

FOURTH AMENDATORY AGREEMENT

THIS FOURTH AMENDATORY AGREEMENT (“Amendment”) is between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“City”), and **ACS STATE & LOCAL SOLUTIONS, INC.**, a New York corporation whose address is 518 17th Street, Suite 400, Denver, Colorado 80202 (“ACS”), individually referred to as “Party” and collectively as “Parties.”

RECITALS:

WHEREAS, the Parties entered into an agreement dated June 19, 2007, and amendments to such agreement on November 25, 2008, August 25, 2009, and October 27, 2009 (“Agreement”); and

WHEREAS, The Parties desire to further amend the Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the Parties incorporate the recitals set out above and mutually agree as follows:

1. Article 4, **Compensation**, to the Agreement is hereby amended by the addition of Subsection D, Reimbursable Expenses, as follows:

“D. Other Hardware or Software Expenses: The Contractor shall be entitled to full reimbursement of costs for any reasonable and necessary equipment, software or services procured for the maintenance and/or enforcement of the City’s parking infrastructure; including, but not limited to, enforcement chariots, meters, payment kiosks, booting systems, Residential Parking Permit systems. Such costs shall be subject to prior review and approval by the City and shall not exceed actual procurement costs by twenty percent (20%).”

2. Article 7, Section 7.1, **Term**, of the Agreement is hereby deleted in its entirety and replaced with the following:

“The Term of this Agreement shall commence on July 1, 2007, and shall end on June 30, 2014.”

3. Exhibit A, Section 1.2.7 (E) 1 of the Agreement, is hereby amended to add the following paragraph:

“Collectors will be trained in all Denver business rules. Collectors’ evaluations will focus on key quality criteria, ensuring calls meet City and ACS guidelines

and adherence to state and federal laws. All collections calls will be recorded. The local ACS office will have the ability to monitor recorded collections calls. The electronic dialing system will use a link-back transfer system to allow the debtor to be connected to the collector. The dialing will have unlimited line capacity. Auto dialer activity reports can be generated as needed. The electronic dialing system will interface with eTIMS®, allowing updates to the dialing system of collections files, debtor contact information including telephone numbers, and payment, suspend, and disposition activity. If eTIMS® telephone information is outdated or incomplete, collectors will perform additional skip tracing using Acxiom/Insight, which has a 75% - 90% success rate. Updated telephone numbers will be added to the collection database for correct party contact during subsequent dialing campaigns. The updated information will also be input into eTIMS® to ensure both databases are concurrent.”

4. Exhibit A, Section 1.2.8, A(8) of the Agreement is hereby deleted in its entirety and replaced with the following:

“ACS notices shall contain key line data that allows electronic interface with the US Postal Service data base. When a notice address does not match the USPS address of record, the Postal Service will send an electronic address data file to ACS. ACS shall apply the updated address information to the citation record. The noticing cycle then continues with the notices being sent to the new address.”

5. Exhibit A, Section 1.2.8, A of the Agreement is hereby amended to add Section 1.2.8, A(9) as follows:

“(9) ACS shall Implement the eTIMS® Installment Payment Plan (IPP) subsystem, in accordance with the implementation schedule set forth in Exhibit A of this Amendment, to provide citizens with a time payment plan for unpaid parking citations that equally divides the total balance due on an account over a specific number of months.

The system will provide the City with the required accurate and auditable processing associated with each phase of a plan’s life cycle. Customized rules will be developed for the City to govern plan eligibility, schedules, correspondence timing and text, plan fulfillment policies, plan cancellation policies, and report generation. The IPP system will have the capability to:

1. Enroll debtors in a plan
2. Create payment schedules
3. Add or remove citations from a payment plan

4. Add or remove debtors from a payment plan
5. Cancel a plan
6. Make payments or adjustments
7. Allow authorized users to view plan details

System users will be able to identify either the number of payments or amount per payment. Users will also be able to identify the start date and frequency of the payments. The system will generate a schedule of payments with the individual amounts due on the respective dates.

The system will be able to track individual installments due as the open item to be paid. ~~Open items will be displayed with a Time Payment status, and the finance function will display the individual installments with their respective due dates.~~ The payment processing function will display the individual payment installments and payments will be applied here rather than to individual citations. The citation records will continue to display a time payment open status until the plan is completely paid.

The Installment Payment Plan will have the capability to be updated as necessary and allow additional citations to be added to the plan, with updates to the installment, if desired. System users will also have the capability to set up a plan that covers citations on multiple plate records.

A unique plan number will be established for each IPP plan created. The plan can be accessed by inquiring on name, plate number, or plan number.

A past-due notice function will be provided for Installment Payment Plans to send notification to customers that have missed installment payments. A notes area will be used to record any communication associated with the payment plan.

The IPP subsystem will be fully integrated so that any citation enforcement actions and financial transactions are automatically evaluated and applied to both plan and citation records.”

6. Exhibit A, Section 1.2.8, A of the Agreement is hereby amended to add Section 1.2.8, A(10) as follows:

“(10) ACS shall develop an Internet Application (Public Web Portal), in accordance with the implementation schedule set forth in Exhibit A of this Amendment, to provide citizens with the ability to create a single account from which they can view and manage their parking citation activity. The Public Web Portal (PWP) will provide payment convenience, by linking to the Denver PVB Pay-By-Web site.

The PWP will allow citizens to proactively manage parking citation activity by providing online access and timely alerts about critical events in the citation life cycle. Account holders will be able to:

1. View accounts online.
2. Enroll up to four license plates into a single account.
3. Automatically receive e-mail notification:
 - when a new citation is issued
 - when a payment is applied
 - when a citation/account is no longer eligible for a hearing
 - before a late penalty is applied
 - before a citation is assigned to collections
4. The PWP will provide account holders with an option to receive notices electronically.

The system will provide a screen that allows a user to create a new account. The user will receive a confirmation e-mail to the registered e-mail account. For security reasons, the password will be mailed to the registered owner. Once an account is established, the user can select eTIMS® events that will trigger an e-mail or special announcement.

Before being granted access to parking citation information, the system will require a user to authenticate them to the system, using a user name and password combination. Before an item can be added to an existing account, the system will provide a screen that requires the user to provide additional information to verify their identity.”

7. Exhibit A, Section 2, of the Agreement is hereby amended to add the following as an additional line item in the table:

“All costs of relocating and/or installing MDT units shall be an additional cost to the City not to exceed actual costs by twenty percent (20%). Such additional cost shall be subject to prior review and approval by the City and shall be reimbursable to ACS.”

8. Exhibit A, Section 2, of the Agreement is hereby amended to add the following as an additional line item in the table:

“All maintenance costs for handhelds and printers, including maintenance agreements, break and fix repairs, and associated shipping costs, and programming costs for additional customization of the handhelds shall be at an additional cost to the City not to exceed actual costs by twenty percent (20%).

Such additional cost shall be subject to prior review and approval by the City and shall be reimbursable to ACS.”

9. Exhibit A, Section 3, of the Agreement is hereby amended to add the following as an additional line item in the table:

“Additional programming costs to customize the eTIMS® interface with the IPS meter system to support the specific needs of Denver shall be at an additional cost to the City. Such additional cost shall be subject to prior review and approval by the City and shall be reimbursable to ACS.”

10. Exhibit A, Section 3, Customer Service Enhancements, of the Agreement is hereby amended to replace the language in #3 with the following:

“3. All costs associated with kiosk services including but not limited to kiosk service fees, transaction fees, kiosk maintenance charges, kiosk supplies, and additional kiosk programming charges shall be at additional costs to the City not to exceed actual costs by twenty percent (20%). Such additional costs shall be subject to prior review and approval by the City, and shall be reimbursable to ACS.”

11. Exhibit A, Section 3, of the Agreement is hereby amended to replace Optional Enhancement #4, AutoVu, with the following language:

“All costs associated with AutoVu or another License Plate Recognition system as required by the City, including any repairs or upgrades to the existing system, programming associated with installing or modifying such systems, extended maintenance agreements, break and fix repairs, and associated shipping costs shall be at an additional cost to the City not to exceed actual costs by twenty percent (20%). Such additional costs shall be subject to prior review and approval by the City and shall be reimbursable to ACS.”

- 12 Exhibit B, Section A(1), Term Compensation, of the Agreement is hereby amended to reflect a per citation fee of Two Dollars and Seven Cents (\$2.07) for each fully processed Parking Citation, and a fee of One Dollar (\$1.00) for each void or canceled citation.

- 13 Exhibit B, Section (B) of the Agreement, is hereby amended to add the following paragraph: “If the collection charges as authorized by D.R.M.C. § 53-4 have applied to a citation after the sixtieth (60th) day and those collections charges are reduced or dismissed by the courts, the Contractor will be compensated by the City in the amount of twenty-

five percent (25%) of the amount paid towards the fine, in lieu of the fee authorized by D.R.M.C. §53-4.”

14. Exhibit B, Section C of the Agreement, is hereby amended to add the following paragraph as reimbursable costs:

“The City shall pay Contractor reasonable charges associated with mailing passwords to new account applicants of the Public Web Portal, reasonable charges associated with generating and mailing Installment Payment Plan notices, any other reasonable charges the Parties may agree to.”

15. Prior the execution of this Amendment, ACS has incurred costs that fall within the new “Reimbursable Expenses” section set forth above. The City agrees to pay ACS for such incurred costs in an amount not exceeding Six Thousand Dollars (\$6,000), so long as ACS provides appropriate documentation of such expenses.

16. The first sentence in Section A(2) of Exhibit B of the Agreement is hereby deleted in its entirety and replaced with the following:

“As base compensation during any duly exercised Renewal Term of the Agreement for providing and Operating the PMIS, providing all PMIS Hardware and Software and performing all Related Services, the City agrees to pay and the Contractor agrees to accept, as full compensation, a fee of Two Dollars and Seven Cents (\$2.07) for each fully processed Parking Citation, plus an adjustment amount equal to the actual percentage increase in that fee determined by a percentage increase in the Consumer Price Index for the Denver Metropolitan Area during the previous twelve (12) month period; and a fee of One Dollar (\$1.00) for each void or canceled Parking Citation sent to the Contractor by the City or downloaded from any hand-held Parking Citation unit.”

17. Section 9.16 is deleted in its entirety and replace with the following:

9.16 NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:

~~§~~ This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

~~§~~ The Consultant certifies that:

- (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

- (2) It will participate in the E-Verify Program, as defined in § 817.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

~~6~~—The Consultant also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall not enter into a contract with a sub-consultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program.
- (4) It is prohibited from using either the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Consultant to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (5) If it obtains actual knowledge that a sub-consultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such sub-consultant or subcontractor and the City within three (3) days. The Consultant will also then terminate such sub-consultant or subcontractor if within three (3) days after such notice the sub-consultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the sub-consultant or subcontractor provides information to establish that the sub-consultant or subcontractor has not knowingly employed or contracted with an illegal alien.
- (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. The Consultant is liable for any violations as provided in the Certification Ordinance. If Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Consultant from submitting bids or proposals for future contracts with the City.

18. Section 9.23, 9.24 and 9.25 are added to the Agreement which read as follows:

9.23 **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

9.24 **INTELLECTUAL PROPERTY RIGHTS:** The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Consultant and paid for by the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, "Materials"), shall belong to the City. The Consultant shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, et seq., the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the Consultant (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity. Notwithstanding any provision herein to the contrary, City and Consultant agree that all pre-existing intellectual property, including but not limited to software, associated documentation, software upgrades, modifications and customizations, provided to City will at all times remain the property of Consultant and/or its vendors. In the event Consultant or Consultant's vendor(s) provides City with pre-existing intellectual property (whether owned by Consultant or by a third party), City will receive a limited license to use such intellectual property. Specific licensing terms will be negotiated on a case-by-case basis.

9.25 **OWNERSHIP OF DATA:** Consultant acknowledges the City's ownership of the data to be installed upon the Consultant's System. Upon termination of this Agreement by either party, or upon conclusion of the Agreement term, Consultant agrees to extract all City-owned data from its System and deliver it to the City within 15 days. The data shall include all contents of all files created, maintained, and owned by the City. The designated format for the data to be extracted shall be determined by the City. Appropriate documentation shall be provided. These Services will not be delayed or

withheld by Consultant in the event of any legal proceeding initiated by either party. Consultant will be available throughout this period to answer questions about data schema, transformations, and other elements required to fully understand and utilize City's data file.

All other provisions of the Agreement not amended by this Amendment shall remain in effect and in full force.

REMAINDER OF PAGE BLANK

ATTACHMENT A IMPLEMENTATION SCHEDULE

Both Parties recognize the importance of a smooth implementation of the Public Web Portal and Installment Payment Plan. As such, the City shall provide ACS with a copy of the City's business rules, guidelines and applicable ordinances no later than fifteen (15) calendar days from the date that copies of the executed agreement are delivered to ACS.

Business Rules:

The Business Rules shall include the following information:

- 1) Rules for the Public Web Portal (PWP) shall include information about eligibility requirements, account deactivation requirements, and other City requirements.
- 2) Rules for the eTIMS® Installment Payment Plan (IPP) shall include information about Plan eligibility, Plan down payments, Plan payment terms, Plan agreements and notices, resolution of delinquent accounts, and other City requirements..

Implementation:

ACS will work with the City to complete the actual implementation of the deliverable items. City staff will coordinate with ACS staff during the deployment.

City personnel will be responsible for the following activities:

- Providing business rules for the Public Web Portal (PWP).
- Providing business rules for the Installment Payment Plan (IPP).
- Ensuring that Business Rules comply with city ordinances regarding collections of parking citation debt.

ACS personnel will be responsible for the following activities:

- Designing, testing, and implementing a Public Web Portal (PWP) in compliance with City technology requirements as stated in the original contract.
- Making the PWP available to qualified vehicle owners.
- Training City personnel on the functions of the PWP so they can explain the service to the public.
- Providing the eTIMS® Installment Payment Plan (IPP) subsystem.
- Training City personnel in the use of the eTIMS® IPP subsystem.

Implementation Timetable:

Implementation of the deliverable systems will begin once the City has provided ACS with an executed version of this Amendment.

Both Parties agree to the following deployment timetable listed below for the implementation of the deliverable items. This timetable may be modified by mutual agreement.

The number of 'days' indicates the number of calendar days subsequent to the City providing ACS with copies of the executed agreements.

- 15 days: City shall provide ACS with the all applicable business rules.
- 30 days: ACS shall provide reconciliation, agreement, and approval of the business rules.
- 90 days: (60 days from receipt of documented and approved business rules) ACS shall implement a production version of the eTIMS® Installment Payment Plan subsystem and provide training for City personnel.

90 days: (60 days from receipt of documented and approved business rules) ACS shall implement a production version of the Public Web Portal and provide training for City employees.

Contract Control Number: CE75006

Vendor Name: ACS STATE & LOCAL SOLUTIONS

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

DAVID W. BROADWELL, Attorney
for the City and County of Denver

By _____

By _____

By _____



