEREAS**, the Contract was for a three-year term commencing April 2, 2010, with two one-year options to renew; and

**WHEREAS**, the initial three-year term expired April 1, 2013, and the City exercised a one-year renewal option beginning April 2, 2013 through April 1, 2014; and

**WHEREAS**, the City exercised the final one-year renewal option beginning April 2, 2014 through April 1, 2015; and

**WHEREAS**, the City desires to maintain ACS/Xerox services to provide a CARR system by extending the existing Agreement for a period not to exceed one-year in accordance with "Section 3. Time and of Performance" of the contract, as this extension will provide sufficient time to finalize a RFQ and award a replacement contract; and

**WHEREAS**, the Contract annual cost is not to exceed \$900,000 and is for the CARR system and is inclusive of , (i) per citation processing costs, (ii) reimbursable costs, (iii) lock box payment processing, (iv) mail processing equipment, and (v) as needed consultation services; and

**WHEREAS**, the Collection Fee is imposed by ACS/Xerox, is separate from and in addition to the cost of the citation and is calculated by multiplying the citation fee by 30 percent (30%), and

**WHEREAS**, ACS/Xerox collects and remits all collected parking citation fees, including the Collection fee to the City and then invoices the City separately for (i) CARR system services rendered and (ii) the collection fee in accordance with the Contract, and

**WHEREAS**, the annual value of the Collection Fee is fluid and dependent upon successful collection of delinquent parking tickets by ACS/Xerox; and

**WHEREAS**, funds for the Contracted CARR system are available in the Revenue Management Bureau FY 2014-15 adopted budget in in the General Purpose Fund account:1010.08921.54211.IP60; and

**WHEREAS**, funds collected for the Special Collection Fee will be received as revenue into the General Purpose Fund (1010), appropriated as an offsetting expenditure in an amount equal to the collection fee received, not to exceed \$2,800,000 annually, and remitted to ACS/Xerox; and

**WHEREAS**, the City Council finds that the services are professional, scientific or technical and the one-year extension is temporary and will not result in the loss of salary or employment by any person having permanent status in the competitive service; now, therefore, be it

**RESOLVED:** That pursuant to O.M.C 2.04.050.I. and for the reasons stated above and in the City Administrator’s report accompanying the item, the City Council finds that is it in the best interests of the City to waive advertising and bidding requirements for this contract and so waives the requirements; and be it

**FURTHER RESOLVED:** That pursuant to OMC 2.04.051.B and for the reasons stated above and in the City Administrator’s report accompanying this item, the City Council finds that it is in the best interests of the City to waive the Request for Proposal/Qualifications requirements for this contract and so waives the requirements; and be it

**FURTHER RESOLVED:** That the City Council of the City of Oakland hereby authorizes the City Administrator to execute a Third Amendment to the Agreement with ACS State and Local Solutions Inc., (ACS/XEROX), extending the term of the Agreement one-year ending April 1, 2016 in an amount not to exceed \$900,000, continuing with same payment and other terms stated in the current Second Amended to the Agreement. .

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California