

City of Santa Fe, New Mexico

memo

DATE: December 20, 2013

TO: Governing Body

VIA: Robert Rodarte, Purchasing Officer *RR*
Jon Bulthuis, Transportation Director *JB*
Sevastian E. Gurule, Parking Division Director *SEG*

FROM: PJ Griego, Parking Enterprise Fund Accountant *PJG*

RE: IPS Group Inc. Contract for Parking Equipment and Related Services

ITEM AND ISSUE:

Request for Approval of Contract for Parking Equipment and Related Services.

BACKGROUND AND SUMMARY:

The Parking Division is seeking approval to purchase new parking meters (with credit card payment option). There are currently 1200+ parking meters installed on the streets of downtown Santa Fe. These meters accept coin and cash key payments only (with the exception of 30 pilot project credit card meters). The model of the current parking meters dates back to 1992. The Parking Division intends to progressively replace the existing parking meters over the next five to ten years. The intent of the initiative to progressively replace the parking meters is to increase efficiency and strengthen internal controls. The effort has received great support from Councilor Dimas, Councilor Calvert, Councilor Ives and Councilor Bushee.

This contract is a cooperative purchase based on City of Berkley Request for Proposal Specification No. 11-10585-C for Single-space Parking Meters and Management System. The City Parking Division and IPS Group Inc. (IPS) desire to enter into this agreement for IPS to deliver, install, and service two hundred (200) single space parking meters with credit card capability at a price of \$485 each. IPS shall deliver a secure wireless data connection at a monthly rate of \$3.75 per meter per month. IPS shall deliver a management system license at a monthly rate of \$2.00 per meter per month. IPS shall deliver credit card gateway services at a rate of \$0.13 per transaction.

The Parking Division currently has thirty (30) of the aforementioned parking meters installed at various locations which have been part of a year-long pilot program. The results of the pilot program have revealed that there is an increased level of accountability by using said meters. The accountability is demonstrated by the real-time data that is transmitted and available for viewing via the comprehensive web-based management system. The real-time audit reports allow for increased revenue control which is a major goal for the Parking Division. The credit card usage during the pilot program was 25%. The Parking Division anticipates the credit card usage will increase as more meters are installed. The usage of the credit card payment option decreases the amount of cash handling which also contributes to the increased revenue control. The credit card processing is PA-DSS and Level 1 PCI-DSS Certified.

The pilot program was well received by the community. Patrons like having the option to use credit card for payment as they don't have to find coins. This allows the patron to pay the desired amount and not have to worry about rushing and/or receiving a citation. By providing an additional payment option, the Parking Division is able to address another main goal which is being customer-friendly.

IPS has been manufacturing credit card parking meters for seven years. IPS has proven reliability with thousands of meters installed in cities such as Los Angeles, CA (33,000); San Francisco, CA (5,900); Denver, CO (6,000); Santa Monica, CA (6,000); and Berkley, CA (1,500). There are two other vendors that make similar parking meters that the Parking Division was in contact with; Duncan and MacKay. Duncan and MacKay have been manufacturing credit card parking meters for 1-2 years and chose not to participate in the pilot program. The Parking Division chose to use IPS due to the fact that there has not been a substantial period that Duncan and MacKay have been manufacturing such parking meters. It is a major concern to purchase equipment that has not been proven to be reliable. The IPS web based management system is also very reliable and user-friendly as compared to Duncan and MacKay.

The total agreement amount is one hundred eighty nine thousand six hundred forty dollars (\$189,640). Funds are budgeted in business unit and line item 52154.572400 Inventory Exempt for the purchase of the meters and business unit line item 52154.561750 for related services.

RECOMMENDED ACTION:

1. Approval of Contract for Parking Equipment and Related Services in the amount of one hundred eighty nine thousand six hundred forty dollars (\$189,640).



City of Santa Fe Summary of Contracts, Agreements, & Amendments

5 **Procurement Method of Original Contract:** (complete one of the lines)

RFP# _____ Date: _____

RFQ _____ Date: _____

Sole Source _____ Date: _____

Other _____

6 **Procurement History:** _____
example: (First year of 4 year contract)

7 **Funding Source:** Inventory exempt/ Bank charges & fees **BU/Line Item:** 52154.572400 /52154.561750.

8 **Any out-of-the ordinary or unusual issues or concerns:**

(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** PJ Griego
Phone # _____ -6857

10 **Certificate of Insurance attached.** (if original Contract)

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CONTRACT FOR PARKING EQUIPMENT AND RELATED SERVICES

This Agreement To Purchase Parking Meter Equipment And Related Services

("Agreement") is made effective November _____, 2013 (the "Effective Date"), by and between the City of Santa Fe, NM, a municipal corporation (the "City"), and IPS GROUP, INC., a Pennsylvania corporation ("IPS"), with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of New Mexico with the power to carry on its business as it is now being conducted under the statutes of the State of New Mexico and the Charter of the City of Santa Fe.
- B. IPS is a Pennsylvania corporation that is qualified to do business, and is doing business, in the State of California. IPS markets and supports a certain web-based system and operating system software known as the IPS Data Management System (the "DMS").
- C. City seeks to purchase a smart parking meters system for use by the City's Parking Operations pursuant to the terms and conditions of this contract.
- D. This Contract is a cooperative purchase based on City of Berkeley Request for Proposal Specification No. 11-10585-C for a Single-space Parking Meter and Management system, with contract authorization from Berkeley City Council Resolution No. 65,466-N.S., and Contract # 9027 (CMS#LSX72) dated May 21, 2012, and as amended in the form on Contract Amendment #9027A dated March 19, 2013, and authorized by Berkeley City Council Resolution 66,037N.S. This agreement is attached as Exhibit B, and incorporated into this agreement by reference.
- E. City and IPS desire to enter into this Agreement for IPS to deliver, install, and service its single space parking meters and related equipment (i.e., such as vehicle detection systems and other parking related equipment contemplated by this contract) in conjunction with the DMS (collectively, "IPS Equipment and Software") to the City upon the terms and conditions set forth below.
- F. IPS shall deliver and install 200 Single Space Parking Meter Mechanisms with Credit Card Capability at a price of \$485 each. Said parking meters must be compatible with the existing Duncan models. The City shall pay to IPS in full, payment for services rendered, a sum not to exceed ninety-seven thousand dollars (\$97,000) inclusive of gross receipts tax.
- G. IPS shall deliver a Secure Wireless Data connection at a monthly rate of \$3.75 per meter per month. The annual cost is nine thousand dollars (\$9,000) for the term of the contract, not to exceed thirty six thousand dollars (\$36,000).
- H. IPS shall deliver a Management System License at a monthly rate of \$2.00 per meter per month. The annual cost is four thousand eight hundred dollars (\$4,800) for the term of the contract, not to exceed nineteen thousand two hundred dollars (\$19,200).

- I. The City shall provide IPS with the required merchant account information. This information is necessary in order for the credit card payments to be routed to the City's bank. This process is standard protocol and will be handled in conjunction with the City Finance Department. In addition, IPS shall provide credit card gateway services at a rate of \$0.13 per transaction. The annual cost is nine thousand three hundred sixty dollars (\$9,360) for the term of the contract, not to exceed thirty seven thousand four hundred forty dollars (\$37,440). Assumes 30 transactions per meter per month.
1. **Term of Agreement.** The initial term of the Agreement means the period from the Effective Date above and will be in effect for a period of four (4) years. The City shall have the option to extend the term of the Agreement for additional one (1) year increments, for a period not to exceed four (4) years. City shall notify the Contractor of its intention to exercise the option to extend the Agreement at least ninety (90) days prior to the end of each such term.
2. **Notices:** All notices under this Agreement must be in writing, shall refer to the title and effective date of this Agreement, and shall be sufficient if given personally, sent and confirmed electronically, or mailed certified, return receipt requested, postage prepaid, and at the address hereinafter set forth or to such address as such party may provide in writing from time to time. Any such notice will be deemed to have been received five days subsequent to mailing. Notices shall be sent to the following addresses:

IPS:
 IPS Group, Inc.
 5601 Oberlin Dr, Suite 100
 San Diego, CA 92121
 Attn: Chad Randall
 chad.randall@ipsgroupinc.com
 tel: 858-4040-0607

City:
 City of Santa Fe Parking Division
 500 Market St. Suite 200
 Santa Fe, NM 87501
 Attn: PJ Griego
 pjgriego@santafenm.gov
 tel: 505-955-6857

General contract terms and conditions of the City are incorporated herein by reference and are attached as Exhibit A.

In witness whereof, the parties have caused this Agreement to be executed the day and year first above written.

ATTEST:

CITY OF SANTA FE

 YOLANDA Y. VIGIL, CITY CLERK

By: _____
 DAVID COSS, MAYOR

APPROVED AS TO FORM:



KELLEY BRENNAN
INTERIM CITY ATTORNEY 12/9/13

APPROVED:

MARCOS TAPIA, FINANCE DIRECTOR
52154.572400

CONTRACTOR:
IPS GROUP, INC.,
a Pennsylvania Corporation

By: _____
CHAD P. RANDALL
Chief Operating Officer

Exhibit A
City of Santa Fe NM Standard Terms and Conditions

CITY OF SANTA FE (CITY)

IPS GROUP INC. (CONTRACTOR)

INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties

with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the addresses above (page 2).



CERTIFICATE OF LIABILITY INSURANCE

OP ID: J5

DATE (MM/DD/YYYY)
10/08/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Leavitt Ins Agency San Diego CA License #0B72756 3636 Nobel Drive, Suite 100 San Diego, CA 92122 Andrew James	Phone: 858-259-5800 Fax: 858-259-6069	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: IPSGR-1	FAX (A/C, No):
	INSURED IPS Group, Inc. 5601 Oberlin Drive, Suite 100 San Diego, CA 92121		INSURER(S) AFFORDING COVERAGE NAIC #
		INSURER A : National Fire Ins of Hartford	20478
		INSURER B : American Casualty Company	20427
		INSURER C : Continental Casualty Co	20443
		INSURER D : Valley Forge Insurance Co	20508
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		4034371571	10/19/2013	10/19/2014	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC
B	AUTOMOBILE LIABILITY			4034371554 NO OWNED AUTOS	10/19/2013	10/19/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						\$
<input checked="" type="checkbox"/> NON-OWNED AUTOS	\$						
C	<input checked="" type="checkbox"/> UMBRELLA LIAB			4034371568	10/19/2013	10/19/2014	EACH OCCURRENCE \$ 5,000,000
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE \$ 5,000,000
	<input type="checkbox"/> DEDUCTIBLE						\$
	<input checked="" type="checkbox"/> RETENTION \$ 10,000						\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	N/A	5084046939 CALIFORNIA 5084046987 OTHER STATES	03/19/2013	03/19/2014	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
A	Tech E&O/Network/Privacy/Media			4034371571 DEDUCTIBLE: \$50,000	10/19/2013	10/19/2014	Ea Occ 5,000,000
							Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Re: Parking Meter Field Trial Agreement.

City of Santa Fe, NM is named as respects General Liability per attached.

CERTIFICATE HOLDER**CANCELLATION**

City of Santa Fe, NM P.O. Box 909 Santa Fe, NM 87505-0909	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Janet Astata</i>
---	--

© 1988-2009 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
TECHNOLOGY GENERAL LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Part.

1. ADDITIONAL INSURED – BLANKET VENDORS

WHO IS AN INSURED (Section II) is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (1) The exceptions contained in Subparagraphs d. or f.; or
 - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
 3. This provision 1. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Coverage Part.
 4. This provision 1. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Coverage Part or by endorsement.

2. MISCELLANEOUS ADDITIONAL INSURED

WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal injury and advertising injury," but only the following persons or organizations are additional insureds under this endorsement and coverage provided to

40020007140343715715491



such additional insureds is limited as provided herein:

a. Additional Insured – "Your Work"

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

- (1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- (2) The coverage provided to the additional insured by this paragraph. **2.a.**, does not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless:
 - (a) It is required by the written contract or written agreement; and
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard" is not excluded either by the provisions of the Coverage Part or by endorsement.
- (3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

b. State or Political Subdivisions

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:

(a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

(b) The construction, erection, or removal of elevators; or

- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

c. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) Their financial control of you; or
- (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

d. Managers or Lessors of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

e. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as

mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

f. Owners/Other Interests – Land is Leased

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

g. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

h. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury," "property damage," or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs b. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

As respects the coverage provided under this endorsement, Paragraph 4.b. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted and replaced with the following:

4. Other Insurance

b. Excess Insurance

This insurance is excess over:

Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or agreement specifically requires that this insurance be either primary or primary and noncontributing. Where required by written contract or agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and noncontributing with this insurance.

3. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

Paragraph 3.a. of **Section II – Who Is An Insured** is deleted and replaced by the following:

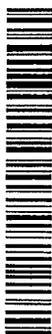
Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization, whichever is earlier.

4. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANY COVERAGE

A. The following is added to Section II – Who Is An Insured:

- 4. You are an insured when you had an interest in a joint venture, partnership or limited liability company which terminated or ended prior to or during this policy period but only to the extent of your interest in such joint venture, partnership or limited liability company. This coverage does not apply:
 - a. Prior to the termination date of any joint venture, partnership or limited liability company; or
 - b. If there is other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

40020007140343715715492



B. The last paragraph of **Section II – Who Is An Insured** is deleted and replaced by the following:

Except as provided in 4. above, no person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

5. PARTNERSHIP OR JOINT VENTURES

Paragraph 1.b. of **Section II – Who Is An Insured** is deleted and replaced by the following:

- b. A partnership (including a limited liability partnership) or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

6. EMPLOYEES AS INSURED – HEALTH CARE SERVICES

For other than a physician, paragraph 2.a.(1)(d) of **Section II – Who Is An Insured** does not apply with respect to professional health care services provided in the course of employment by you.

7. PROPERTY DAMAGE – PATTERNS, MOLDS AND DIES

Paragraphs (3) and (4) of Exclusion j. **Damage to Property of SECTION I – EXCLUSIONS** do not apply to patterns, molds or dies in the care, custody or control of the insured if the patterns, molds or dies are not being used to perform operations at the time of loss. A limit of insurance of \$25,000 per policy period applies to **PROPERTY DAMAGE – PATTERNS, MOLDS AND DIES** and is included within the General Aggregate Limit as described in **SECTION III – LIMITS OF INSURANCE**.

The insurance afforded by this provision 7. is excess over any valid and collectible property insurance (including any deductible) available to the insured, and the Other Insurance Condition is changed accordingly.

8. BODILY INJURY

Section V – Definitions, the definition of "bodily injury" is changed to read:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the bodily injury, sickness or disease.

9. EXPANDED PERSONAL AND ADVERTISING INJURY

A. The following is added to **Section V – Definitions**, the definition of "personal and advertising injury":

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- (1) Not done intentionally by or at the direction of:
 - (a) The insured; or
 - (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and
- (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any insured.

B. Exclusions of **Section I – Coverage B – Personal and Advertising Injury Liability** is amended to include the following:

p. Discrimination Relating To Room, Dwelling or Premises

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

q. Fines Or Penalties

Fines or penalties levied or imposed by a governmental entity because of discrimination.

C. This provision 9. (**EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE**) does not apply to discrimination or humiliation committed in the states of New York or Ohio. Also, **EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE** does not apply to policies issued in the states of New York or Ohio.

D. This provision 9. (**EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE**) does not apply if **Section I – Coverage B – Personal And Advertising Injury Liability** is excluded either by the provisions of the Coverage Part or by endorsement.

10. MEDICAL PAYMENTS

A. Paragraph 7. **Medical Expense Limit**, of **Section III – Limits of Insurance** is deleted and replaced by the following:

7. Subject to 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most we will pay under **Section – I – Coverage C**

for all medical expenses because of "bodily injury" sustained by any one person. The Medical Expense Limit is the greater of:

- (1) \$15,000; or
- (2) The amount shown in the Declarations for Medical Expense Limit.

B. This provision **10. (Medical Payments)** does not apply if **Section I – Coverage C Medical Payments** is excluded either by the provisions of the Coverage Part or by endorsement.

C. Paragraph **1.a.(3)(2)** of **Section I – Coverage C – Medical Payments**, is replaced by the following:

The expenses are incurred and reported to us within three years of the date of the accident; and

- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems) to premises including the contents of such premises, rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

11. SUPPLEMENTARY PAYMENTS

A. Under **Section I – Supplementary Payments – Coverages A and B**, Paragraph **1.b.**, the limit of \$250 shown for the cost of bail bonds is replaced by \$2,500:

B. In Paragraph **1.d.**, the limit of \$250 shown for daily loss of earnings is replaced by \$1,000.

12. PROPERTY DAMAGE – ELEVATORS

With respect to Exclusions of **Section I – Coverage A**, paragraphs (3), (4) and (6) of Exclusion **j.** and Exclusion **k.** do not apply to the use of elevators.

The insurance afforded by this provision **12.** is excess over any valid and collectible property insurance (including any deductible) available to the insured, and the Other Insurance Condition is changed accordingly.

13. LEGAL LIABILITY – DAMAGE TO PREMISES

A. Under **Section I – Coverage A – Bodily Injury and Property Damage 2. Exclusions**, Exclusion **j.** is replaced by the following.

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

B. Under **Section I – Coverage A – Bodily Injury and Property Damage** the last paragraph of **2. Exclusions** is deleted and replaced by the following.

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner.

A separate limit of insurance applies to this coverage as described in **Section III – Limits Of Insurance**.

C. Paragraph **6. Damage To Premises Rented To You** Limit of **Section III – Limits Of Insurance** is replaced by the following:

40020007140343715715493



6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises while rented to you or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems, while rented to you or temporarily occupied by you with the permission of the owner. The Damage To Premises Rented To You Limit is the greater of:

- a. \$500,000; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations.

D. Paragraph 4.b.(1)(b) of Section IV – Commercial General Liability Conditions is deleted and replaced by the following:

(b) That is property insurance for premises rented to you or temporarily occupied by you with the permission of the owner; or

E. This provision 13. (LEGAL LIABILITY – DAMAGE TO PREMISES) does not apply if Damage To Premises Rented To You Liability under Section I – Coverage A is excluded either by the provisions of the Coverage Part or by endorsement.

14. NON-OWNED WATERCRAFT

Under Section I – Coverage A – Bodily Injury and Property Damage, Exclusion 2.g., subparagraph (2) is deleted and replaced by the following.

- (2) A watercraft you do not own that is:
 - (a) Less than 55 feet long; and
 - (b) Not being used to carry persons or property for a charge.

15. NON-OWNED AIRCRAFT

Exclusion 2.g. of Section I – Coverage A – Bodily Injury and Property Damage, does not apply to an aircraft you do not own, provided that:

1. The pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. It is rented with a trained, paid crew; and
3. It does not transport persons or cargo for a charge.

16. BROAD KNOWLEDGE OF OCCURRENCE

You must give us or our authorized representative notice of an "occurrence," offense, claim, or "suit" only when the "occurrence," offense, claim or "suit" is known to :

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An executive officer or the employee designated by you to give such notice, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

17. NOTICE OF OCCURRENCE

The following is added to paragraph 2. of Section IV – Commercial General Liability Conditions – Duties in The Event of Occurrence, Offense Claim or Suit:

Your rights under this Coverage Part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this Coverage Part. However, you shall give written notice of this "occurrence," offense, claim or "suit" to us as soon as you are aware that this insurance may apply to such "occurrence," offense claim or "suit."

18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Based on our reliance on your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure.

19. EXPECTED OR INTENDED INJURY

Exclusion a. of Section I – Coverage A – Bodily Injury and Property Damage Liability is replaced by the following:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

20. LIBERALIZATION CLAUSE

If we adopt a change in our forms or rules which would broaden coverage provided under this endorsement without an additional premium charge, your policy will automatically provide the additional coverages as of the date the revision is effective in your state.

Exhibit B
City of Berkeley CA Contract

9027

PARKING METER AND MANAGEMENT SYSTEM SERVICES CONTRACT

THIS CONTRACT is entered into on May 21, 2012 between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and IPS Group, Inc., ("Provider"), a Pennsylvania corporation, whose place of business is at 6195 Cornerstone Ct. E., Suite 114, San Diego, California, who agree as follows:

Article 1. CONTRACT APPENDICES

The Contract Appendices are as follows:

- A Software License and Escrow Agreement
- B Scope of Services
- C Payment Terms
- D Equipment Specifications
- E Detailed Training Outline
- F Warranty Agreement
- G Software Maintenance & Support Agreement
- H Equipment Acceptance Certificate
- I Source Code Agreement

The terms of each of the appendices are incorporated herein by reference and made a part of this Contract. However, in the event of a conflict between any provision or term in this Contract and an Appendix, the terms of this Contract shall prevail.

Article 2. SCOPE OF SERVICES

Contractor agrees to perform all services described in Appendix A, Appendix B, Appendix E, Appendix F, Appendix G and Appendix I in accordance with its stated terms and conditions.

Article 3. TERM AND RENEWAL

3.1. The term of this contract shall be for a period of two (2) years and two (2) months with an option to extend the Agreement one-year at the City's sole discretion. This Contract shall begin on May 21, 2012 and end on June 30, 2014. The City Manager of the City may extend the term of this contract by giving written notice.

3.2. The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by City and Provider.

3.3. A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Contract and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Contract, all notices to City shall be addressed as follows:

City Manager
City of Berkeley
2180 Milvia Street
Berkeley, California 94704

VENDOR COPY

DATE: 12/17/12
BY: LSX72
05/16/12

For purposes of this Contract, all notices to Provider shall be addressed as follows:

Chad Randall, COO
IPS Group Inc.
6195 Cornerstone Ct. E. Suite 114
San Diego, California 92121

3.4. If City terminates this Contract for convenience before Provider completes the services in Appendix B, Provider shall then be entitled to recover its costs expended up to that point plus a reasonable profit, but no other loss, cost, damage, expense or liability may be claimed, requested or recovered.

3.5. IPS Group Inc. warrants and represents that its officials, including its officers and employees in their official capacity, presently have no interest and agrees that its officials, including its officers and employees in their official capacity, will not acquire any interest which would represent a conflict of interest under California Government Code sections 1090 et seq. and 87100 et seq. during the performance of this Agreement.

Article 4. PAYMENT TERMS

4.1 For services referred to in Article 2 (Scope of Services), City will pay Provider a total amount not to exceed \$1,000,000. City shall make payments to Provider in accordance with the provisions described in Appendix C, which is attached to and made a part of this Contract.

Article 5. PROVISIONS OF PARKING METER AND MANAGEMENT SYSTEM PURCHASE AND IMPLEMENTATION

5.1. The parking meter and management system implementation will occur in accordance with the terms specified in Article 2 (Scope of Services).

5.2. Provider shall provide all required hosting and operations support for the Secure Gateway and the Web-Based Management System at costs identified in Appendix C.

5.3. Provider shall provide City a non-exclusive, non-transferable license to use the Hosted Software in accordance with the applicable documentation and in accordance with the terms set forth in Appendix A for the term of this Contract at a cost identified in Appendix C.

5.4. Provider shall provide 1000 IPS Flexi Pay Single Space Parking Meters with Credit Card payment features to the City and provide all necessary City employees training as set forth in Appendix E to maintain this equipment for the term of this Contract.

5.5. Provider shall provide and perform the services in full compliance with all applicable laws, codes and standards (both public and private), including, but not limited to, the standards included in Appendix B and warranties expressed in Appendix F.

5.6. Provider shall provide goods for the term of this Contract as set forth in Appendix B.

5.7. Provider shall provide City technical support for the term of this Contract as set forth in Appendix B and Appendix F.

Article 6. CITY'S RESPONSIBILITIES

6.1. In connection with the performance of this contract and the provision of services, City shall be responsible for the following:

6.1.1 City shall be responsible for ensuring that City's use of the services and the performance of City's other obligations hereunder comply with all laws applicable to City.

6.1.2 City shall be responsible for the accuracy and completeness of all records and databases provided by City in connection with this Contract for use on Provider's system.

6.1.3 City shall provide first line of preventative maintenance for all meter mechanisms for the term of this Contract as set forth in Appendix B and Appendix F.

6.1.4 City shall be solely responsible for meter posts and housings, including keeping meter posts and housings in good working order and in compliance with all applicable laws.

Article 7. SUBCONTRACTING

7.1. Provider is prohibited from subcontracting this Contract, or any part of it, unless such subcontracting is approved by City in advance in writing.

Article 8. PROVIDER'S REPRESENTATIONS AND WARRANTIES

In order to induce the City to enter into this Contract, Provider makes the following representations and warranties:

8.1. Provider has the expertise, manufacturing, management and maintenance capabilities, and financial capabilities to perform and complete all of its obligations contained in this Contract.

8.2. Provider is and will at all times be fully qualified and capable of performing its obligations under this Contract and possesses or will timely obtain all necessary licenses and/or permits required to perform such obligations.

8.3. Provider represents and agrees that the Services shall be performed in a professional manner and shall conform to established industry best practices.

8.4. Provider shall deliver all obligations undertaken in this Contract free and clear of all liens, rights of conditional vendors, encumbrances, and claims of copyright, patent or license holders, and in conformance with the requirements of this Contract.

Article 9. INSURANCE

9.1. Not less than ten (10) days prior to commencing any work, Provider shall furnish to City satisfactory proof that Provider has taken out for the entire period of this Contract the following insurance in a form satisfactory to City and with an insurance carrier satisfactory to City, authorized to do business in California and rated by A.M. Best & Company A or better, which will protect those described below from claims described below which arise or are alleged to have arisen out of or result from the services of Provider, for which Provider may be legally liable, whether performed by Provider, its subcontractors or subconsultants of any tier or by those employed directly or indirectly by them or any of them, or by anyone for whose acts any of them may be liable. All insurance, except professional liability insurance, shall name the City, its officers, agents, volunteers and employees as additional insured's and shall provide primary coverage with respect to the City, and there shall be a waiver of subrogation as to each named and additional insured.

9.1.1 Commercial general liability insurance: Comprehensive or Commercial General Liability Insurance with limits not less than one million dollars (\$1,000,000.00) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. If the Comprehensive or Commercial General Liability Insurance is written on a Claims Made Form then, following termination of this Contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Contract.

9.1.2 Professional liability insurance: If any licensed professional performs services under this Contract, a professional liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) each occurrence to cover any claims arising out of Provider's performance of services under this Contract.

9.1.3 Business automobile liability insurance: Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto), if applicable. Limits shall be not less than one million dollars (\$1,000,000.00) each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than ten thousand dollars (\$10,000.00) payable by Provider.

9.1.4 Full workers' compensation liability insurance for all persons whom Provider may employ in furnishing and providing the Services hereunder, in accordance with California law. Workers' compensation policy shall include Employer Liability Insurance with limits not less than one million dollars (\$1,000,000.00) each accident or occurrence. There shall be a waiver of subrogation as to the City and each named and additional insured under such policy.

9.2 Certificates of Insurance and Endorsements shall have clearly typed thereon the City contract number and title of contract, shall provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to City's Contract Administrator. Endorsements naming the City as additional insured shall be attached to the Certificate of Insurance.

9.3 Nothing contained herein shall be construed as limiting in any way the extent to which Provider or any of its subcontractors or sub consultants may be held responsible for payment of damages resulting from their operations.

9.4 If Provider fails to maintain insurance, the City may take out insurance to cover any damages of the above mentioned classes for which the City and others to be insured referenced above might be held liable on account of Provider's failure to pay such damages, or compensation which the City might be liable under the provision of the Worker's Compensation Insurance and Safety Act, by reason of employee of Provider being injured or killed, and deduct, and in addition to any other remedy, retain amount of premium from any sums due Provider under this Contract.

9.5 Provider shall forward all insurance documents to:

Department Name: Public Works Administration

CMS# RW6RS

Department Address: 2180 Milvia Street Berkeley, CA 94704

Article 10. INDEMNIFICATION

10.1 Provider shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, commissioners, officers, agents, employees and volunteers from and against any and all loss, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Provider or its employees, subcontractors, or agents, or by acts for which they could be held strictly liable, or by the quality or character of their work.

10.2 The foregoing obligation of Provider shall not apply when (a) the injury, loss of life, damage to property or violation of law arise wholly from the negligence or willful misconduct of the City or its officials, commissioners, officers, agents, employees and volunteers and (b) the actions of Provider or its employees, subcontractors, or agents have contributed in no part to the injury, loss of life, damage to property or violation of law. It is understood that the duty of Provider to indemnify and hold harmless includes the duty to defend as set forth in California Civil Code section 2778. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Provider from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Provider agrees to the provisions of this Section and acknowledges that it is a material element of consideration.

Article 11.

CANCELLATION AND TERMINATION

11.1 Termination of Provider for Default. In the event Provider fails to perform one or more of its material obligations under this Contract and has failed within twenty (20) days of receiving notice from City to (a) cure the default or (b) if the default cannot be cured within twenty (20) days, provide the written assurances and plan as specified in subsection 11.1.1, this Contract may be terminated and all of Provider's rights hereunder ended. Termination will be effective after twenty (20) days written notice to Provider. No new work will be undertaken after the date of receipt of any notice of termination, or five (5) days after the date of the notice, whichever is earlier. In the event of such termination, Provider will be paid for those services performed under this Contract up to the date of termination and for reasonable direct costs incurred up to the date of termination, and any annual fees will be pro-rated. However, City may offset from any such amounts due Provider any damages or other costs City has or will incur due to Provider's non-performance. Any such offset by City will not constitute a waiver of any other remedies City may have against Provider for financial injury or otherwise.

11.1.1 If the City at any time reasonably believes that Provider is or may be in default under this Contract, the City may in its sole discretion notify Provider of this fact and request written assurances from Provider of performance of the Contract and a written plan from Provider to identify and attempt to remedy any failures to perform the terms of the Contract which the City may advise the Provider of in writing. Failure of the Provider to provide written assurances of performance as required herein will constitute a separate material breach of this Contract sufficient to invoke paragraph 11.1 above.

11.1.2 In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with subsection 11.2, and Provider shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance.

11.2 Termination of Provider for Convenience. Termination of this Agreement for convenience shall be in accordance with 49 C.F.R. 18.44.

11.2.1 City may terminate this Contract for City's convenience and without cause at any time by giving Provider thirty (30) days written notice of such termination. In the event of such termination, Provider will be paid for those services performed, pursuant to this Contract, up to the date of termination in accordance with Appendix C (Payment Terms). In no event will City be liable for costs incurred by Provider after receipt of notice of termination. Such non-recoverable costs include, but are not limited to, anticipated profits of this Contract, post-termination employee salaries, post-termination administrative expenses, or any other cost which is not reasonable or authorized under this section.

11.3 Obligations of Provider Upon Termination. Upon termination of this Contract, Provider will submit an invoice to City for an amount which represents the value of its work or services actually performed prior to the effective date of termination and for direct costs for which Provider is entitled under this Contract to be compensated, except that with respect

to reimbursement for Provider's services, in no event will the compensation paid for the month in which the termination occurs be greater than the charges for the services delivered prior to the notice. Upon approval and payment of this invoice by City, City shall be under no further obligation to Provider monetarily or otherwise.

11.4 Termination of City for Default. City shall be in default of this Contract thirty (30) days after written notice of City's failure to comply in any respect with any material terms and conditions of this Contract and City fails to cure such breach within such thirty (30) day period. Notwithstanding the above, City shall be in default hereunder upon ten (10) days written notice in the event the breach is due to non-payment by the City and City fails to cure such breach due to non-payment within such ten (10) day period.

11.5 Return of City Data. Within thirty (30) days of notification of termination of this Contract, Provider shall provide City with all City-owned data in dedicated data files suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data files will be comprised of City's data contained in Provider's system. The structure of the relational database will be specific to the City's data and will not be representative of the proprietary Provider's database.

Article 12. GENERAL WARRANTIES, LIMITATIONS ON WARRANTIES

12.1 Compliance with Specifications. Provider's computer programs, files, hosted services, documentation and all other work product will strictly comply with the descriptions and representations made in Appendix D (Equipment Specifications) and including performance capabilities, completeness, specifications, configurations, and function that appear therein.

12.2 Provider may lawfully grant the license set forth in Section 5.3 and Appendix A.

12.3 Neither the licensed software or use of the hosted services, including all subsequent versions, updates, enhancements and/or releases, not licensed materials, or the use thereof within the scope of the License, infringes a patent, trademark or copyright or is claimed to be a trade secret of any person who has not consented to the granting of the License.

12.4 During the Initial Term, and any Renewal Term thereafter, the hosted services and software, including all subsequent versions, updates, enhancements and/or releases, will conform to the applicable printed documentation (i.e., all reference materials or manuals) delivered by Provider to City.

12.5 Neither the software, including all subsequent versions, updates, enhancements and/or releases, nor the licensed materials or hosted services contain any virus, time bomb mechanism, or other software or code that can disable or adversely affect any and all of the software or the licensed materials or destroy any data or other software.

12.6 The limited warranty set forth in Section 12.1 is in lieu of all other warranties, express or implied warranties or merchantability and fitness for a particular purpose.

Article 13. CONFORMITY WITH LAW AND SAFETY

a. Provider shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all other applicable federal, state, municipal and local safety regulations. All services performed by Provider must be in accordance with these laws, ordinances, codes and regulations. Provider shall release, defend, indemnify and hold harmless City, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

b. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Provider shall immediately notify the City's Risk Manager by telephone. If any accident occurs in connection with this Contract, Provider shall promptly submit a written report to City, in such form as the City may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Provider's sub Provider, if any; 3) name and address of Provider's liability insurance carrier; and 4) a detailed description of the accident, including whether any of City's equipment, tools or materials were involved.

c. If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of this Contract, Provider shall immediately notify the Berkeley Police Department and the City's Health Protection office.

d. Provider shall not store hazardous materials or hazardous waste within the City of Berkeley without a proper permit from the City.

Article 14. NON-DISCRIMINATION

Provider hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Provider agrees as follows:

a. Provider shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

b. Provider shall permit the City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the City, are necessary to monitor compliance with this non-discrimination provision. In addition, Provider shall fill-out, in a timely fashion, forms supplied by the City to monitor this non-discrimination provision.

Article 15. INDEPENDENT PROVIDER

a. Provider shall be deemed at all times to be an independent Provider and shall be wholly responsible for the manner in which Provider performs the services required of Provider by the terms of this Contract. Provider shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between City and Provider.

b. Direction from City regarding the subject of this Contract shall be construed

as providing for direction as to policy and the result of Provider's Work only and not as to the means or methods by which such a result is obtained.

c. Except as expressly provided in this Contract, nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract.

d. Payment of any taxes, including California Sales and use Taxes, levied upon this Contract, the transaction, or the services or goods delivered pursuant hereto, shall be the obligation of Provider, except California Sales and use Taxes for the IPS Meter Equipment will be the obligation of the City.

Article 16. CONFLICT OF INTEREST PROHIBITED

a. In accordance with Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, neither Provider nor any employee, officer, director, partner or member of Provider, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of this Contract.

b. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Provider, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Provider.

c. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

Article 17. NUCLEAR FREE BERKELEY

Provider agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

Article 18. OPPRESSIVE STATES CONTRACTING PROHIBITION

a. In accordance with Resolution No. 59,853-N.S., Provider certifies that it has no contractual relations with, and agrees during the term of this Contract to forego contractual relations to provide personal services to, the following entities:

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- (3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

b. For purposes of this Contract, the Tibet Autonomous Region and the

provinces of Aho, Kham, and U-Tsang shall be deemed oppressive states.

c. Provider's failure to comply with this section shall constitute a default of this Contract and City may terminate this Contract pursuant to Section 3. In the event that the City terminates Provider due to a default under this provision, City may deem Provider a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

Article 19. RECYCLED PAPER FOR WRITTEN REPORTS

If Provider is required by this Contract to prepare a written report or study, Provider shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Provider shall use white paper. Written reports or studies prepared under this Contract shall be printed on both sides of the page whenever practical.

Article 20. BERKELEY LIVING WAGE ORDINANCE

a. Provider hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Provider is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Provider will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in B.M.C. Chapter 13.27, as well as comply with the terms enumerated herein. Provider expressly acknowledges that, even if Provider is not currently subject to the Living Wage Ordinance, cumulative contracts with City may subject Provider to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

b. If Provider is currently subject to the Berkeley Living Wage Ordinance, Provider shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Provider for health benefits, if any, for each of its employees providing services under the Contract. These records are expressly subject to the auditing terms described in Section 16.

c. If Provider is currently subject to the Berkeley Living Wage Ordinance, Provider shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all subcontracts in which Provider engages to execute its responsibilities under this Contract. All subProvider employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

d. If Provider fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Provider's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Section 3. In the event that City terminates Provider due to a default under this provision, City may deem Provider a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Provider may be responsible for liquidated damage in the amount of \$50 per employee per day for each and every instance of an

underpayment to an employee. It is mutually understood and agreed that Provider's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Provider's breach. City may deduct any assessed liquidated damages from any payments otherwise due Provider.

Article 21. BERKELEY EQUAL BENEFITS ORDINANCE

a. Provider hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Provider is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Provider will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

b. If Provider is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Provider agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 17 of this contract.

c. If Provider fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Provider's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Section 3. In the event the City terminates this contract due to a default by Provider under this provision, the City may deem Provider a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Provider may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Provider's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Provider's breach. City may deduct any assessed liquidated damages from any payments otherwise due Provider.

Article 22. AUDIT

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office may conduct an audit of Provider's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. In the event of such audit, Provider agrees to provide the City Auditor with reasonable access to Provider's employees and make all such financial, performance and compliance records available to the Auditor's Office. City agrees to provide Provider an opportunity to discuss and respond to any findings before a final audit report is filed.

Article 23. AMENDMENTS

The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by City and Provider.

Article 24. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER

Provider has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Provider is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Provider shall pay all state and federal income taxes and any other taxes due.

Provider certifies under penalty of perjury that the taxpayer identification number written below is correct.

Business License Number 1100048082
B.M.C. § _____
Taxpayer ID Number 23-3028164

Article 25. MISCELLANEOUS

25.1 Governing Law. This Contract shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Contract shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Contract shall be in Alameda County, California.

25.2 Assignment. Neither City nor Provider shall assign this Contract without the prior written consent of the other party and any purported assignment without the other party's consent shall be void.

25.3 Compliance with Applicable Laws. Provider and any subcontractors shall comply with all laws, including the Berkeley City Charter, the Berkeley Municipal Code, and all city policies, rules and regulations which are applicable to the performance of the Services hereunder.

25.4 Severability. If a court of competent jurisdiction finds or rules that any provision of this Contract is invalid, void, or unenforceable, the provisions of this Contract not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

25.5 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Contract does not constitute a waiver of any other breach of that term or any other term of the contract.

25.6 Solicitation. Provider agrees not to solicit business at any meeting, focus group, service call, or interview related to this Contract, either orally or through any written materials.

25.7 Force Majeure. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Contract if such delay or failure arises by any reason beyond its reasonable control, including any act of God, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, or acts of terrorism, provided, however, that lack of funds shall not be deemed to be a reason beyond a party's reasonable control. The parties will promptly inform and consult with each other as to any of the above causes which in their judgment may be the cause of a delay in the performance of this Contract.

25.8 Integration, Incorporation: This Contract, including all of the Appendices attached hereto, represents the entire and integrated Contract between City and Provider and supersedes all prior negotiations, representations, or Contracts, either written or oral. All exhibits attached hereto are incorporated by reference herein.

25.9 Counterparts. This Contract may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one Contract.

25.10 Contract Administration. This Contract shall be administered by Danette Perry, Parking Services Manager, Public Works Department, or her designee, who shall act as the City's representative. All correspondence shall be directed to or through Ms. Perry or her designee.

25.11 Section Headings. The sections and other headings of this Contract are for convenience of reference only and shall be disregarded in the interpretation of this Contract

25.12 Notices. Any written notice to the City shall be sent to:

Danette Perry
Public Works Department
City of Berkeley
1947 Center Street
Berkeley, California 94704

Any written notice to Provider shall be sent to:

Chad P Randall
IPS Group, Inc.
6195 Cornerstone Ct. E., Suite 114
San Diego, CA 92130

IN WITNESS WHEREOF, City and Provider have executed this Contract as of the date written on the first paragraph of this Contract.

FOR CITY OF BERKELEY

Signed by:

Christina DeF
City Manager

Countersigned by:

Ann Marie Hogan 6/15/12
City Auditor

Approved as to form by:

Lynne Sornyanik
Dep. City Attorney for City of Berkeley

Attested by:

Rose Shiner
City Clerk

PROVIDER

IPS Group Inc.
Provider Name (print or type)

Chad P. Randall
Signature

CHAD P. RANDALL
Print Name

Tax Identification # 23-3028164

Berkeley Business License # 1100048082

Incorporated: Yes No

Certified Woman Business Enterprise: Yes No

Certified Minority Business Enterprise: Yes No

If yes, state ethnicity: _____

Certified Disadvantaged Business Enterprise: Yes No

TABLE OF APPENDICES

Appendix	Title
A	SOFTWARE LICENSE AND ESCROW AGREEMENT
B	SCOPE OF SERVICES
C	PAYMENT TERMS
D	EQUIPMENT SPECIFICATIONS
E	DETAILED TRAINING OUTLINE
F	WARRANTY AGREEMENT
G	SOFTWARE MAINTENANCE & SUPPORT AGREEMENT
H	EQUIPMENT ACCEPTANCE CERTIFICATE
I	SOURCE CODE AGREEMENT

APPENDIX A

SOFTWARE LICENSE AND ESCROW AGREEMENT

This Appendix is attached to and incorporated by reference in the Contract made May 21, 2012 between the CITY OF BERKELEY ("City") and IPS Group, Inc., ("Provider"), providing for the licensing and services related to Parking Meter and Management System purchase.

1 GRANT OF LICENSE

- 1.1 Provider grants City a non-exclusive and non-transferable license for the term of this Contract to use the systems software that is hosted by Provider and described below in subsection 1.4.
- 1.2 **Licensed Content, Not City Owned:** Nothing in this Agreement will be construed as assigning, selling, conveying, or otherwise transferring any ownership rights or title in IPS Software of Meter management system, including but not limited to pre-existing or independently developed intellectual property, materials, software, methodologies, tools, or inventions, that are developed, conceived or created for any IPS business purpose, or any derivative works to any of the foregoing.
- 1.3 **City Purchased Equipment:** Nothing in this agreement will be construed as assigning, selling, conveying, or otherwise transferring any intellectual property ownership rights in IPS Equipment including but not limited to pre-existing or independently developed intellectual property materials, software, methodologies, tools, or inventions, that are developed, conceived or created for any IPS business purpose, or any derivative works to any of the foregoing.
- 1.4 The license shall apply to Provider's Secure Gateway and Web-Based Management System (IPS Group, Inc. DMS Management System).

2 RESTRICTIONS ON USE

City is authorized to use the Software hosted by Provider only for City's internal purposes. City agrees that it will not use or permit the Software to be used by any other entity.

3 DATA OWNERSHIP AND RESPONSIBILITIES

- 3.1 Provider shall be responsible for providing all equipment and software necessary for maintaining all data files. Data files are expressly the property of the City of Berkeley. Additionally, data files shall be readily transferable to new systems that the City may choose to use at some point in the future. Microsoft SQL Server

2005/2008 is the City's present standard and preferred Relational Data Base Management System.

- 3.2 Provider agrees that it shall not at any time sell, assign, transfer or otherwise make available to, or allow use by Provider, agent of Provider or a third party any of the City's Proprietary Information.
- 3.3 Provider shall hold in confidence the City's Proprietary Information and allow its employees access to City's data only for the purposes of complying with this Contract.
- 3.4 Provider will take all necessary measures to secure and protect City's data including, but not limited to, daily backups, offsite storage of backup media, graphics, physical security, software access controls, encryption and proper backup rotations. Provider acknowledges that City is entitled to copy, export or otherwise duplicate City's data at any time.
- 3.5 **Trademarks and Logos:** Provider grants to City a limited license during the term of this Contract to use and reproduce Provider's trademarks and logos for purposes of including such trademarks and logos in advertising and publicity materials and links solely as permitted hereunder. All uses of such trademarks and logos shall conform to City's standard guidelines and requirements for use of such trademarks and logos.
- 3.6 IPS understands the nature of public information and the requirement for the City to adhere to all rules and laws that apply to public information, such as the Freedom of Information Act, Public Records Act, and the like. However, the City also understands that the IPS Equipment and Software contains intellectual property, copyrights, and trade secrets that do not exist in the public domain. Therefore, the City agrees that it will not knowingly agree, assist, or sell any equipment or allow any third party to gain access to equipment, software, or documentation provided by IPS for the purposes of reverse engineering or evaluation without the prior written consent of IPS, or as mandated by applicable law.
- 3.7 The provisions of this section (Data Ownership and Responsibilities) of the Contract shall survive expiration or termination of this Contract.

4 PCI COMPLIANCE

- 4.1 The Provider covenants and agrees to comply with Visa’s Cardholder Information Security Program/CISP, MasterCard’s Security Data Program and SDP Rules, and with all other credit card association or National Automated Clearing House Association (NACHA) rules or rules of member organizations (generally “Association”), and further covenants and agrees to maintain compliance with the Payment Card Industry Data Security Standards (PCI DSS), MasterCard Site Data Protection (SDP), and (where applicable) the VISA Payment Application Best Practices (PABP) (collectively, the “Security Guidelines”).
- 4.2 Provider represents and warrants that all of the hardware, software and communication components that it supplies to the City or uses under this Agreement is and will be PCI DSS compliant. All service providers that Provider uses under the Agreement must be recognized by VISA as compliant with PABP.
- 4.3 Provider further agrees to exercise reasonable due diligence to ensure that all of its service providers, agents, business partners, Providers, subContractors and any person or entity that may have access to credit card information under this Agreement maintain compliance with the Security Guidelines and comply in full with the terms and conditions set out in this Section.
- 4.4 Provider further certifies that the meters, as described herein, are to be deployed in a manner that meets or exceeds the PADSS and/or PCI certification and will be deployed on a network that meets or exceeds PCI standards.
- 4.5 Provider must provide verification to the City, prior to start up and ongoing annually during the term of this Agreement, that all modules of the Provider’s system(s) that interface with or utilize credit card information in any manner or form of collection are Payment Card Industry Data Security Standards (PCI DSS) compliant.

5 SOFTWARE ESCROW

- 5.1 **Source Code Escrow Account.** On the date of “go-live” for the System, Provider shall deliver a fully commented and fully documented copy of the Source Code to Escrow Agent, or other mutually agreeable service provider, pursuant to a mutually acceptable Source Code Escrow Agreement which shall encompass all items listed in section 5.1 – 5.4. The City may access and use the Source Code under the terms and conditions stated in the Source Code Escrow Agreement. All costs associated with providing and maintaining the escrow account will be paid by the City.

- 5.2 Upon signing this Agreement and every six (6) months thereafter, Provider shall deposit with Escrow Agency the Source Code for the software, including all relevant commentary, explanations and other documentation, as well as instructions to compile the source code, plus all revisions to the software source code encompassing all corrections, changes, modifications and enhancements made to the software by Provider (the “Escrowed Material”). The Escrow Agent is empowered to return to Provider, seven (7) days after the issuance of the written receipt notice, all previous versions of the Escrowed Material. No such deposit shall be required unless a new version of software has been released for the purposes of client operations.
- 5.3 A default by Provider shall be deemed to have occurred under this Escrow Agreement upon the occurrence of any of the following:
- 5.3.1 If Provider has availed itself of, or been subjected to by any third party, a proceeding in bankruptcy in which Provider is the named debtor; an assignment by Provider for the benefit of its creditors; the appointment of a receiver for Provider; or any other proceeding involving insolvency or the protection of, or from, creditors, and same has not been discharged or terminated without any prejudice to City’s rights or interests under the License Agreement within thirty (30) days; or
- 5.3.2 If Provider has ceased its on-going business operations, or the sale, licensing, maintenance or other support of the Software; or
- 5.3.3 If any other event or circumstance occurs which demonstrates with reasonable certainty the inability or unwillingness of Provider to fulfill its obligations to City under the License Agreement, this Escrow Agreement or the Support Agreement, including, without limitation, the correction of defects in the Software.
- 5.4 City shall give written notice by certified mail to the Escrow Agent and Provider of the occurrence of a default hereunder. Unless within fifteen (15) business days thereafter Provider files with the Escrow Agent its affidavit executed by a responsible executive officer clearly refuting each area of claimed default or showing that the default has been cured, then the Escrow Agent shall upon the sixteenth (16th) business day deliver to City the Escrowed Material and all revisions thereto.

END OF APPENDIX A

APPENDIX B

SCOPE OF SERVICES

This Appendix is attached to and incorporated by reference in the Contract made May 21, 2012 between the CITY OF BERKELEY (“City”) and IPS Group, Inc., (“Provider”), providing for the Parking Meter and Management System purchase.

1 Deliverables

Provider shall provide the City with complete product, installation, and training associated with delivering a Single Space Credit Card Enabled Parking Meter and Software Management System.

DEFINITIONS:

1.1.SSPMS: The term “SSPMS” or “single-space parking meter system” consists of the single space parking meter mechanism and meter dome (top), and a meter management system that uses wireless communication technology, and is a complete, fully tested, and operational web-based, on-street parking management system, including, but not limited to, database management functions, report and recordkeeping functions, form, report, and notice generation functions, collection function with full City network compatibility. The Single Space Parking Meter System shall otherwise perform; or provide all required services, products, and functions.

1.2.SSPMM: The term “SSPMM” shall mean “Single Space Parking Meter Mechanism”, is the meter brain, and has the following primary features: capable of accepting payment via, coins, credit card or smart card in real-time transactions, uses solar –panel and a rechargeable/back-up battery pack to provide ongoing power and back-up power, wirelessly notifies parking operations staff, in real time, of any faults, such as a card reader or coin validator jam, via text message, email or both.

1.3.Active Space: The term “Active Space” shall mean an on-street parking space administered by the SSPMS during metered times as established by the City.

1.4.RFID Tag: The term “RFID” shall mean a Radio Frequency Identification Tag.

1.5.RFID Tag System: The term shall mean a physical RFID tag to be installed inside of each meter housing which will physically identify the pole address via electronic means both inside the meter housing as well as within the Provider’s database. This feature allows meters to automatically know where they are located and the required operating parameters for that pole address. This is a maintenance feature to streamline the process of swapping meter mechanisms when necessary and maintaining the operating parameters for each pole address.

- 1.6.Days: The term “Day(s)” shall mean calendar days and not business or working days, unless otherwise indicated.
- 1.7.Contract Manager: The term “Contract Manager” shall mean the City employee responsible for the coordination with the Provider for the implementation, operation and management of the SSPMS and for the City’s day-to day administration and coordination of City responsibilities for the SSPMS pursuant to the contract.
- 1.8.Functional Meter. The term “Functional Meter” shall mean any of the Provider’s Meters functioning within the normal parameters of operation during the hours of enforcement. A Functional Meter will accept all forms of payment, properly interface with end users, actively communicate with the SSPMS at designated times, properly indicate payment status by illuminating light emitting diodes (red for non-paid meters, green for paid meters), properly reports battery power, collection status, and coin count. Acceptance of the meter by the City shall be based on the meter being a fully Functional Meter.
- 1.9.Acceptance: The term “Acceptance” shall mean the point at which the City assumes responsibility for payment of merchandise provided by the Provider. Acceptance shall occur after the City has successfully installed the equipment and the equipment is properly integrated and communicating with the SSPMS. Meters must meet the definition of Functional Meter at the time of acceptance.

2 PROVIDER’S RESPONSIBILITIES

- 2.1. Provider shall deliver and install single space parking meter equipment, and products, and provide a wirelessly networked web-based system to which the meters connect and provide services to the City of Berkeley in accordance with the terms of this Agreement. All prices are FOB destination – Prepay and Add Shipping Berkeley, CA, excluding sales tax, unless otherwise specified. For the original (first) order of meters, the shipping cost will be already included. The items, quantities, descriptions and unit prices that IPS will provide under this contract are listed in Section 2.4.
- 2.2. Provider will deliver complete meter mechanisms, install the meter mechanisms, provide and maintain the meter management system, assist with setting up the SSPMS, conduct training, troubleshoot problems as they arise, all under the terms of this contract.
- 2.3. The provider’s technology shall conform to the following standards:
- Global System for Mobile Communications (GSM).
 - Supplier must be (PCI DSS) certified.
 - Microsoft SQL Server 2005/2008 is the City’s present standard and

preferred Relational Database Management System.
All applicable local, state and federal guidelines and laws.

- 2.4. Provider shall deliver and install 1000 single-space, enhanced meters and equipment that are compatible with the existing Duncan model CK 2000, and provide products and services to the City of Berkeley in accordance with the terms of this Agreement. All equipment is to be new and fully tested and perform according to the specifications provided and described in Appendix D of this Agreement. The items quantities, descriptions and unit prices that Provider will provide under this agreement are:
- 2.4.1 One Thousand (1,000) Single Space Parking Meter Mechanisms with Credit Card Capability at a price of \$485 each. Price includes Meter Dome Top and Radio Frequency Identification Tags and installation of all standard meter graphics.
 - 2.4.2 Ten (10) Diagnostic Cards at no cost.
 - 2.4.3 Ten (10) Coin collection Cards at no cost.
 - 2.4.4 Ten (10) meter maintenance Cards at no cost.
 - 2.4.5 4 hours of Technical Meter Maintenance Training - as described in Appendix E for a cost of \$1,500
 - 2.4.6 2 hours of Financial Administrative Training as described in Appendix E for a cost of \$2,000.
 - 2.4.7 1 hour of Enforcement Training as described in Appendix E for a cost of \$1,000.
 - 2.4.8 A Secure Wireless Data connection at a monthly rate of \$3.75 per meter per month. The annual cost is \$45,000 for the term of the contract, not to exceed \$97,500.
 - 2.4.9 A Management System License Fee at a monthly rate of \$2.00 per meter per month. The annual cost is \$24,000 for the term of the contract, not to exceed \$52,000.
 - 2.4.10 A credit card transaction fee of \$0.13 each per transaction will be charged by the provider. It is anticipated that 537,309 credit card transactions per year will occur on the 1000 meters. The annual cost is \$69,850 for the term of the contract, not to exceed \$151,342.
 - 2.4.11 An Extended Warranty- effective month 13, after the first 12 months of installation, at a cost of \$60 per meter per year. The annual cost is \$60,000 for the term of the contract, not to exceed \$120,000.
 - 2.4.12 The City reserves the right to purchase up to a total of 2,500 SSPMM at the price of \$485 per unit during the term of this contract to be installed in the field.
 - 2.4.13 The City reserves the right to purchase up to 50 spare "complete meter mechanisms" at a price of \$485 per unit during the term of this contract. City agrees

- 2.4.14 The City reserves the right to purchase up to 50 spare “complete meter mechanisms” at a price of \$485 per unit during the term of this contract. City agrees to pay \$495 each for spare “complete meter mechanisms” over the quantity of 50 meters. Spare “meter mechanisms parts do not include costs for shipping, installation, and RFID tags.
- 2.4.15 The City reserves the right to purchase the 30 meters from the City’s trial pilot at the price of \$495 each
- 2.4.16 The City reserves the right to purchase vehicle detection sensors at a price of \$275 per unit (includes installation) during the term of this contract.
- 2.4.17 The City reserves the right to retain two fee options associated with sensor data; 1) the standard fee \$3.50 per month per sensor or 2) the real-time sensor data fee of \$6.25 per month per sensor.
- 2.4.18 Meter replacement parts shall be priced as listed for the duration of this contract:
 - 2.4.18.1 Complete Meter Mechanism at \$485 each (for 1-50 mechanisms)
 - 2.4.18.2 Complete Meter Mechanism at \$495 each (51- mechanism and up)
 - 2.4.18.3 Coin Validator at \$69 each
 - 2.4.18.4 Complete top cover at \$69 each
 - 2.4.18.5 Lexan for top covers (stickers included) at \$29 each
 - 2.4.18.6 Coin slot at \$2 each
 - 2.4.18.7 Keypad at \$25 each
 - 2.4.18.8 Validator Connector Board at \$15 each
 - 2.4.18.9 Battery Pack at \$29 each
 - 2.4.18.10 Waffletechnology Card Reader Cleaner (40 per box) at \$29
 - 2.4.18.11 Solar Panel Board at \$165 each.
- 2.4.19 An Escrow Source Code Agreement at a one-time price of \$1,000 for initial set-up and an annual price of \$2,000 for the duration of this contract

3 SUPPORTIVE SERVICES

- 3.1 Provider shall provide the following additional services in conjunction with this Agreement:
 - 3.1.1 Pre-delivery, detailed training and preparation of City's staff as detailed in Appendix E and as required for the following;
 - 3.1.2 Installation of meter elements and parts;
 - 3.1.3 Maintenance activities;

- 3.1.4 Troubleshooting problems;
- 3.1.5 Operations- programming, inventory, etc.:
- 3.1.6 Collections;
- 3.1.7 Accounting;
- 3.1.8 Citation Adjudication.

3.2 A Level 1 PCI-DSS secure gateway services system for the Provider's entire system. Provider is to maintain these certifications without lapse throughout the term of the Agreement.

3.3 Maintenance tracking capability to log all technician maintenance activity through a maintenance menu accessed through each meter and populated with repair codes provided by the City and updated from time to time.

3.4. Meter expiration notification and reporting activities, including its integrated sensors. Provider will provide data for paid and non-paid meter status, paid meter time, and major meter failures.

3.5 A fully-functional web-based management system, which meets the functionality of the current system described in Appendix D, with upgrades to be provided at no cost to the City. However, City customization requests may incur additional costs that will be quoted and approved by the City prior to commencement of such project.

3.6 Provider will offer all available meter software upgrades, including those developed for other customers, at no additional charge to the City. City shall maintain the sole authority to determine when and where such upgrades will be implemented. However, any data costs associated with downloading such software upgrades to parking meters will apply. Additional charges may apply for new software that requires new or upgraded hardware.

3.7 All data related to the parking meter system will be maintained by the Provider and replicated on one or more duplicate servers with hourly backups. Further redundancy will be provided by replicating the data daily on a secure server located within the continental United States. Data will be removed from the active database and archived after a minimum of three years with long-term archives available for up to five years. Prior to being purged, all archived data will be provided to the City for retention beyond five years.

4 REPORT REQUIREMENTS

4.1 DISASTER RECOVERY PLAN AND SYSTEM RECOVERY

4.1.1 Disaster Recovery/Backup Plan. It is the responsibility of the Provider to take

every precaution to ensure that all systems, files, data, equipment, communications, and facilities are reliable. In the event that a natural disaster or some other unanticipated event (rolling black outs do not constitute an unanticipated event) does disrupt the system, the Provider must have a detailed, City-approved recovery plan in place, tested, and ready to be implemented for all key facilities so that services are restored quickly and in accordance with City performance standards. The Provider shall provide documentation to City with its disaster recovery and back-up plan, which at a minimum should address the following:

4.1.2 procedures for back-up of all software and computer programs, files, computerized procedures, etc.; and

4.1.3 off-site duplication of all software and computer programs, files, computerized procedures, etc.; and

4.1.4 repair procedures for all hardware, communications, and other equipment in order to minimize the time required to restore service; and

4.1.5 alternate processing arrangements to meet business resumption requirements; and

4.1.6 proposed annual and comprehensive testing of emergency procedures; and

4.1.7 alternate processing arrangements in the event of a lack of access to the Provider's main processing site.

4.1.8 If the management system goes down for any reason, the system should be configurable to allow/disallow credit cards or smart cards to be used at meters. Credit card/smart card numbers shall never be stored in the meter mechanism in a manner that is inconsistent with PCI-DSS or PA-DSS guidelines. In the event that a meter is configured to disallow card use, the meter shall default to accepting coins only and shall notify customers that only coins are accepted.

4.2 AUDITS, RECORDS TO BE MAINTAINED, ACCESS TO RECORDS

4.2.1 The Provider shall maintain account books, records, documents and other evidence directly pertinent to performance and billing of the work under the Contract, in accordance with generally accepted accounting practices. The Provider shall also maintain the financial information and data used by the Provider in the preparation or support of cost estimates to the City. The City, or its duly authorized representative, shall have access to such account books, records, documents, and other evidence, for the purpose of inspection, audit, and copying. The Provider shall

provide proper facilities for such access. The Provider shall not charge the City for time spent assisting the City in reviewing said documents.

4.2.2 Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards. The Provider agrees to provide full access to the City all information, reports, and records pursuant to this section. Where the audit concerns the Provider, the City's representative shall afford the Provider an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the Provider.

4.2.3 The Provider shall maintain copies of the complete records of the execution of the Contract, including, but not limited to documents, as necessary to assist in the defense of any legal action claiming liability or neglect of duty which may involve the City. The City shall also have access to these records. These records shall be maintained for a period of not less than three years after the earliest date which the applicable statutes may establish for the release of potential liability for the services rendered or performed under the Contract.

4.2.4 Accounting records as above shall be maintained and made available during performance of the work under the Contract for three years from date the Contract ends. In addition, those records which relate to any appeal, contract, litigation, or the settlement of claims arising out of such performance or cost, or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeals, litigation, claims, or exception.

4.2.5 The City shall audit reports provided by the management system against the money collected by the City and against third-party reports.

4.2.6 The Provider shall make any general software system enhancements available to the City at no additional charge. General enhancements shall include the addition, modification, or upgrade of any reporting or configuration feature compatible with the SSPMM. However, any data costs associated with downloading such software upgrades to parking meters will apply. Additional charges may apply for new software that requires new or upgraded hardware.

The Provider shall provide all reasonable and necessary assistance for establishing the language, transition, and general configuration of the meter screen. This assistance shall count as a standard software enhancement and shall not include any custom programming.

Any new product developments, hardware or services not currently available and not

deemed by the Provider to fall under the definition of a general software system enhancement, which may be added to the system in the future, will be quoted to the City at the time they are commercially available.

5 INSTALLATION/INSPECTION SHIPPING

5.1 Provider shall be responsible for all shipping and delivery costs associated with original order. Future orders shall be FOB Destination – Prepay and Add Shipping

5.2 Provider shall deliver new, fully-tested equipment, installed in prepared (domeless) housings and secured with properly-fitted domes to the respective, specified site locations at mutually agreed upon time(s) and date(s) under the supervision of the City.

5.3 City will inspect the equipment in the field after installation, and the SSPMM are integrated and communicating with the SSPPMS.

5.3.1 Coordinated installation of all equipment will take place according to a pre-defined deployment plan forms submitted by the City at the time a meter order is placed. It will include the locations of the installation sites.

5.3.2 The finalized deployment plan issued at the time an equipment order is placed will include the collection zone, number of meters, and number of green domes (if applicable).

15.3.2 City will complete and submit the Provider's detailed deployment database forms that include rates, time limits, hours, and restrictions for each meter with each meter order.

5.4 Standard IPS credit card and parking policy decals will be provided and installed by Provider at the time of meter installation.

5.5 Any change(s) to this delivery schedule shall be made in writing at least ten (10) business days before the schedule date(s).

5.6 The IPS parking meter management system will use the City's existing poles, meter housings, cash containers, and collection techniques.

5.7 Provider will install all of the IPS meters and supplied unit graphics.

5.8 Installation and Removal of Meters

5.8.1 In coordination with the vendor, City staff will remove all existing single-space meter mechanisms and domes. The vendor will be responsible for installing the new meters under City of Berkeley supervision. To prevent any loss of meter revenue, installation will be coordinated such that the metering operation for each space is seamless, i.e. the new meters are installed and activated immediately upon the removal of the existing equipment from service. The only exception to this provision shall be when a parking meter post must be replaced or repaired due to being loose or damaged, in which case meter removal shall be scheduled in advance with City of Berkeley staff. The vendor is responsible for ensuring all meter posts are in good working order at the time of meter installation, however, the City is solely responsible for all required work and costs to bring parking meter posts into good working order and in compliance with all applicable laws.

6 CITY'S RESPONSIBILITIES

6.1 City staff, in conjunction with Provider's staff, shall inspect meter equipment following installation to ensure proper installation and operation.

6.2 City shall evidence its acceptance of the equipment under the Agreement by delivery to the Provider of an Equipment Acceptance Certificate, similar to Appendix H of this Agreement, with respect thereto.

6.3 City shall perform preventative maintenance on the primary meter equipment elements: working battery, card reader, and coin validator as set forth in Appendix F.

6.4 The City will be responsible for determining:

- Which coins will be accepted by the meters.
- Which credit cards will be accepted by meters.
- The parking rate structure for the meters.
- The periods of operation of the meters.

END OF APPENDIX B

**APPENDIX C
PAYMENT TERMS**

This Appendix is attached to and incorporated by reference with the Contract made on May, 21, 2012 between the CITY OF BERKELEY (“City”) and IPS Group, Inc., (“Provider”), providing for the licensing and services related to the Single Space Parking Meter and Management System.

TOTAL CONTRACT PRICE:

- 1 Contract Price for the furnishing of all Licenses, Services and Equipment shall not exceed \$ 1,000,000 (One million dollars). For the convenience of the parties, the Contract price includes the following expenses as noted in the price chart below:

ITEM NO.	QTY.	ITEM	UNIT PRICE	Extended Cost
		HARDWARE		
1	1,000	Single-Space Parking Meter Mechanism (SSPMM)with Credit card Capability	\$485.00	\$485,000
2	1,000	Meter Tops (domes)	\$0 (included with mech purchase)	\$0
3	1,000	Radio Frequency ID Tags (RFID)	\$0 (included with mech purchase)	\$0
4	8.75%	Tax		\$42,438
		ACCESS CARDS		
5	10	Diagnostic Cards	\$0.00	\$0
6	10	Coin Collection Cards	\$0.00	\$0
7	10	Meter Maintenance Cards	\$0.00	\$0
		TRAINING		
8	1	Technical Training	\$1,500	\$1,500
9	1	Financial 7 Administrative Training	\$2,000	\$2,000
10	1	Enforcement Training	\$1,000	\$1,000
		SERVICE FEES		
11	1,000	Meter Installation	\$0 (included with mech purchase)	
12	1,000	Charge per active unit per month for Secure Wireless Data Fee	\$3.75 per month	\$97,500
13	1,000	Management System License Fee	\$2.00 per month	\$52,000
14	537,309/Year	Credit Card Transaction Fee (once Program fully deployed)	\$0.13 per transaction	\$151,342
15	1,000	Extended Warranty	\$60 per meter per year for 2 years	\$120,000
16	1	Escrow Source Code	\$1,000 start-up cost	\$5000

			and \$2,000 annually	
15	1	Contingency for additional credit card transaction fees in access of 537,309 transactions annually	@ \$0.13 per transaction	\$42,220
		Total Cost		\$1,000,000

- 1.1.Total fees for up to 1,000 (one thousand) IPS Flexi Pay Single Space Parking Meter Mechanisms, shall be \$485,000 (four- hundred eighty-five thousand, dollars).
- 1.2.Total fees for training \$4,500 (four thousand, five hundred dollars).
- 1.3.Total fees for Web-Based Management System license \$52,000 (Fifty-two thousand dollars).
- 1.4.Total fees for Secure Wireless Gateway, including hosting, maintenance and support for the term of this Contract, shall be \$97,500 (Ninety-seven thousand, five hundred dollars).
- 1.5.Total fees for Extended Warranty shall be \$120,000 (One hundred, twenty thousand dollars).
- 1.6.Total fees for Escrow Source Code shall be \$5,000 (Five thousand dollars).
- 1.7.For each meter transaction involving a credit or debit card, Provider will bill City at the rate of \$.13 (thirteen cents) per transaction. The Provider shall agree to accept, as full compensation, the \$.13 (thirteen cents) amount per credit card transaction processed for supplying a secure communications gateway for credit card processing. The vendor shall invoice the City monthly for the total number of secure transactions administered by the vendor during the previous month. The City shall be responsible for paying all fees associated with use and maintaining merchant account for the purposes of this Agreement.
- 1.8.Contingency for additional Credit Card transaction fees in access of 537,309 transactions annually shall be \$42,200 (Forty-two thousand, two hundred dollars).
- 1.9.If the City fails to pay the foregoing over a consecutive three-month period, IPS shall not be required to provide ongoing operating connectivity services without ongoing payment.

2 QUANTITY AND TIMING OF PURCHASE DISCOUNT

2.1 **Minimum Meter Purchase Quantity.** Provider agrees to provide a discounted meter price to City of \$485 each (includes installation). The discounted rate is based upon an order of a minimum 1000 meters within a 12-month period of the execution date of this contract.

2.1.1 Should the City not place an order equaling the balance of 1000 meters by the 12-month anniversary of this contract execution date, Provider shall invoice City for the number of meters received under this contract at the rate of \$495 each plus shipping less meter payment already received.

3 TIMING OF PAYMENTS

3.1 **Payments Due Upon Delivery of Services.** City and Provider agree that the following costs shall be paid by the City upon completion of the service and within thirty (30) days of receipt of properly supported invoices from Provider.

3.1.1 On the day that the 1st order of parking meter equipment (in its entirety) is installed and fully operational for public use, the Provider shall invoice the City for the full cost of the 1st order.

3.1.2 Within a 12-month period from the 1st meter equipment order being placed, on the day that the 2nd order of parking meter equipment (in its entirety) is installed and fully operational for public use, the Provider shall invoice the City for the full cost of the 2nd order.

3.1.3 If the City has not placed a minimum order of 1000 meter on or before the 12-month anniversary of this contract execution date, then section 2.1.1 of this contract shall apply.

3.2 Monthly service fees for a Secure Gateway (price chart item #12), and Web based Management System (price chart item #13) and credit transaction fees (price chart item# 14) will be paid in monthly installments. Items #12 and #13 shall be proportionally prorated based upon the number of installed meter-days per month during the installation process or in the case of meters removed from service. Invoiced monthly amounts will be payable on a Net 30 day basis with a one percent (1%) discount if paid within seven (7) days following the first day of each month thereafter (or the date the invoice is received, whichever is later) throughout the term of this Agreement. Payment of any invoice shall not be deemed a waiver of any dispute.

3.2.1 City agrees that it shall promptly notify Provider in writing of any dispute with an invoice.

END OF APPENDIX C

APPENDIX D

EQUIPMENT SPECIFICATIONS SINGLE SPACE CREDIT CARD ENABLED PARKING METER MECHANISM WITH WEB-BASED MANAGEMENT SYSTEM

The City is seeking a single-space meter mechanism that can be retrofitted into its' current single-space meter housings without any changes to key/lock systems, coin vaults, or cash collection operations. The only anticipated changes will be the meter mechanism and the meter top cover (meter dome).

When the on-street parking meter is configured with the new single space parking meter system (SSPMS), the customer will park, go to the single-space meter, and insert the payment required to purchase the desired amount of time up to the maximum time limit. The customer will not be required to perform any additional steps. The single-space meters shall accept payment by coin, credit card, debit card (with Visa or Master Card logo) and smart cards. The single-space meters shall be wirelessly networked and connected to a web-based management system. The single-space meters shall utilize solar power to provide long-lasting power and battery life. The single-space meters shall use the existing poles, housings, cash containers and collection techniques.

The single-space meters are to operate in an independent network environment, meaning that each meter is wirelessly enabled to communicate with the provider's parking management system without the installation of any additional networking equipment or ancillary infrastructure. No additional network equipment shall be installed or mounted on street poles as part of this system. Should the network environment temporarily fail, the single-space meter should be capable of operating in a stand-alone mode until the network environment is restored. In addition, for the purposes of security of credit card holder information, all card readers shall be integrated into the meter mechanism housing itself and not secured externally nor protrude externally to the meter housing. Additionally all meter products shall be PA-OSS compliant and all service providers shall be PCI-OSS Level 1 certified.

1.1 The Single-space parking meter mechanisms (SSPMM) shall have the following primary features:

1.1.1 Shall be capable of accepting payment via United States coins (nickels, dimes, and quarters only), credit card, and smart card. Credit cards shall at a minimum include Visa, and MasterCard, payment capabilities.

1.1.2 Credit card, debit card and smart card transactions shall be real time and not batched.

1.1.3 Shall be wirelessly networked via the cellular network, Global System for Mobile (GSM) communications and connected to a web-based management system such that no additional software other than an Internet browser shall be required to manage, monitor, and operate the meter mechanism.

1.1.4 Shall use solar panel and a rechargeable/back-up battery pack to provide ongoing power and backup power. The solar panel and rechargeable/back-up battery pack shall be integrated into each SSPMM.

1.1.5 Shall wirelessly notify parking operations staff, in real time, of any faults, such as a card reader or coin validator jam, via a text message, email, or both.

2.1 OPERATION AND RATES: SSPMMs shall be capable of being remotely programmed for holidays, special events, or other rate changes via the web-based management system and shall

not require City staff to interface with the meters in the field to accomplish such a rate update. The following rate and operating characteristics shall apply to all SSPMMs.

2.1.1 **FIXED RATE** – same rate all day, for select/every day of the week.

2.1.2 **MULTIPLE-RATES** – change rates throughout the day, for a minimum of 6 times. The SSPMM shall be capable of displaying “TOW-AWAY DO NOT PARK”, “NO PARKING” or “FREE PARKING” on the display screen, in addition to hourly parking rates for normal metering time.

2.1.3 **PRE-PAY** – SSPMMs shall allow a motorist to pay for parking prior to the beginning of enforcement hours if parking is not restricted prior to enforcement hours, up to the maximum duration period once enforcement begins. However, metered time shall only begin at the beginning of enforcement hours. For example, a 2 hour meter can be fully paid prior to the beginning of enforcement at 9AM if parking is not restricted prior to 9AM. In such an example, metered time would only begin at 9AM and expire at 11AM.

2.1.4 SSPMM shall be capable of being programmed to enforce defined tow-away zones and display “TOW AWAY DO NOT PARK” on the LCD screen. During these tow-away times, the SSPMM shall not accept credit card/smart card payment and no time shall be given for coins. In such a configuration, motorists shall only be able to pay for time up to the beginning of the tow-away period. SSPMMs shall also be capable of displaying “NO PARKING” or “FREE PARKING” on the LCD screen. During these configurations credit card/ smart card payments shall not be acknowledged and no time shall be given for coins.

2.1.5 The SSPMM shall be capable of displaying the rate per hour, date and time, hours of enforcement, maximum duration (time period), and other customized messages or graphics on the meter LCD screen.

2.1.6 Changes and updates to all rate structures, maximum duration (time limits), available payment methods, and hours of meter operations shall also be managed and updated via the web-based management system.

3.1 SOLAR POWER

3.1.1 The SSPMM shall incorporate the use of a solar panel to provide the ability to recharge the battery.

3.1.2 This solar panel shall be weather-proof, and shall be integral to the meter housing, to prevent damage due to operating conditions or vandalism.

4.1 GRAPHICAL DISPLAY

4.1.1 The SSPMMs shall have a graphical liquid crystal display (LCD screen) with a temperature operating range of -22 deg F to +158 deg F, which is capable of displaying metered time (in a format of two digits to show hours and two digits to show minutes, i.e. HH:MM, including negative time capability), parking rates, maximum stay period messages, current time of day, time when meter will expire, as well as other alphanumeric messages programmable through the web-based management system depending on the status of the meter.

4.1.2 The LCD screen shall be remotely programmable via web-based meter management system, such that the meter staff is not required to be present at the meter for changes to be made.

4.1.3 For increased visibility in low-light conditions, the LCD shall be backlit. Backlight shall be enabled automatically, via light sensitivity, and shall require no additional settings to be adjusted by the customer. Additionally, backlight shall only be enabled during a transaction in order to conserve battery power.

4.1.4 In addition, an ultra violet (UV) resistant, non-yellowing, polycarbonate resin thermoplastic material (such as Lexan® or equivalent) shall protect the LCD screen.

4.1.5 In the event of a coin jam, the SSPMM shall continue to allow payment via credit card or smart card. During such a jam, the meter shall be capable of displaying "CARDS ONLY NO COINS" on the LCD screen. In the event of a card reader jam, the meter mechanism shall continue to allow payment via coins. During such a jam, meter shall be capable of displaying "COINS ONLY NO CARDS" on the LCD screen. In either event, the meter shall be able to wirelessly notify maintenance staff in real time of the location

and type of jam via email, text message, or both. In the event that both a coin jam and card reader jam are present, the meter shall be capable of displaying "OUT OF ORDER DO NOT PARK". All of these messages shall be capable of being remotely updated and programmed via the web-based management system.

5.1 EXPIRATION INDICATION

5.1.1 Light-emitting diodes (LED's) with the capability to operate flashing and steady burning with millicandela ratings of 5000 mcd or greater and 30 degrees or greater viewing angle, shall be positioned on the back of the SSPMM.

5.1.2 The standard configuration shall be flashing RED during expired status, with the capability to program GREEN for paid status.

5.1.3 Meters shall have ability to be remotely programmed for an expiration grace period, duration, color, and frequency of flashing LEDs, and other LED operating parameters via web-based management system.

6.1 COIN VALIDATION

6.1.2 The SSPMM shall be fully electronic with solid state components and a straight down, free-fall coin chute. The SSPMM shall recognize each coin, and give the appropriate amount of time.

The meter shall also incorporate a feature that shall count invalid coins, such as washers, gaming tokens, etc., so that the City can monitor the areas where these activities take place. No time shall be given for these fraudulent coins.

6.1.3 The coin validator shall detect metallic as well as non-metallic jams. Jam clearance shall be accomplished without special tools or disassembly of the meter. The coin validator shall be a removable component for the purposes of clearing coins or other types of coin validator jams. The coin chute shall have a clear casing to allow complete visibility of the coin pathway in order to identify and easily clear jams. Coins passing through the mechanism shall be deposited into the coin box in the meter vault, when the mechanism is properly installed in the upper housing. In the event of a jam, the meter shall have the ability to notify City staff of a jam via email, text message, or both.

7.1 CREDIT CARD AND SMART CARD PAYMENT

7.1.2 The SSPMM shall utilize a hybrid card reader which is integrated into the unit. The hybrid card reader shall allow for both the use of a magnetic stripe credit card or smart card, and also a contact smart card. The parking customer will insert a smart card or insert/remove a credit card to start the payment process. The parking customer shall then have the ability to select the amount of time to be purchased, by pressing the "+" button for more time, or the "-" button for less time, up to the maximum time allowed and down to a minimum metered time. Users shall then select "OK" to purchase, or select "CANCEL" to stop the transaction.

7.1.3 A weather-proof capacitive or inductive keypad (non-mechanical) shall be utilized to eliminate any moving parts associated with the user interface for card payment. The keypad shall be modular, to allow in-field replacement if necessary.

7.1.4 The keypad shall be color coded, labeled, and provide a minimum of 4 buttons, to allow users to select (1) More time "+", (2) Less time "-", (3) CANCEL, and (4) "OK" for any card transactions.

7.1.5 PCI DSS Compliant. The Provider must be a certified vendor of the City's merchant card processor. At this time, the City of Berkeley is in contract with Wells Fargo Merchant Services LLC. The Provider must comply with Payment Card Industry Data Security Standards (PCI DSS). Visa and MasterCard aligned data security requirements to create a global standard for the protection of Cardholder data. The resulting Payment Card Industry Data Security Standards (PCI -DSS) defines the requirements with which all entities that store, process, or transmit payment card data must comply. Detailed information about PCI DSS can be found at the PCI DSS Council's website: www.pcisecuritystandards.org.

8.1 SECURE GATEWAY FEE

The City shall agree to pay and the Provider shall agree to accept, as full compensation, the bid amount per credit card transaction processed for supplying a secure communications gateway for credit card processing. The Provider shall invoice the City monthly for the total number of secure transactions administered by the Provider during the previous month.

This secure gateway fee is separate from the fee charged by the City's credit card processing Provider, which shall remain the sole responsibility of the City.

9.1 RFID IDENTIFICATION

9.1.2 The SSPMM shall have the capability to communicate with a Radio Frequency Identification (RFID) tag mounted/adhered to the inside of the meter housing, such that the meter shall automatically know where it is located and be able to download its pole-specific location configuration (rates, display information, max stay period, etc.) from the host server, based upon information stored on the RFID tag. The proposer shall provide a bid for one programmed RFID tag (Item 3) (programmed with City's GIS data provide by the City) for each SSPMM, which shall include the RFID components integral to the SSPMM, as well as the RFID tag complete and ready to be operational once installed inside the meter housing.

10.1 METER DOME COVER (METER TOP)

10.1.1 The meter dome shall be made of durable material such as ductile iron or zinc die cast material, which provides exceptional weather protection and resistance to vandalism. It shall lock in place at four corners using the same lock/key system on the City's current meters.

10.1.2 A window shall provide clear view of the digital display and shall be made of polycarbonate resin thermoplastic material (such as Lexan® or equivalent), that is UV stabilized to resist yellowing.

10.1.3 The outer surface of the meter dome cover shall be painted with an automotive grade material (the color to be determined by the City following the award of the bid), which again provides excellent resistance to weather and fading from sunlight, and shall provide a tough, scratch-resistant, and easily cleaned surface. The vendor shall provide the City with paint chips/paint samples at the vendor's expense.

11.1 SMART CARD AND SMART CARD SYSTEM

11.1.1 The vendor shall provide a bid for programmable magnetic stripe and contact smart cards (3 3/8 inches x 2 1/8 inches) that shall operate in the SSPMM.

11.1.2 The smart cards shall be personalized by the City. The City shall provide the artwork and text to the selected vendor.

11.1.3 The vendor shall provide a bid for a magnetic stripe and contact smart card programmer (hardware and software) that shall allow the City to program the magnetic stripe and contact smart cards.

11.1.4 As there are many various forms of smart cards, if the City selects a card that requires any modification to the IPS meter, such cost will be quoted by IPS to the City as an additional cost for this service.

12.1 WIRELESS DATA AND MANAGEMENT SYSTEM CAPABILITIES

12.1.1 The SSPMM shall be capable of transmitting wireless data for the purposes of payment card processing, coin transactions, updates to the operating features, and rate configuration of the meter, as well as fault notification. The wireless capability shall be integral to the meter mechanism design, and shall not require a secondary connection to a wireless device. Such communication shall be accomplished without any additional networking equipment that would need to be installed on City street poles or any other location, such as buildings, etc.

12.1.2 Updates to meter software, such as meter firmware and operating software, shall be performed wirelessly and shall not require City staff to interface with each individual meter to accomplish such an update. No additional software shall be required to access and update the meter system, other than access to an Internet browser.

12.1.3 The SSPMM management system shall not be dependent on the interaction of individual, handheld devices with each meter in the field. The management system shall be secure and completely web-based, and accessible to authorized personnel via the Internet. No additional software, other than an Internet browser, shall be required for the management system to be accessed and fully used in conjunction with the SSPMM. Access to the meter management system by any authorized user shall be provided at all times (24 hours per day/ 7 days a week), via the Internet.

12.1.4 The management system shall provide a variety of reports and functions, including financial, technical, and administrative functions, via a single Internet-based portal. Reports and functions shall include, but are not limited to:

Credit card reconciliation (daily, weekly, monthly, annually).

- a. Cash collection reports (by date, time, meter number, and collector).
- b. Accumulative totals of all cash and card transactions (daily, weekly, monthly, or annually).
- c. Revenue summary reports (daily, weekly, monthly, annually, by zone, route, street or meter number).
- d. Coin box level (% full).
- e. 4K-Individual transactions (cash or credit) by meter number.
- f. GPS location of meters on a map, with statistical mouse-over feature.
- g. Adjudication Reports.
- h. Meter uptime (over time, by zone, street, and meter number).
- i. Meter paid occupancy reports.
- j. Exception reports for units not performing as required (communications or payment faults).
- k. The management system shall be capable of exporting reports to a variety of common Microsoft file formats including, but not limited to, Excel, Access, and Word.
- l. Ability to change rates and other operating parameters remotely via the Internet.
- m. Maintenance software for logging service requirements over time.
- n. Access to help materials and user manuals shall be available on-line.

13.1 ACCESS CARDS

13.1.1 The SSPMM shall allow for the use of additional cards, provided by the vendor, to be used for the purposes of accessing meter diagnostics, cash collection, and allowing for time to be added to the meter during a maintenance event without affecting the revenue audit. The use of these cards shall be logged and presented as one of the report

options in the web-based management system.

13.1.2 Diagnostics Card: With the use of a diagnostics card, and without opening the meter housing, the SSPMM shall provide the following minimum information relating to the current meter operating status:

13.1.3 View the current assigned meter configuration and software version.

13.1.3 View the battery level of the rechargeable battery, the non-rechargeable battery, and the solar panel charge level.

13.1.4 Test the operating condition of the card reader.

13.1.5 Test the operating condition of the coin validator.

13.1.6 Test the integrated wireless communications.

13.1.7 Allow for the meter to be turned off.

13.1.8 Coin Collection Card: With the use of a coin collection card, and without opening the meter housing, the SSPMM shall allow for parking meter collection staff to clear the coin box counter at the time of cash collection. This card shall provide to the web-based management system a cash audit feature that shall show the time of card use, the specific card used, the cash value collected, and a detailed summary of the coin types collected.

13.1.9 Meter Maintenance Card: With the use of a meter maintenance card, and without opening the meter housing, the SSPMM shall allow for maintenance staff to put time on the meter, to compensate a customer in the event of meter maintenance activity. The time put onto the meter shall not affect the revenue audit, and shall be logged and displayed in the web-based management system as an exception.

END OF APPENDIX D

APPENDIX E DETAILED TRAINING OUTLINE

IPS Group Inc. shall provide the City with ongoing training to familiarize City staff with the meters and the system. System training may be conducted by webinar or other remote educational methods; technical training must be conducted in person, no more than twice annually, not to exceed 10 business days annually. Additional training may be arranged as needed at a cost to the City.

The following training will be provided:

1 **Technical Training: (4 hour training session)**

The shall provide City staff with in-depth, technical training on the functionality of the meters. Training will be conducted in person, on an as needed basis no more than twice annually. Training dates will be scheduled, by mutual agreement, at least thirty days prior to the actual day. Technical training shall be divided into two sections: physical maintenance of the meter and virtual maintenance of the meter.

1.1 **Physical Maintenance:** At the conclusion of physical maintenance training, City staff will be able to easily complete the following tasks:

- Deconstruct a meter down to its core elements.
- Construct a meter from core elements.
- Clear all types of jams that may occur in a meter.
- Verify a meter is operational and meets the definition of a 'functional meter.'

1.2 **Virtual Maintenance:** At the conclusion of virtual maintenance training, City staff will be able to easily complete the following tasks:

- Access the Battery Voltage Report from the system.
- Access the Automated Address Event Report from the system.
- Access the Vault Collection Notification Report from the system.
- Access the Electronic Maintenance Reporting system within the system.
- Log an event in the Electronic Maintenance Reporting system.
- Search for an event in the Electronic Maintenance Reporting system.
- Modify meter information in the Electronic Maintenance Reporting system.
- Access the Meter Maintenance Report from the system.
- Access the Meter Communication Report from the system.
- Access the Sensor Communication Report from the system.
- Access the GPS Location Report from the system.

Moreover, the Provider shall provide the City with a detailed training manual, discussing the above-mentioned areas of training.

2 Financial and Administration Training: (2 hours)

The Provider shall provide City staff with guided training on the functionality of the system. The first training shall be conducted via webinar and future training shall occur at least once quarterly, on an as needed basis, and may occur via webinar, PowerPoint, or other agreed upon, self-guided medium. The Provider shall provide staff, via conference call, guidance through the first training session. At the conclusion of financial and administrative training, City staff will be able to easily complete the following tasks:

- Access the Area Revenue Report from the system.
 - Access the Daily Bank Reconciliation Report from the system.
 - Access the Coin Collection Report from the system.
 - Access the Sensor Reset Report from the system.
 - Access the Battery Voltage Report from the system.
 - Access the Automated Address Event Report from the system.
 - Access the Vault Collection Notification Report from the system.
-
- Access the Electronic Maintenance Reporting system within the system

Log an event in the Electronic Maintenance Reporting system.

Search for an event in the Electronic Maintenance Reporting system.

Modify meter information in the Electronic Maintenance Reporting system.

- Access the Meter Maintenance Report from the system.
- Access the Meter Communication Report from the system.
- Access the Sensor Communication Report from the system.
- Access the GPS Location Report from the system.

3 Enforcement Training: (1 hour)

The first enforcement training shall be conducted via webinar, while additional enforcement training may be conducted by webinar or PowerPoint presentation or other agreed upon, self-guided medium. The vendor shall be available to answer any questions via telephone or email and shall do so within 24 hours of receipt. The vendor shall provide City enforcement personnel with training on how to identify the following:

- A meter that is registering as having been paid
 - A meter that is registering as not having been paid.
 - A meter that is malfunctioning.
- Simple determination of the nature of the malfunction

END OF APPENDIX E

APPENDIX F

LIMITIED AND EXTENDED WARRANTIES (3-YEAR) SERVICE CONTRACT

1 SSPMM Units and Sensor Products

1.1 The Provider shall provide a 1-year limited manufacturer warranty and an extended 2-year warranty on all SSPMM units and sensor products provided under the Contract. The limited warranty shall begin from the point of equipment acceptance by the City, and end 12-months after that date. Acceptance by the City shall not exceed 20 business days following SSPMM installation. The extended warranty shall begin in month 13 and end 2 years after that date.

1.2 The warranties shall include parts, labor, and shipping costs from the City to the Provider and from the Provider back to the City, as necessary, to repair any SSPMM unit during the warranty period.

1.3 Any meter mechanism that fails within the warranty period shall be replaced/repaired by the Provider within five (5) business days of receipt, and shipped via ground freight to the City.

2 Components

1.2.1 The extended warranty for all other components, including, but not limited to meter mechanisms, RFID tags, vehicle detection sensors, and access cards, shall be included in the warranty and compensated as stated in Appendix C of the agreement.

1.2.2 The IPS meter battery is warranted for 3 years under normal operating conditions and with access to adequate sunlight. Provider shall provide a full twelve (12) month warranty on all batteries provided with original meter equipment when paired with a vehicle sensor and/or pay by cell phone option. In order to maximize battery life, City must allow Provider the ability to implement optimal power saving techniques. Absent this option, the warranty for batteries shall only be for 6 months when pay-by-cell phone option is enabled. Replacement of batteries during the initial warranty period does not extend the warranty on that item.

1.2.2 IPS does not cover defects caused by improper care or use, lack of preventative maintenance, and does no warranty any defects due to vandalism or other factors contained as a part of the Force Majeure clause below.

Additional Provisions:

- a. IPS must have the opportunity to assist in the initial deployment and system installation
- b. Repair or replacement under warranty of any defective product does not extend the warranty period for that product
- c. IPS will either repair or replace products, at their discretion, to replace parts that are found to be defective within the warranty period
- d. Any sub-component (does not include complete meter mechanism) installed will have a warranty period beginning on the date installed
- e. Returns for credit will only apply once IPS has confirmed that defects were within the warranty period and are covered under the terms and conditions of the warranty provided.

Exclusions:

- a. Problems caused by faulty installation of replacement components
- b. Damage of returned meters to IPS due to inadequate packaging.
- c. Warranty voided by use of non-IPS replacement parts, un-authorized alterations to the equipment (hardware or software)
- d. Force Majeure: IPS shall not be liable for any warranty provisions where such product failure is as a result Of Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity (or cellular telecommunication failures caused by any of the events or causes described above).

3 Management System

The warranty shall include debugging, system updates, and correcting any problems that may occur with the web-based meter management system.

4. Term

After the initial Contract term, the City may negotiate a service contract for the SSPMM's, a wireless data management data service plan for as long as the system is in use. Future service and data management contracts shall be subject to approved appropriations and City Council approval.

5. Obligations of City

5.1 Preventative Maintenance (Meters):

- a. Preventative maintenance will be similar to current single-space parking meters. However, the primary elements will be a working battery, card reader and coin validator.
- b. Meters surfaces should be kept clean with mild soap and water.
- c. The card reader heads should be cleaned with a cleaning card every 1-2 months to ensure optimum performance. Cleaning cards may be purchased from IPS.
- d. At 9-12 month increments, the coin validator shall be visually inspected for any damage or debris. Compressed air may be used to keep the card reader and coin acceptor clear of debris, every 9-12 months.
- e. Additional preventative maintenance shall be administered by City Staff at such time as it is apparent to be necessary, even if it should occur on a more frequent basis than described herein.

END OF APPENDIX F

APPENDIX G

SOFTWARE MAINTENANCE & SUPPORT AGREEMENT

I. Scope of Agreement. During the term of this Agreement, as set forth in Section 2, Provider agrees to provide City standard maintenance, telephone support, on-site support, and custom enhancement as set forth in Sections 3, 4, 5, and 6, for computer programs this Agreement (collectively "Software").

II. Term.

A. *Effective Date.* This Agreement shall take effect upon Acceptance pursuant to Article 3.

B. *Termination Date.* This Agreement shall terminate upon the effective date of a subsequent agreement concerning maintenance services entered into between City and Provider.

III. Support & Maintenance Services.

A. *Scope of Services.* During the term of this Agreement, Provider will provide City the following Support & Maintenance Services for the Software:

1. Unlimited number of telephone support calls for software issues, during the term of this Agreement, as outlined in sub-section 2 & 3 below.
2. Customer Support shall be provided online and by telephone Monday – Friday (7:00 a.m. – 4:00 p.m. Pacific Time), excluding Provider holidays, for advice and consulting regarding other use of the Software.
3. Guaranteed 24-hour (weekdays) response to support issues.
4. Critical issues will receive the highest support priority with the objective of being resolved within 24 hours (weekdays).
5. Non-critical issues will receive priority with the objective of being resolved within 72 hours.
6. Periodic update releases of the Software that may incorporate (A) corrections of any substantial defects, (B) fixes of any minor bugs, and (C) at the sole discretion of Provider, enhancements to the Software.

B. *Critical Issues.* Critical issues are software malfunctions that prevent all system users from performing critical business processes including but not limited to:

- Program is not available
- Users cannot log in
- Screen crashes
- Meter status' are not updating
- Users cannot view reports

C. *Non-Critical Issues.* Non-critical issues are software malfunctions that do not limit users from carrying out critical business processes (as defined above) and are limited to when the Software fails to perform as described in the documentation (as that term is defined in the License Agreement), or when clarification of the documentation is required or sue of specific aspects of the Software is not covered in standard training or documentation.

D. *Periodic Update Releases.* Upon the release of a software update, Provider will send notification of the update release to City's designee in writing via e-mail.

City is responsible for testing and validating updates within their specific environment.

E. *Support Exclusions.* Support & Maintenance Services do not include:

- Charged-for-Enhancements that are offered, at Provider's sole discretion, to customers upon payment of a license fee;
- Software Functionality Enhancement (customization) Services.
- On-site support.
- Third-Party product support

IV. Charged-For-Enhancements. From time to time, at Provider's sole discretion, Provider will make available to City Charged-for-Enhancements to the Software that City may license from Provider upon payment of the license fee established by Provider.

V. Software Functionality Enhancement Requests (Customizations). If software functionality as outlined on the system documentation does not meet City's requirements, City may contract Provider to provided system functionality enhancements (customizations).

Provider will evaluate customization requests and provide City with a written change order that includes a scope of work and cost estimate prior to the development of customization specifications. Upon the City's written approval of the change order, Provider will prepare detailed customization specification for City's review and written approval prior to development.

The City must notify the Provider of customization functionality deficiencies (if

customization does not function as outlined in approved specifications) within 60 days of customization delivery. Provider will correct all customization functionality deficiencies at no charge if notified within 60 days of delivery.

At Provider's discretion customer customizations may be added to the software's standard feature set and provided to Provider's other customers.

VI. On-Site Support. Provider, will provide City On-Site Support as needed, as IPS staff are frequently in the Bay Area although both the corporate offices and manufacturing facility are both housed in San Diego, California. .

VII. Network Hardware & Software Support. Support & Maintenance services do not include: network support, monitoring, backup, installation or warranty on or of City's network hardware or software.

VIII. Management/Maintenance Fee.

A. *Contract duration.* Provider will charge City Management/Maintenance Fees as defined in Appendix "C" of this Agreement.

B. *Amount of Fee.* City agrees to pay Provider a Management System Fee, in the amount set forth in Appendix "C", Section 1, Support, Management & Maintenance Services provided by Provider pursuant to this agreement.

IX. Obligations of City.

A. *City Contact.* City shall notify Provider of City's designee. To the maximum extent practicable, City's communications with Provider will be through the City's designee(s).

B. *Facility and Personnel Access.* City agrees to grant Provider access to City's facilities and personnel concerned with the meter operation to enable Provider to provide services.

END OF APPENDIX G

APPENDIX H

EQUIPMENT ACCEPTANCE CERTIFICATE

The undersigned purchaser hereby acknowledges receipt of the equipment order described below. After confirmation of order fulfillment, and on-site product testing, we are now accepting the equipment as satisfactory for all purposes in accordance with the Agreement.

Quantity	Model Number	Equipment Description

City of Berkeley Representative/Position

Date

END OF SECTION

APPENDIX I
SOURCE CODE AGREEMENT

See sample of Registration Agreement and Multi License Deposit Account Source Code Agreement attached to this Appendix.

Actual fully commented documents to be provided by Provider and attached to this Contract after the Contract is executed, on the date of "go-live" for the system.

APPENDIX I SAMPLE

Registration Agreement

NOTE: A COPY OF THIS REGISTRATION AGREEMENT MUST BE DULY SIGNED BY AN AUTHORIZED SIGNATORY AND RETURNED TO NCC GROUP BEFORE A LICENSEE CAN CLAIM PROTECTION UNDER THE RELEVANT DEPOSIT ACCOUNT.

Agreement between:

- (1) [Licensor name] whose principal office is at [Licensor address] ("**Licensor**");
- (2) NCC Group, Inc. a corporation organized and existing under the laws of Virginia with its principal office at 123 Mission St., Suite 1020, San Francisco, CA 94105 ("**NCC Group**"); and
- (3) [Licensee name] whose principal office is at [Licensee address] ("**Licensee**");

Agreement:

1. This registration agreement ("**Registration Agreement**") is supplemental to the terms and conditions of the Multi Licensee Deposit Account Software Escrow Agreement number [Agreement#] dated _____ ("**Escrow Agreement**") and the Deposit Account Agreement(s) (as defined in the Escrow Agreement) number(s) _____ dated _____, both between Licensor and NCC Group.
2. This Registration Agreement, the Escrow Agreement and the relevant Deposit Account Agreement(s) together shall form a binding agreement between Licensor, NCC Group and Licensee in accordance with the terms of the Escrow Agreement.
3. Licensee agrees to defend and indemnify NCC Group and to hold NCC Group harmless from and against any claims, suits or other proceedings, actions, losses, costs, liabilities or expenses incurred in connection with the defense thereof (including reasonable attorney's fees), in each case which may be imposed on, or incurred by or asserted against NCC Group in any way arising out of or relating to this Agreement, provided that Licensee shall not be liable for that portion of any such indemnification amount resulting from NCC Group's gross negligence or intentional misconduct.
4. Licensee hereby agrees to take the benefit of, agrees and undertakes to perform its obligations under and be bound by the terms and conditions of the Escrow Agreement, including the payment obligations as agreed among the Parties, as though they were a party to the Escrow Agreement and the Deposit Account Agreement and named therein as a Licensee.
5. This Registration Agreement shall take effect when NCC Group has registered Licensee as a party to the relevant Deposit Account Agreement.
6. The Release Events for the undersigned Licensee are as follows:
 - (i) a receiver, trustee, or similar officer is appointed for the business or property of Licensor; or
 - (ii) Licensor files a petition in bankruptcy, files a petition seeking any reorganization (without confirming immediately in writing to Licensee that it will continue to maintain the Software in accordance with the terms of the License Agreement or any applicable maintenance agreement), makes an arrangement, composition, or similar relief under any law regarding insolvency or relief for debtors, or makes an assignment for the benefit of creditors; or
 - (iii) any involuntary petition or proceeding under bankruptcy or insolvency laws is instituted against Licensor and not stayed, enjoined, or discharged within 60 days; or
 - (iv) Licensor takes any corporate action authorizing any of the foregoing; or
 - (v) any similar or analogous proceedings or event to those in Clauses 6(i) to 6(iii) above occurs in respect of Licensor within any jurisdiction outside the USA; or
 - (vi) Licensor ceases to carry on its business or the part of its business which relates to the Software; or

- (vii) Licensor or, where relevant, its agent, parent, subsidiary or associated company is in material breach of its obligations as to maintenance or modification of the Software under the License Agreement or any maintenance agreement entered into in connection with the Software and has failed to remedy such default notified by Licensee to Licensor within a reasonable period.

Signed for and on behalf of Licensee

Name: |

Position: | (Authorized Signatory)

Date: |

Signed for and on behalf of Licensor

Name: |

Position: | (Authorized Signatory)

Date: |

Signed for and on behalf of NCC GROUP, INC.

Name: |

Position: | (Authorized Signatory)

Date: |



Multi Licensee Deposit Account Software Escrow Agreement

Date NOVEMBER 01, 2010
Licensor IPS Group, Inc.
Agreement Number 46132

Notice: The parties to this Agreement are obliged to inform NCC Group of any changes to the Software or in their circumstances (including change of name, principal office, contact details or change of owner of the intellectual property in the Software).

Escrow Agreement Dated:

Between:

- (1) IPS Group, Inc whose principal office is at 6195 Cornerstone Court E, Suite 114, San Diego, CA 92121 ("Licensor"); and
- (2) NCC Group, Inc. a corporation organized and existing under the laws of Virginia with its principal office at 1731 Technology Drive, Suite 880, San Jose, California 95110, USA ("NCC Group").

Background:

- (A) Licensee has been granted a license to use the Software which comprises computer programs.
- (B) Certain technical information and/or documentation relating to the Software is the confidential information and intellectual property of Licensor or a third party.
- (C) Licensor acknowledges that in certain circumstances, such information and/or documentation would be required by Licensee in order for it to continue to exercise its rights under its License Agreement with the Licensor.
- (D) The parties therefore agree that such information and/or documentation should be placed with a trusted third party, NCC Group, so that such information and/or documentation can be released to Licensee should certain circumstances arise.

Agreement:

In consideration of the mutual undertakings and obligations contained in this Agreement, the parties agree that:

1 Definitions and Interpretation

1.1 In this Agreement the following terms shall have the following meanings:

"**Agreement**" means the terms and conditions of this multi licensee deposit account software escrow agreement set out below, including the Schedules and Appendices hereto.

"**Confidential Information**" means all technical and/or commercial information not in the public domain and which is designated in writing as confidential by any party.

"**Deposit Account**" means an account set up on the execution of a Deposit Account Agreement under which specific Escrow Material is deposited by the Licensor with NCC Group.

"**Deposit Account Agreement**" means an agreement in the form attached as Appendix 1, for the setting up of a Deposit Account.

"**Deposit Form**" means the form at Schedule 1 which is to be completed by Licensor and delivered to NCC Group with each deposit of the Escrow Material.

"**Escrow Material**" means the Source Code of the Software and such other material and documentation (including updates and upgrades thereto and new versions thereof) as are necessary to be delivered or deposited to comply with Clause 3 of this Agreement.

"**Full Verification**" means the tests and processes forming NCC Group's Full Verification service and/or such other tests and processes as may be agreed between the parties for the verification of the Escrow Material.

"**Integrity Testing**" means those tests and processes forming NCC Group's Integrity Testing service, in so far as they can be applied to the Escrow Material.

"**Intellectual Property Rights**" mean any copyright, patents, design patents, registered designs, design rights, utility models, trademarks, service marks, trade secrets, know how, database rights, moral rights, confidential information, trade or business names, domain names, and any other rights of a similar nature including industrial and proprietary rights and other similar protected rights in any country or jurisdiction together with all registrations, applications to register and rights to apply for registration of any of the aforementioned rights and any licenses of or in respect of such rights.

"**License Agreement**" means the agreement under which a Licensee was granted a license to use the Software.



"Licensee" means any person, firm, company or other entity:

- 1.1.1 to whom a license to use the Software has been granted; and
- 1.1.2 whom Licensor has approved for registration under a Deposit Account Agreement; and
- 1.1.3 who has agreed to be bound by the terms and conditions of a Deposit Account Agreement by executing a completed Registration Agreement, forwarding the same to NCC Group and the receipt and registration of which has been acknowledged by NCC Group in writing to Licensor and Licensee;

and references in this Agreement to Licensee shall be to the relevant Licensee or Licensees given the context in which such reference is made.

"Registration Agreement" means an agreement in the form set out in Appendix 2 to be signed by Licensor, NCC Group and any company wishing to be a party to a Deposit Account Agreement or Deposit Account Agreements, as a Licensee and, accordingly, to take the benefit of and be bound by the terms and conditions of the Agreement including payment obligations as may be defined in the Registration Agreement.

"Release Purposes" means the purposes of understanding, maintaining, modifying and correcting the Software exclusively for and on behalf of Licensee together with such other purposes (if any) as are permitted under the License Agreement.

"Software" means the software together with any updates and upgrades thereto and new versions thereof licensed to Licensee under the License Agreement details of which are set out in Schedule 1 of a Deposit Account Agreement.

"Source Code" means the computer programming code of the Software in human readable form.

- 1.2 This Agreement shall be interpreted in accordance with the following:
 - 1.2.1 headings are for ease of reference only and shall not be taken into consideration in the interpretation of this Agreement;
 - 1.2.2 all references to Clauses and Schedules are references to Clauses and Schedules of this Agreement; and
 - 1.2.3 all references to a party or parties are references to a party or parties to this Agreement.

2 Deposit Accounts

- 2.1 Each time that the Licensor wishes to deposit different Escrow Material under the terms of this Agreement, the Licensor and NCC Group must execute a completed Deposit Account Agreement containing the details of the Escrow Material to be deposited in accordance with the obligations contained in Clause 3.
- 2.2 Each signed Deposit Account Agreement shall be supplemental to and be governed by the terms of this Agreement.
- 2.3 For the avoidance of doubt, if the Escrow Material to be deposited is an update to or development of Escrow Material already deposited under an existing Deposit Account, the deposit of such Escrow Material shall not require a new Deposit Account and shall be deposited under the relevant existing Deposit Account.

3 Licensor's Duties and Warranties

- 3.1 Licensor shall:
 - 3.1.1 deliver a copy of the Escrow Material to NCC Group within 30 days of the date NCC Group receives an executed Deposit Account Agreement;
 - 3.1.2 deliver an update or replacement copy of the Escrow Material to NCC Group within 30 days of a material update, error correction, enhancement, maintenance release or functional modification to the Software which results in an updated delivery of the object code version of the Software to Licensee;
 - 3.1.3 ensure that each copy of the Escrow Material deposited with NCC Group comprises the Source Code of the latest version of the Software used by Licensee;
 - 3.1.4 deliver to NCC Group an update or replacement copy of the Escrow Material within 30 days after the anniversary of the last delivery of the Escrow Material to ensure that the integrity of

the Escrow Material media is maintained;

3.1.5 deliver with each deposit of the Escrow Material a Deposit Form which includes the following information;

3.1.5.1 details of the deposit including the full name of the Software (i.e. the original name as set out under Schedule 1 to the Deposit Account Agreement together with any new names given to the Software by Licensor), version details, media type, backup command/software used, compression used, archive hardware and operating system details; and

3.1.5.2 password/encryption details required to access the Escrow Material;

3.1.6 deliver with each deposit of the Escrow Material the following technical information (where applicable):

3.1.6.1 documentation describing the procedures for building, compiling and installing the Software, including names and versions of the development tools;

3.1.6.2 Software design information (e.g. module names and functionality); and

3.1.6.3 name and contact details of employees with knowledge of how to maintain and support the Escrow Material; and

3.1.7 deposit a detailed list of the suppliers of any third party software and tools required to access, install, build or compile or otherwise use the Escrow Material.

3.2 Licensor warrants to both NCC Group and Licensee at the time of each deposit of the Escrow Material with NCC Group that:

3.2.1 it has the full right, ability and authority to deposit the Escrow Material;

3.2.2 in entering into this Agreement and any Deposit Account Agreement and performing its obligations under such agreements, it is not in breach of any of its ongoing express or implied obligations to any third party(s); and

3.2.3 the Escrow Material deposited under Clause 3.1 contains all information in human-readable form and is on suitable media to enable a reasonably skilled programmer or analyst to understand, maintain, modify and correct the Software.

4 Licensee's Responsibilities and Undertakings

4.1 Licensee shall notify NCC Group of any change to the Software that necessitates a replacement deposit of the Escrow Material.

4.2 In the event that the Escrow Material is released under Clause 7, Licensee shall:

4.2.1 keep the Escrow Material confidential at all times;

4.2.2 use the Escrow Material only for the Release Purposes;

4.2.3 not disclose the Escrow Material to any person save such of Licensee's employees or contractors who need to know the same for the Release Purposes. In the event that Escrow Material is disclosed to its employees or contractors, Licensee shall ensure that they are bound by the same confidentiality obligations as are contained in this Clause 4.2. A written log of all parties who have received or have been given access to the Escrow Material must be documented and maintained, including date provided and description of material provided; and

4.2.4 hold all media containing the Escrow Material in a safe and secure environment when not in use; and

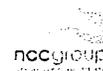
4.2.5 forthwith destroy the Escrow Material should Licensee cease to be entitled to use the Software under the terms of the License Agreement.

5 NCC Group's Duties

5.1 NCC Group shall:

5.1.1 at all times during the term of this Agreement, retain the latest deposit of the Escrow Material in a safe and secure environment;

5.1.2 notify Licensor and the relevant Licensee of the acceptance of any Registration Agreement;



and

5.1.3 inform Licensor and Licensee of the receipt of any deposit of the Escrow Material by sending to both parties a copy of the Deposit Form and/or the Integrity Testing report or Full Verification report (as the case may be) generated from the testing processes carried out under Clause 11.

- 5.2 In the event of failure by Licensor to deposit any Escrow Material with NCC Group, NCC Group shall not be responsible for procuring such deposit and may, at its sole discretion, notify the Licensor and Licensee of Licensor's failure to deposit any Escrow Material.
- 5.3 NCC Group may appoint agents, contractors or sub-contractors as it deems fit to carry out the Integrity Testing and the Full Verification processes. NCC Group shall ensure that any such agents, contractors and sub-contractors are bound by the same confidentiality obligations as are contained in Clause 9.
- 5.4 NCC Group has the right to make such copies of the Escrow Material as may be necessary solely for the purposes of this Agreement.

6 Payment

- 6.1 The parties shall pay NCC Group's fees and charges as published from time to time, or as otherwise agreed between the parties on a sales order or letter of intent. NCC Group's fees as published are exclusive of any applicable sales tax.
- 6.2 If NCC Group is required to perform any additional or extraordinary services as a result of being an escrow agent including intervention in any litigation or proceeding, NCC Group shall receive reasonable compensation for such services and be reimbursed for all costs incurred, including reasonable attorney's fees.
- 6.3 NCC Group shall be entitled to review and vary its standard fees and charges for its services under this Agreement from time to time but no more than once a year and only upon 45 days written notice to the parties.
- 6.4 All invoices are payable within 30 days from the date of invoice. Interest shall accrue at the lesser of 1.5% per month or the maximum amount permitted by applicable law for any fees that are undisputed by the paying party and remain unpaid for more than 30 days past the due date of the applicable invoice.
- 6.5 In the event of a dispute made in good faith as to the amount of fees, the party responsible for payment agrees to remit payment on any undisputed amount(s) in accordance with Clause 6.1 above. In such circumstances, the interest on the fees shall not accrue as to any disputed amounts unless not paid within 30 days after such dispute has been resolved by the parties.
- 6.6 NCC Group shall have no obligations under this Agreement until the initial invoice has been paid in full.

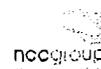
7 Release Procedures

- 7.1 Subject to: (i) the remaining provisions of this Clause 7 and (ii) the receipt by NCC Group of the fees chargeable upon a release and any other fees and interest (if any) outstanding under this Agreement, NCC Group will release the Escrow Material to a duly authorized representative of Licensee if any of the events listed on the Registration Agreement ("Release Event(s)") occur.
- 7.2 Licensee must notify NCC Group of the occurrence of a Release Event specified in the Registration Agreement by delivering to NCC Group a notice in writing ("Notice") declaring that such Release Event has occurred and specifying the Deposit Account(s) so affected, and setting out the facts and circumstances of the Release Event, that the License Agreement and any maintenance agreement, if relevant, for the Software was still valid and effective up to the occurrence of such Release Event and exhibiting such documentary evidence in support of the Notice as NCC Group shall reasonably require.
- 7.3 Upon receipt of a Notice from Licensee claiming that a Release Event has occurred:
- 7.3.1 NCC Group shall submit a copy of the Notice to Licensor (with a copy to the Licensee in order to acknowledge receipt of the Notice) by courier or other form of guaranteed delivery; and
- 7.3.2 unless within 15 business days after the date of dispatch of the Notice by NCC Group, NCC Group receives a counter-notice in writing from Licensor stating that in their view no such Release Event has occurred or, if appropriate, that the event or circumstance giving rise to the Release Event has been rectified as shown by documentation in support thereof.

NCC Group will release the Escrow Material to Licensee for its use for the Release Purposes.

Page 5 of 15

Agreement Number []



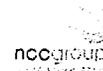
- 7.4 Upon receipt of the counter-notice from Licensor under Clause 7.3.2, NCC Group shall send a copy of the counter-notice and any supporting evidence to Licensee (with a copy to Licensor in order to acknowledge receipt of the counter-notice) by courier or other form of guaranteed delivery.
- 7.5 Within 90 days of dispatch of the counter-notice by NCC Group, Licensee may give notice to NCC Group that they wish to invoke the dispute resolution procedure under Clause 8.
- 7.6 If, within 90 days of dispatch of the counter-notice by NCC Group to Licensee, NCC Group has not been informed by Licensee that they wish the dispute resolution procedure under Clause 8 to apply, the Notice submitted by Licensee will be deemed to be no longer valid and Licensee shall be deemed to have waived their right to release of the Escrow Material for the particular reason or event specified in the original Notice. In such circumstances, this Agreement shall continue in full force and effect.

8 Disputes

- 8.1 Upon receipt of Licensee's notice requesting dispute resolution pursuant to Clause 7.5 above, NCC Group shall notify Licensor of the Licensee's request for dispute resolution. Licensor and Licensee shall submit their dispute to expedited binding arbitration in San Diego County, California under Commercial Arbitration Rules of the American Arbitration Association by one arbitrator appointed by the said rules. The decision of the arbitrator shall be final and binding upon the parties and enforceable in any court of competent jurisdiction, and a copy of such decision shall be delivered immediately to Licensor, Licensee and NCC Group. The parties shall use their best efforts to commence the arbitration proceedings within 14 days following delivery of the counter-notice. The sole question to be determined by the arbitrator shall be whether or not there existed a Release Event at the time Licensee delivered the Notice to NCC Group.
- 8.2 If the arbitrator finds that a Release Event existed at the time of delivery of the Notice to NCC Group, NCC Group is hereby authorized to release and deliver the Escrow Material to the Licensee within 5 working days of the decision being notified by the arbitrator to the parties. If the arbitrator finds to the contrary, then NCC Group shall not release the Escrow Material and shall continue to hold it in accordance with the terms of this Agreement.
- 8.3 The parties hereby agree that the costs and expenses of the arbitrator, the reasonable attorneys' fees and costs incurred by the prevailing party in the arbitration and any costs incurred by NCC Group in the arbitration shall be paid by the non-prevailing party.

9 Confidentiality

- 9.1 The Escrow Material shall remain at all times the confidential and intellectual property of its owner.
- 9.2 In the event that NCC Group releases the Escrow Material to Licensee, Licensee shall be permitted to use the Escrow Material only for the Release Purposes.
- 9.3 Subject to Clause 9.4, NCC Group agrees to keep all Confidential Information relating to the Escrow Material and/or the Software that comes into its possession or to its knowledge under this Agreement in strict confidence and secrecy. NCC Group further agrees not to make use of such information and/or documentation other than for the purposes of this Agreement and, unless the parties should agree otherwise in writing and subject to Clause 9.4, will not disclose or release it other than in accordance with the terms of this Agreement.
- 9.4 NCC Group may release the Escrow Material to the extent that it is required by applicable federal, state or local law, regulation, court order, judgment, decree or other legal process, provided that NCC Group has notified Licensor and Licensee prior to such required release, has given Licensor and/or Licensee an opportunity to contest (at their own expense) such required release, within the time parameters mandated by such applicable regulation, court order, judgment, decree or other legal process. NCC Group is hereby expressly authorized in its sole discretion to obey and comply with all orders, judgments, decrees so entered or issued by any court, without the necessity of inquiring as to the validity of such order, judgment or decree, or the court's underlying jurisdiction. Where NCC Group obeys or complies with any such order, judgment or decree, NCC Group shall not be liable to Licensee, Licensor or any third party by reason of such compliance, notwithstanding that such order, judgment or decree may subsequently be reversed, modified or vacated.
- 9.5 Any request by a Licensee under clause 11.3 for a Full Verification shall not be disclosed to any other Licensee(s) except as the requesting Licensee agrees.



- 9.6 Licensor may request and receive within 5 business days after requesting a copy from Licensee a copy of the current written log of all parties who have received or have been given access to the Escrow Material, including date provided and description of material provided.

10 Intellectual Property Rights

- 10.1 The release of the Escrow Material to Licensee will not act as an assignment of any Intellectual Property Rights that Licensor or any third party possesses in the Escrow Material. However, upon deposit of the Escrow Material, the title to the media upon which the Escrow Material is deposited ("Media") is transferred to NCC Group. Upon delivery of the Escrow Material back to Licensor, the title to the Media shall transfer back to the Licensor. If the Escrow Material is released to the Licensee, the title to the Media shall transfer to the Licensee.
- 10.2 The Intellectual Property Rights in the Integrity Testing report and any Full Verification report shall remain vested in NCC Group. Licensor and Licensee shall each be granted a non-exclusive right and license to use the Integrity Testing report for the purposes of this Agreement and their own internal purposes only. Licensor and the party who commissioned the Full Verification shall each be granted a non-exclusive right and license to use the Full Verification report for the purposes of this Agreement and their own internal purposes only.

11 Integrity Testing and Full Verification

- 11.1 NCC Group shall bear no obligation or responsibility to any party to this Agreement or person, firm, company or entity whatsoever to determine the existence, relevance, completeness, accuracy, operation, effectiveness, functionality or any other aspect of the Escrow Material received by NCC Group under this Agreement.
- 11.2 As soon as practicable after the Escrow Material has been deposited with NCC Group, NCC Group shall apply its Integrity Testing processes to the Escrow Material.
- 11.3 Any party to this Agreement shall be entitled to require NCC Group to carry out a Full Verification. Subject to Clause 11.4, NCC Group's prevailing fees and charges for the Full Verification processes and all reasonable expenses incurred by NCC Group in carrying out the Full Verification processes shall be payable by the requesting party.
- 11.4 If the Escrow Material fails to satisfy NCC Group's Full Verification tests as a result of being defective or incomplete in content, NCC Group's fees, charges and expenses in relation to the Full Verification tests shall be paid by Licensor.
- 11.5 Should the Escrow Material deposited fail to satisfy NCC Group's Integrity Testing or Full Verification tests under Clauses 11.2 or 11.3, Licensor shall, within 14 days of the receipt of the notice of test failure from NCC Group, deposit such new, corrected or revised Escrow Material as shall be necessary to ensure its compliance with its warranties and obligations in Clause 3. If Licensor fails to make such deposit of the new, corrected or revised Escrow Material, NCC Group will issue a report to Licensee (with a copy to Licensor) detailing the problem with the Escrow Material as revealed by the relevant tests.

12 NCC Group's Liability

- 12.1 Nothing in this Clause 12 excludes or limits the liability of NCC Group for gross negligence or intentional misconduct.
- 12.2 Subject to Clause 12.1, NCC Group shall not be liable for:
- 12.2.1 any loss or damage caused to either Licensor or Licensee except to the extent that such loss or damage is caused by the negligent acts or omissions of or a breach of any contractual duty by NCC Group, its employees, agents or sub-contractors, and in such event, NCC Group's total liability with regard to all claims arising under or by virtue of this Agreement or in connection with the performance or contemplated performance of this Agreement, shall not exceed the sum of \$100,000 (one hundred thousand US dollars); and
- 12.2.2 any special, indirect, incidental or consequential damages whatsoever.
- 12.2.3 However, this limit of liability does not limit any additional legal remedies that may apply due to unauthorized access or use by third parties.
- 12.3 NCC Group shall not be responsible in any manner whatsoever for any failure or inability of Licensor or Licensee to perform or comply with any provision of this Agreement.
- 12.4 NCC Group shall not be liable in any way to Licensor or Licensee for acting in accordance with the

Page 7 of 15

Agreement Number []



terms of this Agreement and specifically (without limitation) for acting upon any notice, written request, waiver, consent, receipt, statutory declaration or any other document furnished to it pursuant to and in accordance with this Agreement.

- 12.5 NCC Group shall not be required to make any investigation into, and shall be entitled in good faith without incurring any liability to Licensor or Licensee to assume (without requesting evidence thereof) the validity, authenticity, veracity and due and authorized execution of any documents, written requests, waivers, consents, receipts, statutory declarations or notices received by it in respect of this Agreement.

13 Indemnity

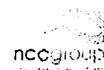
Licensor agrees to defend and indemnify NCC Group and to hold NCC Group harmless from and against any claims, suits or other proceedings, actions, losses, costs, liabilities or expenses incurred in connection with the defense thereof (including reasonable attorney's fees), in each case which may be imposed on, or incurred by or asserted against NCC Group in any way arising out of or relating to this Agreement, provided that Licensor shall not be liable for that portion of any such indemnification amount resulting from NCC Group's gross negligence or intentional misconduct or a breach of any contractual duty by NCC Group, its employees, agents or sub-contractors.

14 Term and Termination

- 14.1 This Agreement and any Deposit Account Agreement shall continue until terminated in accordance with this Clause 14.
- 14.2 If Licensor or Licensee, as the case may be, fails to pay an invoice addressed to it for services under this Agreement and/or any Deposit Account Agreement within 30 days of its issue, NCC Group reserves the right to give that party written notice to pay the outstanding invoice within 30 days. If Licensor has not paid its invoice by the expiry of the 30 day notice period, NCC Group will give Licensee(s) a period of 30 days to pay Licensor's invoice. If Licensor or Licensee (as appropriate) has not paid its invoice after being given notice in accordance with this Clause, NCC Group shall have the right to terminate this Agreement, the relevant Deposit Account Agreement or the registration of Licensee (as appropriate) without further notice. Any amounts owed by Licensor but paid by Licensee(s) will be recoverable by Licensee(s) direct from Licensor as a debt and, if requested, NCC Group shall provide appropriate documentation to assist in such recovery.
- 14.3 Upon termination of this Agreement and/or a Deposit Account Agreement in their entirety under the provisions of Clause 14.2, for 30 days from the date of termination NCC Group will make the Escrow Material available for collection by Licensor or its agents from the premises of NCC Group during office hours. After such 30 day period NCC Group has the authority to destroy the Escrow Material.
- 14.4 Notwithstanding any other provision of this Clause 14, NCC Group may resign as Escrow Agent hereunder and terminate this Agreement and/or a Deposit Account Agreement(s) by giving sixty (60) days written notice to Licensor and Licensee(s). In the event that this Agreement and/or a Deposit Account Agreement is terminated in its entirety, Licensor and Licensee(s) shall appoint a mutually acceptable new custodian on similar terms and conditions to those contained herein. If a new custodian is not appointed within 14 days of delivery of such notice, Licensor or Licensee(s) shall be entitled to request the American Arbitration Association to appoint a suitable new custodian upon terms and conditions consistent with those in this Agreement. Such appointment shall be final and binding on Licensor and Licensee(s). If NCC Group is notified of the new custodian within the notice period, NCC Group will forthwith deliver the Escrow Material to the new custodian. If NCC Group is not notified of the new custodian within the notice period and this Agreement and/or a Deposit Account Agreement has been terminated in its entirety, NCC Group will return the Escrow Material to Licensor.
- 14.5 Licensee may terminate any and all Deposit Account Agreements in respect of itself only at any time by giving sixty (60) days prior written notice to NCC Group.
- 14.6 If the License Agreement with a Licensee has expired or has been lawfully terminated, then Licensee shall give notice to NCC Group within 10 business days thereof to terminate its interest under the relevant Deposit Account Agreement(s), failing which, Licensor shall be entitled to give written notice to NCC Group to terminate the relevant Licensee's interests under the relevant Deposit Account Agreement(s). Upon receipt of such a notice from Licensor, NCC Group shall notify Licensee of Licensor's notice to terminate. Unless within 30 calendar days of NCC Group giving such notice to Licensee, NCC Group receives a counter-notice from Licensee disputing the termination of the License Agreement, then Licensee shall be deemed to have consented to such termination and Licensee's rights under the relevant Deposit Account Agreement shall immediately automatically terminate. Any disputes arising under this Clause shall be dealt with in accordance with the dispute resolution procedure in Clause 8. Upon termination of all registered Licensees under a Deposit Account

Page 8 of 15

Agreement Number []



al

Agreement under this Clause, NCC Group shall return the Escrow Material to Licensor.

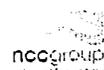
- 14.7 Subject to Clause 14.6, Licensor may only terminate the interests of any Licensee under a Deposit Account Agreement with the written consent of that Licensee.
- 14.8 Subject to Clause 14.6, Licensor may only terminate this Agreement or a Deposit Account Agreement in its entirety with the written consent of all Licensees.
- 14.9 A Deposit Account Agreement shall automatically immediately terminate in respect of a Licensee upon release of the Escrow Material to that Licensee in accordance with Clause 7.
- 14.10 If this Agreement or a Deposit Account Agreement is superseded and replaced by a new agreement in respect of the Escrow Material, this Agreement and/or the relevant Deposit Account Agreement shall, upon the coming into force of the new agreement in respect of a Licensee, automatically terminate in respect of that Licensee. When this Agreement and/or a Deposit Account Agreement has been terminated in respect of all Licensees who are registered under it, it shall immediately terminate in its entirety. The relevant party or parties shall request NCC Group to either transfer the Escrow Material to the new agreement or ask Licensor under the new agreement to deposit new material. If new material is deposited, upon its receipt, NCC Group shall, unless otherwise instructed, destroy the Escrow Material.
- 14.11 The termination of this Agreement and/or a Deposit Account Agreement in respect of a Licensee shall be without prejudice to the continuation of this Agreement and/or the Deposit Account Agreement in respect of any other Licensees.
- 14.12 If any terminations of Licensees' interests under this Agreement and/or a Deposit Account Agreement result in there being no Licensees registered under this Agreement and/or the Deposit Account Agreement, unless otherwise instructed by Licensor, this Agreement and/or the Deposit Account Agreement will continue and the Escrow Material will be retained by NCC Group pending registration of other Licensees.
- 14.13 The provisions of Clauses 1, 4.2, 6, 9, 10, 11.1, 12, 13, 14.13 to 14.15 (inclusive) and 15 shall continue in full force after termination of this Agreement.
- 14.14 On and after termination of this Agreement and/or a Deposit Account Agreement, Licensor and/or Licensee(s) (as appropriate) shall remain liable to NCC Group for payment in full of any fees and interest which have become due but which have not been paid as of the date of termination.
- 14.15 The termination of this Agreement and/or a Deposit Account Agreement, however arising, shall be without prejudice to the rights accrued to the parties prior to termination.

15 General

- 15.1 Licensor and Licensee(s) shall notify NCC Group and each other, within 30 days of its occurrence, of any of the following:
 - 15.1.1 a change of its name, principal office, contact address or other contact details; and
 - 15.1.2 any material change in its circumstances that may affect the validity or operation of this Agreement or a Deposit Account Agreement.
- 15.2 This Agreement shall be deemed entered into in California and will be governed by and construed according to the laws of the state of California, excluding that body of law known as conflict of law. The parties agree that any dispute arising under this Agreement will be resolved in the state or federal courts in San Diego County, California and the parties hereby expressly consent to the jurisdiction thereof.
- 15.3 This Agreement, the relevant Deposit Account Agreement together with, in respect of each Licensee, their Registration Agreement represents the whole agreement relating to the escrow arrangements between NCC Group, Licensor and that Licensee for the Software and shall supersede all prior agreements, discussions, arrangements, representations, negotiations and undertakings. In the event of any conflict between these documents, the terms of this Agreement shall prevail.
- 15.4 Unless the provisions of this Agreement otherwise provide, any notice or other communication required or permitted to be given or made in writing hereunder shall be validly given or made if delivered by hand or courier or if dispatched by certified or registered mail (airmail if overseas) addressed to the address specified for the parties in this Agreement or their Registration Agreement (or such other address as may be notified to the parties from time to time) or if sent by facsimile message to such facsimile number as has been notified to the parties from time to time and shall be deemed to have been received:

- (i) if delivered by hand or courier, at the time of delivery;
- (ii) if sent by certified or registered mail (airmail if overseas), 3 business days after posting (6 days if sent by airmail);
- (iii) if sent by facsimile, at the time of completion of the transmission of the facsimile with facsimile machine confirmation of transmission to the correct facsimile number of all pages of the notice.

- 15.5 Except where any party merges, is acquired or has substantially all of its assets acquired and the new entity or acquirer agrees to assume all of their obligations and liabilities under this Agreement and the relevant Deposit Account Agreement, no party shall assign, transfer or subcontract this Agreement or any rights or obligations hereunder without the prior written consent of the other parties.
- 15.6 This Agreement shall be binding upon and survive for the benefit of the successors in title and permitted assigns of the parties.
- 15.7 If any provision of this Agreement is declared too broad in any respect to permit enforcement to its full extent, the parties agree that such provision shall be enforced to the maximum extent permitted by law and that such provision shall be deemed to be varied accordingly. If any provision of this Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, or unenforceable, it shall, to the extent of such illegality, invalidity or unenforceability, be deemed severable and the remaining part of the provision and the rest of the provisions of this Agreement shall continue in full force and effect.
- 15.8 Save as expressly provided in this Agreement, no amendment or variation of this Agreement or a Deposit Account Agreement shall be effective unless in writing and signed by a duly authorized representative of each of the parties to it.
- 15.9 The parties shall not be liable to each other or be deemed to be in breach of this Agreement by reason of any delay in performing, or failure to perform, any of their obligations under this Agreement if the delay or failure was for a reason beyond that party's reasonable control (including, without limitation, fire, flood, explosion, epidemic, riot, civil commotion, any strike, lockout or other industrial action, act of God, war or warlike hostilities or threat of war, terrorist activities, accidental or malicious damage, or any prohibition or restriction by any governments or other legal authority which affects this Agreement and which is not in force on the date of this Agreement). A party claiming to be unable to perform its obligations under this Agreement (either on time or at all) in any of the circumstances set out above must notify the other parties of the nature and extent of the circumstances in question as soon as practicable. If such circumstances continue for more than six months, any of the other parties shall be entitled to terminate this Agreement by giving one month's notice in writing.
- 15.10 No waiver by any party of any breach of any provisions of this Agreement shall be deemed to be a waiver of any subsequent or other breach and, subject to Clause 7.6, no failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver thereof.



15.11 This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

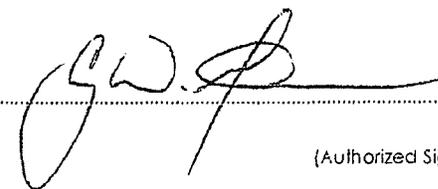
Signed for and on behalf of IPS Group, Inc.

Name: CHAD P RANDALL 

Position: COO (Authorized Signatory)

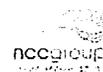
Date: 10/22/2010

Signed for and on behalf of NCC GROUP, INC.

Name: Craig Motta 

Position: VP, CM-NA (Authorized Signatory)

Date: 11/1/10



NON-DISCRIMINATION/WORKFORCE COMPOSITION FORM FOR NON-CONSTRUCTION CONTRACTS

To assist the City of Berkeley in implementing its Non-Discrimination policy, it is requested that you furnish information regarding your personnel as requested below and return it to the City Department handling your contract:

Organization: IPS Group, Inc
 Address: 6195 Cornerstone Ct E STE 114 SD CA 92121
 Business Lic. #: 02001088687

Occupational Category: (See reverse side for explanation of terms)	Total Employees		White Employees		Black Employees		Asian Employees		Hispanic Employees		Other Employees	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Official/Administrators		4		4								
Professionals	3	16	3	9				3		1		3
Technicians	6	14				1	5	10	1	3		
Protective Service Workers												
Para-Professionals												
Office/Clerical	2		2									
Skilled Craft Workers		11				1		2		8		
Service/Maintenance												
Other (specify)												
Totals:	11	45	5	13		2	5	15	1	12		3

Is your business MBE/WBE/DBE certified? Yes No If yes, by what agency? _____

If yes, please specify: Male: _____ Female: _____ Indicate ethnic identifications: _____

Do you have a Non-Discrimination policy? Yes: No:

Signed: [Signature] Date: 6/8/11

Verified by: _____ Date: _____
 City of Berkeley Contract Compliance Officer

Attachment B

Revised 12/15/10

**CITY OF BERKELEY
Nuclear Free Zone Disclosure Form**

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: Chad Randall Title: Chief Operating Officer
 Signature: [Handwritten Signature] Date: 6/9/2011
 Business Entity: IPS Group, Inc.

Contract Description/Specification No: Single Space Parking Meter & Management System/11-10585-C

Attachment C

CITY OF BERKELEY
Oppressive States Compliance Statement

The undersigned, an authorized agent of _____ (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution No. 59,853-N.S. (hereafter "Resolution"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Abo, Kham and U-Tsang**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: Chad Randall Title: Chief Operating Officer
 Signature: *Chad Randall* Date: 6/9/2011
 Business Entity: IPS Group, Inc.

Contract Description/Specification No.: Single Space Parking Meter & Management System/11-10585-C

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: _____ Date: _____

Attachment D

CITY OF BERKELEY
Living Wage Certification for Providers of Services

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

Section I.

1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid, or proposal, with the City of Berkeley for a cumulative amount of \$25,000.00 or more?

YES NO

If no, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 1(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES NO

If you have answered, "YES" to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. Please continue to Section II.

2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of \$100,000.00 or more?

YES NO

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES NO

If you have answered, "YES" to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. Please continue to Section II.

Section II

Please read, complete, and sign the following:

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE.

THIS CONTRACT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE.

Attachment E

Revised 12/15/10

To be completed by Contractor/Vendor



Form EBO-1
CITY OF BERKELEY

CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a contractor, return this form to the originating department/project manager. If you are a vendor (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

SECTION 1. CONTRACTOR/VENDOR INFORMATION

Name: IPS Group, Inc.			Vendor No.:	
Address: 6195 Cornerstone CT		City: San Diego	State: CA	ZIP: 92121
Contact Person: Ananda Hiler		Telephone: 858-404-0607 x114		
E-mail Address: ananda.hiler@ipsgroupinc.com		Fax No.: 858-404-0603		

SECTION 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.
 Yes No (If "Yes," proceed to Section 5; if "No," continue to the next question.)
- B. Does your company provide (or make available at the employees' expense) any employee benefits?
 Yes No
 If "Yes," continue to Question C.
 If "No," proceed to Section 5. (The EBO is not applicable to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? Yes No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? Yes No

If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.) If you answered "Yes" to both Questions C and D, please continue to Question E. If you answered "Yes" to Question C and "No" to Question D, please continue to Section 3.

- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? Yes No

If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)
If you answered "No," continue to Section 3.

SECTION 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
 - By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or
 - At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or
 - Upon expiration of the contractor's current collective bargaining agreement(s).

B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent?* Yes No

* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

SECTION 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this 8 day of June, in the year 2011 at San Diego, CA
(City)

(State)

Aranda Hiler
Name (please print)

[Signature]
Signature

Accounting Manager
Title

23-3028164
Federal ID or Social Security Number

FOR CITY OF BERKELEY USE ONLY

- Non-Compliant (The City may not do business with this contractor/vendor)
- One-Person Contractor/Vendor Full Compliance Reasonable Measures
- Provisional Compliance Category, Full Compliance by Date: _____
- Staff Name (Sign and Print): _____ Date: _____

Attachment F

Revised 12/15/10



CERTIFICATE OF LIABILITY INSURANCE

OP ID: AJ

DATE (MM/DD/YYYY)

05/29/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Leavitt Ins Agency San Diego CA License #0B72756 380 Stevens Ave., First Floor Solana Beach, CA 92075 Andrew James	858-259-5800	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: IPSGR-1	FAX (A/C, No):
	858-259-6069	INSURER(S) AFFORDING COVERAGE	
INSURED IPS Group Inc. 6195 Cornerstone Ct., Ste 114 San Diego, CA 92121	INSURER A: National Fire Ins of Hartford		20478
	INSURER B: American Casualty Company		20427
	INSURER C: Continental Casualty Co		20443
	INSURER D: Valley Forge Insurance Co		20508
	INSURER E:		
	INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X	X	4034371571	10/19/11	10/19/12	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COM/OP AGG \$ 2,000,000
							Emp Ben. \$ 1,000,000
B	AUTOMOBILE LIABILITY	X	X	4034371554 NO OWNED AUTOS	10/19/11	10/19/12	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						\$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS						\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			4034371568	10/19/11	10/19/12	EACH OCCURRENCE \$ 5,000,000
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 5,000,000
	<input type="checkbox"/> DEDUCTIBLE						\$
	<input checked="" type="checkbox"/> RETENTION \$ 10,000						\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	N/A	4022979152 4022979166	03/19/12 03/19/12	03/19/13 03/19/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
C	Tech E&O/Network/Privacy			425463644	10/19/11	10/19/12	E.L. DISEASE - POLICY LIMIT \$ 1,000,000
							Occurrence 5,000,000
							Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Single Space Parking Meter & Management System, Contract #8841/CMS#DL2FT. Certificate holder is Additional Insured including Primary Non-Contributory clause per form #G144294C99. Auto additional insured #CA20480299. Waivers of Subrogation: General Liability #CG24040509, Auto #9-23186B and Workers' Comp #G19160B. 30 day notice of cancellation.

CERTIFICATE HOLDER BEREK City of Berkeley, its officers agents, volunteers & employees Public Works Admin, CMS#RW6RS 2180 Milvia Street, 3rd floor Berkeley, CA 94704	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	---

© 1988-2009 ACORD CORPORATION. All rights reserved.

POLICY NUMBER
C 4034371571

INSURED NAME AND ADDRESS
IPS GROUP, INC
ALEXANDER SCHWARS
6195 CORNERSTONE CT STE 114
SAN DIEGO, CA 92121

POLICY CHANGES

ENDORSEMENT EFFECTIVE 02/13/2012

This Change Endorsement changes the Policy. Please read it carefully.
This Change Endorsement is a part of your Policy and takes effect on the
effective date of your Policy, unless another effective date is shown.

The following Form has been added:

Form #:G15115A Title: CHANGES-NOTICE-CANCELLATION MATERIAL
COVERAGE CHANGE

30 DAY NOTICE OF CANCELLATION
10 DAYS FOR NON-PAYMENT OF PREMIUM

THE CITY OF BERKELEY
PUBLIC WORKS ADMINISTRATION
2180 MILVIA STREET, 3RD FLOOR
BERKELEY, CA 94704



Thomas F. Molano
Chairman of the Board

Jonathan Kantor
Secretary

G-56015-B (ED. 11/91)



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
TECHNOLOGY GENERAL LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Part.

1. ADDITIONAL INSURED – BLANKET VENDORS

WHO IS AN INSURED (Section II) is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or

reabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Subparagraphs d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
3. This provision 1. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Coverage Part.
4. This provision 1. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Coverage Part or by endorsement.

2. MISCELLANEOUS ADDITIONAL INSUREDS

WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal injury and advertising injury," but only the following

persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

a. Additional Insured – "Your Work"

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

(1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.

(2) The coverage provided to the additional insured by this paragraph 2.a., does not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless:

(a) It is required by the written contract or written agreement; and

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard" is not excluded either by the provisions of the Coverage Part or by endorsement.

(3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

b. State or Political Subdivisions

A state or political subdivision subject to the following provisions:

(1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:

(a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

(b) The construction, erection, or removal of elevators; or

(2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

c. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

(1) Their financial control of you; or

(2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

d. Managers or Lessors of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

e. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

f. Owners/Other Interests – Land is Leased

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

g. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

h. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or

- (2) To "bodily injury," "property damage," or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs b. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

As respects the coverage provided under this endorsement, Paragraph 4.b. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted and replaced with the following:

4. Other Insurance

b. Excess Insurance

This insurance is excess over:

Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or agreement specifically requires that this insurance be either primary or primary and noncontributing. Where required by written contract or agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and noncontributing with this insurance.

3. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

Paragraph 3.a. of Section II – Who Is An Insured is deleted and replaced by the following:

Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization, whichever is earlier.

4. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANY COVERAGE

A. The following is added to Section II – Who Is An Insured:

- 4. You are an insured when you had an interest in a joint venture, partnership or limited liability company which terminated or ended prior to or during this policy period but only to the extent of your interest in such joint venture, partnership or limited

liability company. This coverage does not apply:

- a. Prior to the termination date of any joint venture, partnership or limited liability company; or
- b. If there is other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

- B.** The last paragraph of **Section II – Who Is An Insured** is deleted and replaced by the following:

Except as provided in 4. above, no person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

5. PARTNERSHIP OR JOINT VENTURES

Paragraph 1.b. of **Section II – Who Is An Insured** is deleted and replaced by the following:

- b. A partnership (including a limited liability partnership) or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

6. EMPLOYEES AS INSURED – HEALTH CARE SERVICES

For other than a physician, paragraph 2.a.(1)(d) of **Section II – Who Is An Insured** does not apply with respect to professional health care services provided in the course of employment by you.

7. PROPERTY DAMAGE – PATTERNS, MOLDS AND DIES

Paragraphs (3) and (4) of Exclusion j. **Damage to Property** of **SECTION I – EXCLUSIONS** do not apply to patterns, molds or dies in the care, custody or control of the insured if the patterns, molds or dies are not being used to perform operations at the time of loss. A limit of insurance of \$25,000 per policy period applies to **PROPERTY DAMAGE – PATTERNS, MOLDS AND DIES** and is included within the General Aggregate Limit as described in **SECTION III – LIMITS OF INSURANCE**.

The insurance afforded by this provision 7. is excess over any valid and collectible property insurance (including any deductible) available to the insured, and the Other Insurance Condition is changed accordingly.

8. BODILY INJURY

Section V – Definitions, the definition of "bodily injury" is changed to read:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the bodily injury, sickness or disease.

9. EXPANDED PERSONAL AND ADVERTISING INJURY

- A.** The following is added to **Section V – Definitions**, the definition of "personal and advertising injury":

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- (1) Not done intentionally by or at the direction of:

(a) The insured; or

(b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and

- (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any insured.

- B.** Exclusions of **Section I – Coverage B – Personal and Advertising Injury Liability** is amended to include the following:

p. Discrimination Relating To Room, Dwelling or Premises

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

q. Fines Or Penalties

Fines or penalties levied or imposed by a governmental entity because of discrimination.

- C.** This provision 9. (**EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE**) does not apply to discrimination or humiliation committed in the states of New York or Ohio. Also, **EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE** does not apply to policies issued in the states of New York or Ohio.

- D.** This provision 9. (**EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE**)

does not apply if **Section I – Coverage B – Personal And Advertising Injury Liability** is excluded either by the provisions of the Coverage Part or by endorsement.

10. MEDICAL PAYMENTS

A. Paragraph 7. **Medical Expense Limit**, of **Section III – Limits of Insurance** is deleted and replaced by the following:

7. Subject to 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most we will pay under **Section – I – Coverage C** for all medical expenses because of "bodily injury" sustained by any one person. The Medical Expense Limit is the greater of:

(1) \$15,000; or

(2) The amount shown in the Declarations for Medical Expense Limit.

B. This provision 10. (**Medical Payments**) does not apply if **Section I – Coverage C Medical Payments** is excluded either by the provisions of the Coverage Part or by endorsement.

C. Paragraph 1.a.(3)(2) of **Section I – Coverage C – Medical Payments**, is replaced by the following:

The expenses are incurred and reported to us within three years of the date of the accident; and

11. SUPPLEMENTARY PAYMENTS

A. Under **Section I – Supplementary Payments – Coverages A and B**, Paragraph 1.b., the limit of \$250 shown for the cost of bail bonds is replaced by \$2,500:

B. In Paragraph 1.d., the limit of \$250 shown for daily loss of earnings is replaced by \$1,000.

12. PROPERTY DAMAGE – ELEVATORS

With respect to Exclusions of **Section I – Coverage A**, paragraphs (3), (4) and (6) of Exclusion j. and Exclusion k. do not apply to the use of elevators.

The insurance afforded by this provision 12. is excess over any valid and collectible property insurance (including any deductible) available to the insured, and the Other Insurance Condition is changed accordingly.

13. LEGAL LIABILITY – DAMAGE TO PREMISES

A. Under **Section I – Coverage A – Bodily Injury and Property Damage 2. Exclusions**, Exclusion j. is replaced by the following.

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems) to premises including the contents of such premises, rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

B. Under **Section I – Coverage A – Bodily Injury and Property Damage** the last paragraph of **2. Exclusions** is deleted and replaced by the following.

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner.

A separate limit of insurance applies to this coverage as described in **Section III – Limits Of Insurance**.

C. Paragraph 6. Damage To Premises Rented To You Limit of Section III – Limits Of Insurance is replaced by the following:

6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises while rented to you or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems, while rented to you or temporarily occupied by you with the permission of the owner. The Damage To Premises Rented To You Limit is the greater of:

- a. \$500,000; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations.

D. Paragraph 4.b.(1)(b) of Section IV – Commercial General Liability Conditions is deleted and replaced by the following:

(b) That is property insurance for premises rented to you or temporarily occupied by you with the permission of the owner; or

E. This provision 13. (LEGAL LIABILITY – DAMAGE TO PREMISES) does not apply if Damage To Premises Rented To You Liability under Section I – Coverage A is excluded either by the provisions of the Coverage Part or by endorsement.

14. NON-OWNED WATERCRAFT

Under **Section I – Coverage A – Bodily Injury and Property Damage**, Exclusion 2.g., subparagraph (2) is deleted and replaced by the following.

- (2) A watercraft you do not own that is:
- (a) Less than 55 feet long; and
 - (b) Not being used to carry persons or property for a charge.

15. NON-OWNED AIRCRAFT

Exclusion 2.g. of **Section I – Coverage A – Bodily Injury and Property Damage**, does not apply to an aircraft you do not own, provided that:

1. The pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. It is rented with a trained, paid crew; and
3. It does not transport persons or cargo for a charge.

16. BROAD KNOWLEDGE OF OCCURRENCE

You must give us or our authorized representative notice of an "occurrence," offense, claim, or "suit" only when the "occurrence," offense, claim or "suit" is known to :

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An executive officer or the employee designated by you to give such notice, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

17. NOTICE OF OCCURRENCE

The following is added to paragraph 2. of **Section IV – Commercial General Liability Conditions – Duties in The Event of Occurrence, Offense Claim or Suit**:

Your rights under this Coverage Part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this Coverage Part. However, you shall give written notice of this "occurrence," offense, claim or "suit" to us as soon as you are aware that this insurance may apply to such "occurrence," offense claim or "suit."

18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Based on our reliance on your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure.

POLICY NUMBER
C 4034371554

INSURED NAME AND ADDRESS
IPS GROUP, INC
ALEXANDER SCHWARS
6195 CORNERSTONE CT STE 114
SAN DIEGO, CA 92121

POLICY CHANGES

ENDORSEMENT EFFECTIVE 10/19/2011

This Change Endorsement changes the Policy. Please read it carefully. This Change Endorsement is a part of your Policy and takes effect on the effective date of your Policy, unless another effective date is shown.

The following Form has been added:

Form #: CA2048 Title: Designated Insured

Any person or organization you have agreed in a written contract or written agreement to add as an additional insured on this Coverage Part, provided the written contract or written agreement was executed prior to:

- a. The "bodily injury" or "property damage"; or
- b. The offense that caused the "personal and advertising injury" for which the additional insured seeks coverage under this Coverage Part. The written contract or written agreement must pertain to your ongoing operations for the additional insured, and must specifically require additional insured status according to the provisions of CG 20 48.

But notwithstanding the above, no person or organization is an additional insured for professional architectural or engineering services provided at or for the Location(s) of Covered Operations.



Thomas F. Mohamed
Chairman of the Board

Jonathan Kauter
Secretary

G-56015-B (ED. 11/91)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Countersigned By:
Named Insured:	(Authorized Representative)

SCHEDULE

Name of Person(s) or Organization(s): SEE ENDT
--

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

00020005440343715545530



WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

<p>Name Of Person Or Organization: ANY PERSON OR ORGANIZATION THAT YOU HAVE AGREED IN WRITING IN A CONTRACT OR AGREEMENT TO WAIVE ANY RIGHT OF RECOVERY AGAINST SUCH PERSON OR ORGANIZATION, BUT ONLY IF THE CONTRACT OR AGREEMENT:</p> <ol style="list-style-type: none"> 1. IS IN EFFECT OR BECOMES EFFECTIVE DURING THE TERM OF THIS POLICY; AND 2. WAS EXECUTED PRIOR TO LOSS <p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard." This waiver applies only to the person or organization shown in the Schedule above.



19. EXPECTED OR INTENDED INJURY

Exclusion a. of Section I – Coverage A – Bodily Injury and Property Damage Liability is replaced by the following:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting

from the use of reasonable force to protect persons or property.

20. LIBERALIZATION CLAUSE

If we adopt a change in our forms or rules which would broaden coverage provided under this endorsement without an additional premium charge, your policy will automatically provide the additional coverages as of the date the revision is effective in your state.

POLICY NUMBER
C 4034371554

INSURED NAME AND ADDRESS
IPS GROUP, INC
ALEXANDER SCHWARS
6195 CORNERSTONE CT STE 114
SAN DIEGO, CA 92121

POLICY CHANGES

ENDORSEMENT EFFECTIVE 10/19/2011

This Change Endorsement changes the Policy. Please read it carefully. This Change Endorsement is a part of your Policy and takes effect on the effective date of your Policy, unless another effective date is shown.

It is agreed that the Waiver of Subrogation has been added

Form #: 923186B Title: Waiver of Transfer Rights of Recovery

Any person or organizaion or whom or which your are required by written contract or agreement to obtain this waiver from us. You must agree to that requirement prior to loss.



Thomas F. Mohamed
Chairman of the Board

Jonathan Kauter
Secretary

G-56015-B (ED. 11/91)

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS

This endorsement changes the policy to which it is attached.

It is agreed that **Part One Workers' Compensation Insurance G. Recovery From Others** and **Part Two Employers' Liability Insurance H. Recovery From Others** are amended by adding the following:

We will not enforce our right to recover against persons or organizations. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

PREMIUM CHARGE -

The charge will be an amount to which you and we agree that is a percentage of the total standard premium for California0 exposure. The amount is .05 %.

0002005240228791528741



RESOLUTION NO. 65,466-N.S.

CONTRACT: IPS GROUP INC. FOR CREDIT CARD ENABLED SINGLE-SPACE
METER MECHANISMS, PARTS AND METER DATABASE MANAGEMENT

WHEREAS, the City's existing single-space meters are no longer supported by their manufacturer, Duncan Solutions; and

WHEREAS, Duncan Solutions has notified the City that we can no longer purchase certain replacement parts required to support operation of our Duncan parking meters; and

WHEREAS, in May 2011 the City issued Request for Proposal Specification No. 11-10585-C for a Single-space Parking Meter and Management System; and

WHEREAS, in response to City's RFP, IPS Group submitted a proposal and is experienced, trained and qualified to perform the special services required to upgrade the City's single-space meter inventory; and

WHEREAS, the solar-powered IPS mechanisms are more environmentally sustainable, require fewer batteries and less disposal, provide real-time communications, a broader range of payment options, reduced meter down-time which increases revenues; and

WHEREAS, this contract has been entered in the City's contract management database and assigned CMS No. RW6RS; and

WHEREAS, funds will be appropriated in the FY 2012 budget through the first amendment to the appropriations ordinance as follows:

- Parking Meter Fund: \$294,972 (840-4972-410-7141), \$105,028 (840-4972-431-3038), and
- FHA Value Pricing Grant Fund: \$230,475 (674-4972-431-7141), (674-4972-431-3038) \$87,850; and
- Climate Initiatives Grant Fund \$144,212 (614-4972-71-41/30-38), \$54,969 (614-4972-431-3038); and

WHEREAS, funding for the remaining contract years is subject to appropriation in the FY 2013 and FY 2014 budgets.

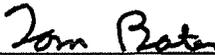
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to enter into a contract agreement with IPS Group, Inc. for a total amount not to exceed \$1,614,805 for the period of October 1, 2011 through June 30, 2014, with an option to extend the contract for an additional 1-year period through June 30, 2015 for an amount not to exceed \$230,000 and a total contract amount not to exceed \$1,844,805 for the period October 1, 2011 through June 30, 2015.

The foregoing Resolution was adopted by the Berkeley City Council on September 27, 2011 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Deanna Despain, CMC, City Clerk

City of Santa Fe
City Hall
City Hall
PO Box 909, 200 Lincoln Avenue
Santa Fe, NM 87504

#5495
City of Santa Fe
Jan 14 2014 03:49 pm Trans#5738

TRANSACTION RECORD

Card Number : *****3005
Expiry Date : **/**
Card Entry : SWIPED
Account : VISA
Trans Type : PURCHASE
Amount : \$27.00

Auth # : 08365D
Trace # : 084014821843532
Merchant ID : 481164896997
Terminal # : 871138
Date : 14/01/14
Time : 15:49:44

APPROVED

*** CUSTOMER COPY ***

City of Santa Fe
200 Lincoln Ave.
Santa Fe, NM 87504
505-955-4333

=====
Parking - Skeletal Ticket
1x 27.00 27.00
Ticket #: 14C0000081
License Plate: JMK840
State: New Mexico
Vehicle Make: Lexus
Vehicle Style: Four Door
Color: BLACK
Issue Date (F3): 14 Jan 2014
Issue Time: 9.:19
Location: LINCOLN AVE
Violation Code: Other - C51

Payer Name: SANDRA PEREZ

=====
SubTotal: 27.00
Total: 27.00
=====

CH Visa Card
7000.101551 27.00
Number : *****3005
Date : 10/15

01/14/2014 15:37 LorrainL
#0041565 /3/1
***** DUPLICATE #001 *****

01/14/2014 15:49 LorrainL
Thank You ~