

**SECOND AMENDMENT TO THE AGREEMENT FOR THE PURCHASE,
IMPLEMENTATION, AND MAINTENANCE OF
A PARKING ACCESS AND REVENUE CONTROL SYSTEM
BETWEEN
THE CITY OF SAN JOSE AND SKIDATA, INC.**

This Second Amendment to the Agreement for the Purchase, Implementation, and Maintenance of a Parking Access and Revenue Control System by and between the City of San José (hereinafter “City”), a municipal corporation, and SkiData, Inc. (formerly Sentry Control Systems, LLC) (hereinafter “Contractor”), a Delaware corporation registered to conduct business in the State of California, is entered into on the date of execution by City (“Effective Date”). Each of City and Contractor are sometimes hereinafter referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, on November 5, 2018, City and Contractor entered into an agreement entitled “Agreement for the Purchase, Implementation, and Maintenance of a Parking Access and Revenue Control System between the City of San José and Sentry Control Systems, LLC” (“Agreement”) for an initial term through October 31, 2019 and ten (10) options through October 1, 2029; and

WHEREAS, on July 2, 2019, SkiData Inc. executed a Certificate of Merger merging “Sentry Control Systems, LLC,” with and into “SkiData, Inc.” under the name of “SkiData, Inc.,” accomplishing a change of corporate name only and leaving all rights and obligations of the Parties under this Agreement unaffected by this change; and

WHEREAS, on October 30, 2019, City and Contractor executed Option #1 to extend the term of the Agreement through October 31, 2020 prior to completion of System implementation and final acceptance of the System; and

WHEREAS, on October 29, 2020, City and Contractor entered into the First Amendment to the Agreement to retroactively extend the Initial Term through October 31, 2021 to complete System implementation, rescind Option #1, and adjust the number of options by two (2) for a total of eight (8) one-year options through October 31, 2029; and

WHEREAS, City and Contractor now desire to further amend the Agreement to add two (2) options consistent with negotiations for a total of ten (10) one-year options following the amended initial term through October 31, 2031, subject to the annual appropriation of funds;

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

SECTION 1. Section 3, entitled “Term of Agreement,” is hereby amended to read as follows:

3.1 Initial Term

The term of this Agreement is from the November 1, 2018 to October 31, 2021 (“Initial Term”), inclusive, subject to the provisions of Section 14, “Termination.”

3.2 Options to Extend

After the Initial Term, the City, at its sole discretion, reserves the right to extend the term of this Agreement for up to ten (10) additional one-year periods through October 31, 2031 ("Option Periods") for ongoing maintenance, support, and related services based on the same terms and conditions of the Initial Term, subject to annual appropriation of funds and compensation adjustments as set forth in Second Revised Exhibit B. City shall provide Contractor prior written notice in the form of Exhibit F of its intention to exercise its option prior to the end of the then current term.

3.3 No Waiver

City's agreement to extend the term of this Agreement is not a waiver of the "time is of the essence" provision in Section 5.

Notwithstanding this Section, the Parties agree that the preliminary project schedule set forth in Revised Appendix A-5, Preliminary Project Implementation Schedule, and the ability of the Parties to provide and use the products and/or services under this Agreement may be limited if business activities are subject to local, state, or federal mandates and advisories for managing public health and safety related to the COVID-19 pandemic or other force majeure. The Parties agree that the provision of products and services and the payment for such products and services may be postponed or suspended following execution of this Agreement by the City and that the Parties are not required to act on this Agreement until the City issues a written notice to proceed.

SECTION 2. Revised Appendix A-6, entitled "Warranty and Maintenance Services" is amended and restated in its entirety as set forth in "Second Revised Appendix A-6, Warranty and Maintenance Services" attached hereto and incorporated by this reference as fully set forth herein.

SECTION 3. Revised Exhibit B, entitled "Compensation and Payment Schedule" is amended and restated in its entirety as set forth in "Second Revised Exhibit B" attached hereto and incorporated by this reference as fully set forth herein.

SECTION 4. Revised Exhibit B, Revised Appendix B-2, entitled "Warranty & Maintenance Services Price List" is amended and restated in its entirety as set forth in "Second Revised Appendix B-2" attached hereto and incorporated by this reference as fully set forth herein.

SECTION 5. All terms and conditions of the original Agreement not specifically modified by this Second Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year set forth beneath the respective name below.

City of San José (“City”)
a municipal corporation

SkiData, Inc. (“Contractor”)
a Delaware corporation registered to conduct
business in the State of California

By _____
Jennifer Cheng
Deputy Director, Finance
Date: _____

By _____
Robert Weiskopf
Chairman
Date: _____

APPROVED AS TO FORM:

Rosa Tsongtaatarii
Senior Deputy City Attorney
Date: _____

By _____
Darrell Smithson
NAM President
Date: _____

SECOND REVISED APPENDIX A-6 WARRANTY AND MAINTENANCE SERVICES

1 GENERAL

- 1.1 All Maintenance Services provided by Contractor shall provide the City with complete PARCS support, including all services, software, hardware, and equipment installed as part of the original installation as well as any software, hardware, equipment, enhancements, and upgrades installed during the term of the Agreement.
- 1.2 There shall be no appreciable difference between Maintenance Services covered during the Warranty Period or provided in exchange for the City's monthly payment of the maintenance fee other than the Maintenance Services during the Warranty Period is included in the contract sum. Contractor shall ensure that the complete PARCS provided by Contractor to the City continues to operate in accordance with the functional and availability requirements and specifications set out in the Agreement.

2 SCOPE OF WARRANTY AND MAINTENANCE SERVICES (Amended by the Second Amendment)

2.1 Warranty

For a period of twelve (12) consecutive months following final system acceptance ("Warranty Period"), Contractor shall warrant that the complete PARCS will perform and operate in accordance with the functional and availability requirements and specifications set forth in the Agreement. All-inclusive costs (parts, labor, maintenance, warranty repairs, Contractor travel time, Contractor expenses, etc.) incurred during the Warranty Period shall be provided without additional cost to the City.

2.2 Maintenance Services After Warranty Period

For a period up to nine (9) years following the expiration of the Warranty Period, for as long as the City pays the agreed monthly maintenance fee provided in Second Revised Exhibit B, Contractor shall provide complete maintenance and support of the PARCS.

2.3 Additional Services

Additional services, as described in Sections 12 and 13, shall be invoiced to the City above the fixed maintenance fee on a time and material basis pursuant to the rates set forth in Second Revised Exhibit B.

3 CONTRACTOR RESPONSIBILITIES

- 3.1 Contractor shall be responsible for providing all labor, materials, tools, replacement parts, equipment, test equipment or any specialized tools required to perform any and all warranty and maintenance tasks as well as any method of transportation, such as a vehicle, required to transport the technician(s) and store required tools and spare parts.
- 3.2 Contractor shall maintain an appropriately sized staff to ensure successful performance of all service requirements. Contractor's staffing plan shall take into

consideration extenuating circumstances such as illness, family emergencies, vacations, etc. such that at all times the required number of technicians are available.

- 3.3 Contractor shall comply with all data security provisions set forth in the Agreement, including but not limited to, the use of confidential and proprietary information and compliance with PCI DSS standards. Contractor shall provide documents showing that its employees who are involved in the maintenance of the system have been trained on all PCI compliance.
- 3.4 Contractor shall provide factory trained technicians to perform the scope of work described herein.

4 CITY RESPONSIBILITIES

- 4.1 The City shall assign a City manager who will be responsible for coordinating Contractor's access to city facilities and providing information held by the City that is necessary for Contractor to provide the Maintenance Services.
- 4.2 The City shall permit Contractor's representatives to access the PARCS equipment and software to perform Maintenance Services.
- 4.3 The City shall provide the fiber-optic network that connects the parking garages. Contractor shall not be liable for communication interruptions that result from failure of the City-owned fiber-optic network.

5 SOFTWARE SUPPORT

- 5.1 Contractor shall provide on-site and remote software support for all software installed as part of the PARCS.
- 5.2 All software patches, updates, and upgrades must be accompanied by accurate and complete documentation. When software upgrades include new functions and processes (enhancements), Contractor shall provide a written evaluation for acceptance by the City of the upgraded software's on the City's PARCS prior to installation of the upgraded software.
- 5.3 Contractor shall provide on a monthly basis prior to any installation a list detailing all required or proposed software patches, updates, upgrades or modifications that will be installed.
- 5.4 Contractor shall coordinate the testing and implementation of all patches, updates, upgrades, or modifications with the City.
- 5.5 Contractor shall coordinate all remote and physical access into the servers with the City.
- 5.6 Contractor shall commit to provide corrective patches, updates, and upgrades in the event security vulnerability or system availability issues are discovered within fifteen (15) business days of discovery.
- 5.7 Copies of all software (and software updates/upgrades made during the Warranty Period) must be provided to the City at the conclusion of the Warranty Period.

5.8 Parking.Logic Software

- 5.8.1 Contractor shall make available to the City normal Parking.Logic Software improvement releases (updates) when they become available. Where Parking.Logic Software problems are identified and are agreed to be minor, that is not affecting revenue, reporting, or the entry/exit or payment functionalities, these problems shall be corrected in a new Parking.Logic Software release to be available to the City within thirty (30) calendar days of notification. All updates or improvements to Parking.Logic Software shall be documented and approved prior to implementation. Contractor shall correct major Parking.Logic Software problems immediately on a priority basis. Major Parking.Logic Software problems are defined as those causing erroneous financial transactions, revenue loss, reporting errors, loss of entry/exit functionality, loss of payment functionality, system instability, database corruption and compromised operational efficiency. Where Parking.Logic Software problems are identified and are agreed to be major, these problems shall be corrected in a new Parking.Logic Software release to be available to the City within five (5) calendar days of notification.
- 5.8.2 All Parking.Logic Software patches and updates shall be provided at no additional cost. Seven (7) calendar days prior to all Parking.Logic Software modifications, patches, and updates, Contractor shall provide accurate and complete documentation that describes:
 - 5.8.2.1 Patch/update release designation
 - 5.8.2.2 Proposed date and time of implementation
 - 5.8.2.3 Detailed description of what the patch/update accomplishes
 - 5.8.2.4 Full disaster recovery procedures that return the system to its pre-patch update condition
 - 5.8.2.5 List of other installations where the patch has been previously installed, and contact information for those customers
- 5.8.3 Contractor shall make available upgrades and new modules which offer new benefits to the City. The City can decide to purchase the upgrades offered by the Contractor or remain on the existing supported version.
- 5.8.4 The City understands that upgrades to supported versions may be required in order to meet future compliance requirements and this may include upgrades to required hardware and third-party software.

5.9 Operating System / Third Party Software

- 5.9.1 Third party software packages shall have all registration and licensing documentation filed indicating the City as the owner of the software. Costs for third party software support shall be included in the maintenance fee.
- 5.9.2 At any time during the term of the Agreement or during any Maintenance Period, if the operating system or other third-party software not directly licensed by the Contractor must be updated or replaced because the licensor

of said software will no longer support the installed version of said operating system or software or the version of software required to support an upgrade of said systems, at the City's request, Contractor shall procure said updated operating system or software for the City, and the City shall be the licensee for said operating system or software. The City shall reimburse Contractor for procuring said operating system or software at the Contractor's actual costs, subject to proof. Contractor shall install and configure such operating system and other software updates on a time and material basis.

- 5.9.3 The PARCS servers and workstations shall be delivered with the most recent service packs and software patches and must be updated throughout the Warranty Period and Maintenance Period, unless otherwise specified by the City.
- 5.9.4 Contractor shall support upgrades to its application based on operating system patch and upgrade requirements (for example, if the PARCS runs on a Microsoft operating system, the software shall be patched according to the Microsoft patch and upgrade schedule without breaking any application. If Microsoft decommissions an operating system, Contractor shall release code compatible with next operating system upgrade prior to Microsoft ending support for current operating system, at no cost to the City.)

6 EQUIPMENT/HARDWARE SUPPORT

6.1 General

Contractor shall provide all necessary maintenance, repairs, and replacement of equipment installed by Contractor. Hardware maintenance includes but is not limited to the following:

- 6.1.1 All scheduled inspection, cleaning, lubricating and adjusting of the PARCS equipment, which Contractor shall perform not less often than quarterly ("Preventive Maintenance Services"), as further described below.
- 6.1.2 All non-scheduled service calls for system repairs.
- 6.1.3 All parts and components of the PARCS, including parts and components covered by a manufacturer's warranty.
- 6.1.4 Replacement and repair of damaged or broken parts or items rendered inoperative as a result of wear and tear.
- 6.1.5 Replacement and repair of the following components commonly referred to as consumable items. Covered components include but are limited to: validators, thermal printer heads, UPS power supplies; key pads; touch screens; display screens; announcers; sound devices and speakers. Contractor shall set and reset as necessary time and date clocks.

6.2 Preventative Maintenance Services

- 6.2.1 Preventative Maintenance Services shall be in accordance with the approved preventive maintenance plan as approved by the City, and shall include but are not limited to inspection, testing, necessary adjustment, alignments, lubrication, parts cleaning, replacement of consumables, battery refresh, and communication system. Contractor shall provide a list of preventive maintenance tasks and frequencies for each component, to include daily, weekly, bi-weekly, monthly, quarterly, semi-annual, and annual overhauls as part of the preventive maintenance plan. The City reserves the right to modify any portion of the preventive maintenance plan throughout the life of the Agreement.
- 6.2.2 Preventive Maintenance Services shall be scheduled to the greatest extent possible during non-peak periods. Contractor shall consult with the City to determine periods of peak activity for the various devices.
- 6.2.3 Contractor shall initial and note the date and time each service was performed either a handheld computer or laptop computer and update a maintenance log stored on the server. The City shall, at any time, access the maintenance log to compare the entries to the scheduled and logged maintenance services within the Maintenance Log and monthly reports provided to the City by Contractor.

7 SERVICE AVAILABILITY

- 7.1 Contractor shall be available at any time, twenty-four (24) hours per day, seven days per week, three hundred sixty-five (365) days per year. Due to the gravity of a system malfunction/failure, service repairs and associated corrective actions shall be provided within the response times specified in Section 9.
- 7.2 The City shall enforce that only authorized staff shall notify Contractor to initiate emergency service notification (Priority 1, as defined below). The intent of this provision is to reduce or eliminate unnecessary service notifications and interventions onsite. The City shall provide to Contractor a list of all individuals authorized to place emergency service notifications. This list shall be included in the maintenance agreement and shall be updated as required by the City. Contractor shall answer all notifications but shall only respond to a notification for emergency service if call was initiated by an authorized representative. On the returned call, Contractor shall notify any unauthorized individuals that the service request must be placed by an authorized individual in order for the service to be initiated.
- 7.3 As with Preventive Maintenance Services, all service calls shall be tracked in the Maintenance Log. Contractor shall follow City provided procedures on who to contact to inform and/or update the status or resolution of a problem.
- 7.4 The City reserves the right to modify notification policies and procedures at any time throughout the life of the maintenance agreement.

8 COMPENSATION

- 8.1 The City shall pay Contractor monthly for Maintenance Services before and after the Warranty Period as set forth in Second Revised Exhibit B.

- 8.2 For any additional services as may be required by the City, Contractor shall provide the services on a time and material basis as set forth in Second Revised Exhibit B.

9 SERVICE LEVELS

Contractor shall provide a response to all service requests within the time provided in the table below.

Priority Code	Definition	During Operational Hours (7:00 am through 11:00 PM, Pacific Time, 7 days a week)			After Hours (11:00 PM through 7:00 AM, Pacific Time, 7 days a week)		
		Remote Response	On-Site Response	Repair Resolution	Remote Response	On-Site Response	Repair Resolution
1	<p>Emergency: An entire critical sub-system is down or an entire parking structure is inoperable.</p> <p>Emergency failures shall include but not limited to the situations described below.</p> <ul style="list-style-type: none"> Critical software system is down or facility has no alternate revenue collection method to Enter/Exit a Parking Facility. Anything else as determined as an emergency failure by City. 	30 minutes	Within 2 hours of service call	Within 4 hours or notification is required	30 minutes	Within 2 hours of service call	Within 4 hours or notification is required
2	<p>Urgent: An important sub-system is down or a major aspect of a parking facility is not functional.</p> <p>Urgent failures shall include but not limited to the situations described below.</p> <ul style="list-style-type: none"> Important system function or lane is down, but fail-over or redundancy exists for temporary use. 	2 hours	Within 4 hours of service call	Same day or notification is required	2 hours	Before noon the nearest business day	Same day or notification is required
3	<p>Normal: Routine standard response to minor issues and/or repairs.</p>	4 hours	Within 8 hours of service call	Same day or notification is required	4 hours	During Operational Hours day or notification is required.	Same day or notification is required

10 SERVICE PERFORMANCE REQUIREMENTS

10.1 Preventive Maintenance Performance Requirements

Contractor shall complete no less than ninety-eight percent (98.00%) of all Preventive Maintenance Services scheduled during the month. Percentages shall be calculated on the total number of Preventive Maintenance tasks scheduled for just that month and the total number of Preventive Maintenance tasks fully completed in the month even if the scheduled maintenance is a monthly, quarterly, or annual maintenance requirement. Partial completion of a scheduled Preventive Maintenance item shall not meet this requirement and shall not meet the City's standards of fully completed. Any month that falls below this level shall require a written justification from Contractor and with measures implemented to assure City staff that performance will improve. For each percentage point (below 98%) of total scheduled maintenance tasks that the Contractor does not complete, the Contractor's monthly invoice PM amount shall be reduced by \$1,000.00. For example, if the Maintenance Tracking System indicates that the Contractor performed 96% of all scheduled maintenance tasks, Contractor's monthly invoice shall be reduced by \$2,000.00.

10.2 Service Requests Performance Requirements

- 10.2.1 In the event that Contractor cannot meet the response times indicated in Section 9, liquidated damages shall be assessed against the Contractor pursuant to Section 7 of Second Revised Exhibit B.
- 10.2.2 Resolution of the situation within four (4) hours after notification is required in all situations, unless waived by the City. A temporary solution is acceptable.
- 10.2.3 Factors beyond the control of Contractor, such as unexpected delays in parts, accidents, severe weather, incorrect priority classification and unusual traffic, shall be thoroughly documented in the maintenance log and reported to the City the next business day. The City will grant relief for the service hour requirement after reviewing these factors.
- 10.2.4 The City shall cooperate with Contractor to fully explore any concerns regarding service and performance standards.
- 10.2.5 The City shall notify Contractor in writing of performance problems with respect to the service standards within twenty (20) days after the end of each month based on the performance reports from the maintenance tracking system.
- 10.2.6 Contractor shall be given thirty (30) days from receipt of notification to take corrective actions with respect to the problem identified by the City or request relief.

11 ELECTRONIC MAINTENANCE TRACKING SYSTEM

- 11.1 Contractor shall provide three methods of notification for service requests. The methods of notification shall provide a means of tracking the date and time the

service request was delivered. Examples of some documented communication include cell phones and email.

- 11.2 Contractor shall utilize a Maintenance Tracking System (MTS) to monitor and record all scheduled, requested, and performed maintenance services.
- 11.3 Contractor shall fill in all required fields, completely, for all services performed at City facilities.
- 11.4 Contractor shall submit monthly maintenance reports in a City-approved format to designated personnel. All reporting requirements shall be determined at the time of contract start.

12 NON-COVERED SERVICES

- 12.1 Maintenance Services do not include the services and PARCS failures listed below, but Contractor shall provide said services as requested by the City on a time and materials basis at the rates set forth in Second Revised Exhibit B.
 - 12.1.1 Service calls as a result of power failure or removal of primary power for any reason, to the extent such power failure lasts longer than the thirty (30) minutes for which backup power shall be available to PARCS equipment components via installed uninterrupted power source (UPS) units.
 - 12.1.2 Failure of interconnect wiring (communication cabling) not installed by Contractor.
 - 12.1.3 Failure of a PARCS component due to vandalism (intentional damage).
 - 12.1.4 Damage to PARCS components due to the negligence of employees of City employees, garage customers or other third parties, excluding failure caused by wear and tear.
 - 12.1.5 Failure of communication networks and services that provide internet connectivity that are provided or maintained by entities other than Contractor.
 - 12.1.6 Failure of a PARCS component due to a modification or repair or rework performed by any party other than Contractor, without Contractor's prior consent.
 - 12.1.7 Failure of a PARCS component due to improper storage, by City.
 - 12.1.8 Failure of a PARCS component due to use of the equipment or software by City in conjunction with another equipment or software that is electronically or mechanically incompatible or of an inferior quality.
 - 12.1.9 Failure of a PARCS component due to modifications by City to the interface specifications that Contractor does not agree to.
 - 12.1.10 Failure of a PARCS Component due to any damage to the Equipment or Software by power failure, fire, explosion or any act of God or other cause beyond Contractor's control.

- 12.1.11 Failure of a PARCS component due to installation not performed in accordance with the Contractor's procedures and/or instructions.
- 12.1.12 Failure of a PARCS component due to installation not performed and or provided by Contractor.
- 12.1.13 Replacement or repair of consumable products including but not limited to: tickets, blank receipt stock, thermal ticket printer heads, gate arms, labels/signs, gate shear bolts, RFID cards/tags, and printer ink cartridges.
- 12.1.14 Typical daily maintenance activity support such as ticket jams, ticket dispenser loading, receipt paper loading, replenishing ticket stock, replenishing printer paper, clearing simple ticket and credit card jams that present no risk of damage to the equipment, etc.

13 SPECIAL PROJECTS AND SERVICES

Upon the request of the City, Contractor shall provide services and resources required to implement system upgrades, improvements, and enhancements to the PARCS as required by the City.

- 13.1 Contractor shall ensure all work performed under this section is quoted and approved by the City prior to start of work.
- 13.2 The quote may be on a time and material basis at the rates set forth in Second Revised Exhibit B, or lump sum. Quotes shall include all work to be performed, including a breakdown of all labor and materials. Contractor payment will not exceed the amount of the mutually agreed upon lump sum price.
- 13.3 Contractor shall obtain approval using the Work Order Form in Appendix A-8. Upon receiving City's written approval to proceed, Contractor shall perform the requested work at a time mutually agreed upon by the City and according to the quoted price.
- 13.4 All work provided by Contractor is subject to written acknowledgement and acceptance by the Contractor designated staff. Contractor shall obtain City's acceptance of the work using the same Work Order Form in Appendix A-8.

14 SPARE PARTS

- 14.1 Contractor shall provide listing of all spare components and manufacturers of those spare components to the City with contact information, pricing, and availability.
- 14.2 Contractor shall provide an asset management application that is accessible by the City representatives. This application shall maintain an ongoing inventory of all available spare parts and components, parts distribution, and pricing. The asset management application shall track on a daily basis and provide an up to date inventory of spare parts. The City shall have access to the asset management application to include review of spare parts inventory at any time.
- 14.3 Contractor shall provide guaranteed component pricing for five (5) years inclusive of a maximum percentage increase not to exceed the published CPI index for all components following contract award. These prices shall be valid prices for the City

to purchase the spare parts through a service agreement between the City and the Contractor.

- 14.4 The City reserves the right to order additional parts and manage the PARCS spare parts inventory as required to maintain the system.
- 14.5 The spare parts list is subject to the approval of the City, and the City reserves the right to modify the spare parts inventory throughout the term of the agreement. The City shall provide a storage location of the spare parts, exact location to be identified by the City. Contractor shall have access to the spare parts inventory and shall have the responsibility of ordering replacement components or parts as components or parts are used prior to completion of the warranty. Contractor shall replace used spare parts immediately upon use and invoice City where use of part was not covered by warranty and maintenance services. Contractor can use parts from its own stock. All equipment and parts shall be newly manufactured within the past 6 months and never installed in any other operational system other than for factory test purposes for this contract.
- 14.6 When delivered to the City, an itemized list of Contractor's part numbers, model numbers, pricing, supplier's address, supplier's telephone numbers, and any single source components shall be identified by the Contractor. Contractor shall provide listing of all spare components and manufacturers of those spare components to the City with contact information, pricing, and availability.

15 MAINTENANCE COMMITMENT

In the event that Contractor withdraws from the manufacture, distribution, or support of parking revenue control systems in the United States; or sunsets a hardware component, Contractor shall provide the City with the notice of such occurrence at least 180 calendar days in advance of withdrawal. In addition, Contractor shall provide the City with manufacturing specifications for all Contractor-manufactured components and sourced-proprietary components of the PARCS, and the City shall be provided the opportunity to purchase a suitable number of spares of all discontinued components.

SECOND REVISED EXHIBIT B COMPENSATION AND PAYMENT SCHEDULE

1 MAXIMUM COMPENSATION

The maximum amount payable for all products and services provided under this Agreement shall not exceed **Six Million Three Hundred Twenty-Six Thousand Three Hundred Forty-Six Dollars (\$6,326,346)** during the Initial Term covering system implementation. Any additional services or products requested by the City that would exceed the preceding maximum amount will be addressed in accordance with the Change Order Procedures as set forth in Section 8 of the Agreement. No additional services will be performed unless both Parties execute a Change Order outlining the services requested and the compensation agreed for such services.

2 PAYMENT SCHEDULE FOR SYSTEM IMPLEMENTATION

- 2.1 Progress payments shall be made to Contractor by City following acceptance of designated milestones as shown in Table B-1. See Revised Appendix B-1 for the cost breakdown.
- 2.2 All payments are based upon City's acceptance of Contractor's performance as evidenced by successful completion of all of the deliverables as set forth for each milestone. City shall have no obligation to pay unless Contractor has successfully completed and City has approved the milestone for which payment is due.
- 2.3 Payment for any part or parts of the System provided hereunder, or inspection or testing thereof by City, shall not constitute acceptance or relieve Contractor of its obligations under this Agreement. City may inspect the components of the System when delivered and reject upon notification to Contractor any and all the System, which does not conform to the specifications or other requirements of this Agreement. Components of the System, which are rejected shall be promptly corrected, repaired, or replaced by Contractor. If City receives components of the System with defects or nonconformities not reasonably apparent on inspection, then City reserves the right to require prompt correction, repair, or replacement by Contractor in accordance with Contractor's warranty obligations.

Table B-1: System Implementation Payment Schedule (Amended by the Second Amendment)

#	Payment Milestone	Estimated Date	Payment Amount
1	PARCS Design	1/3/2019	\$300,000
2	Order for Production - PARCS	12/1/2018	\$715,751
3	Order for Production - FDMS	12/1/2018	\$253,002
4	Completion of Factory Acceptance Test - PARCS	12/17/2020*	\$850,000
5	System Manuals/Documentation	2/12/2019	\$50,000
Completion of System Configuration and Site Preparations (Subtotal of Payments)			\$2,168,753
7	Market Street Site Acceptance	12/8/2020*	\$466,873
8	4th & San Fernando Garage Site Acceptance	12/9/2020*	\$262,630
9	3rd Street Garage Site Acceptance	12/10/2020*	\$238,865
10	4th & St. John Garage Site Acceptance	12/11/2020*	\$163,278
11	2nd & San Carlos Garage Site Acceptance	12/14/2020*	\$235,426
12	City Hall Garage Site Acceptance	12/15/2020*	\$165,592
13	Convention Center Garage Site Acceptance	12/17/2020*	\$592,450
14	The Globe Garage Site Acceptance	12/18/2020*	\$106,682
16	FDMS and GDMS Site Acceptance	12/18/2020*	\$253,002
17	Parking Network System Acceptance	12/8/2020*	\$110,000
18	Parking Command Center Site Acceptance	11/20/2020*	\$35,000
19	Completion of Training	12/14/2020*	\$25,000
Completion of Site Acceptance (Subtotal of Payments)			\$2,654,798
20	Business Intelligence and Customer Loyalty Program Design Completion	12/18/2020*	\$61,500
21	Business Intelligence and Customer Loyalty Program Acceptance	12/18/2020*	\$61,500
22	Valet Parking System Acceptance	11/20/2020*	\$97,500
23	Delivery of Spare Parts and Ticket Stock	12/1/2020*	\$75,000
24	Operational Demonstration Test (ODT)	4/1/2021*	\$557,296
Completion of ODT (Subtotal of Payments)			\$852,796
25	Subtotal System Implementation		\$5,676,347
26	Additional Products & Services (Section 4 below.)		\$250,000
27	Pre-Sales Tax Subtotal		\$5,926,345.68
28	Estimated Sales Tax (to be paid in accordance with applicable milestone for which sales tax is due)**		\$400,00.32
INITIAL TERM (SYSTEM IMPLEMENTATION) MAXIMUM COMPENSATION			\$6,326,346.00

*Payment milestone amended by the First Amendment

** Payment milestone amended by the Second Amendment

3 PAYMENT SCHEDULE FOR ONGOING SERVICES

- 3.1 Warranty and Maintenance Services as set forth in Second Revised Appendix A-6 shall be exercised as options at the sole discretion of the City on an annual basis, and shall be on a fixed fee basis per Table B-2. See Second Revised Appendix B-2 for the cost breakdown.
- 3.2 Contractor shall invoice the City monthly for all applicable support and maintenance costs. In the event of early termination of the Agreement, Contractor shall refund the City on a pro-rated basis any fees paid in advance that have not been expended as of the date of termination.

Table B-2: Warranty and Maintenance Services (Amended by the Second Amendment)

Year	Fixed Maintenance Fee	Time & Materials (not to exceed amount)	Annual Total
Year 1 Warranty Services	\$92,000	\$250,000	\$342,000
Year 2 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 3 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 4 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 5 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 6 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 7 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 8 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 9 Maintenance Services	\$403,900	\$250,000	\$653,900
Year 10 Maintenance Services	\$403,900	\$250,000	\$653,900

4 ADDITIONAL PRODUCTS AND SERVICES

- 4.1 The City has set aside the maximum amount of Two Hundred Fifty Thousand (\$250,000) per year for the payment of additional products and services as may be required by the City. In the event the City requires these additional products or services, Contractor shall obtain approval before starting work using the Work Order Form in Appendix A-8.
- 4.2 Any additional products or services requested by the City that would exceed the maximum amount will be addressed in accordance with the Change Order Procedures. No additional products or services will be provided unless both Parties execute a Change Order.
- 4.3 The City reserves the right to request a fixed priced quote in lieu of time and materials.
- 4.4 Contractor shall provide additional products and services at the rates listed below or its current best government rates, whichever is less. Hourly rates shall be inclusive of all costs, including but not limited to, labor, equipment, materials, training, travel, overhead, profit, insurance, employee benefits, ancillary personnel, etc.).

Table B-3: Additional Product & Services

Additional Equipment / Hardware	Unit Price
Validation Station	\$3,720
Field Validation Machines	\$1,160
IP-Based Validation Station Scanner	\$1,250
Spare Parts	15% discount off list price
Transaction-Based Fees	Additional Fee
Additional reservations (beyond first 10,000)	\$.75 per transaction
PSP Gateway Fees for Terminal and Online Card Transactions	as applicable
Labor	Hourly Rate
Hourly Service Rate (Regular Business Hours - 7:00 AM through 11:00 PM, 7 days a week)	\$165
Hourly Service Rate (Outside of Business Hours - 11:00 PM through 7:00 AM, 7 days a week)	\$326

5 INVOICING AND PAYMENT PROCEDURE

- 5.1 The City agrees to compensate Contractor for the Services performed and System provided in accordance with the terms and conditions of this Agreement.
- 5.2 Compensation and payments shall be made to Contractor by City based on Net Thirty (30) days payment terms.
- 5.3 City will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution.

6 COMPENSATION ADJUSTMENT

6.1 CPI Adjustment

The Contractor's compensation rates shall be subject to adjustment on each anniversary of the performance period after Year 2 of the warranty and maintenance period. The adjustment shall be calculated as follows:

- 6.1.1 The base for computing the adjustment shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers (with a base year of 1982-1984=100) for the San Francisco-Oakland-San José area, published by the United States Department of Labor Statistics ("Index"), which is published most immediately preceding the commencement of the applicable extension term ("Extension Index"), shall be compared with the Index published most immediately preceding the commencement date of the then expiring term ("Beginning Index"). If the Extension Index published has increased over or decreased under the Beginning Index, the monthly compensation rates for the extension term shall be set by multiplying the then expiring term's monthly compensation rate by a fraction, the

numerator of which is the Extension Index and the denominator of which is the Beginning Index.

- 6.1.2 If the Index is changed so that the base year differs from that used as of the month immediately preceding the Agreement's commencement date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of the Agreement such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.
- 6.1.3 The preceding provision of this section notwithstanding, the adjustment of any monthly compensation rate for any extension term shall not exceed 3% of the previous term's monthly compensation rate, unless the increase to the City's Living/Prevailing Wage exceeds 3% of the Living/Prevailing Wage of the previous term. Contractor must provide wages and benefits information to establish the amount paid to their workers to justify an adjustment that is greater than 3%. In no event will an adjustment greater than 3% be allowed for general and administrative expenses, overhead expenses, and profit.
- 6.1.4 For the purpose of illustration only, if a Beginning Index is 115 and the Extension Index is 124, the monthly compensation rate to be paid during the extension term shall be \$ X (the then expiring term's monthly compensation rate) multiplied by $124/115$.

7 LIQUIDATED DAMAGES

THE PARTIES HERETO AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGE TO THE CITY IF CONTRACTOR WERE TO TERMINATE THIS AGREEMENT PRIOR TO EXPIRATION OR OTHERWISE BREACH. IN ADDITION TO THE SERVICES PROVIDED, CITY EXPECTS TO RECEIVE OTHER BENEFIT FROM CONTRACTOR'S SERVICES. THE PARTIES MUTUALLY AGREE THAT LIQUIDATED DAMAGES SET FORTH IN THIS SECTION ARE ACCEPTABLE TO EACH PARTY AND ARE A REASONABLE ESTIMATE OF CITY'S LOSS IF CONTRACTOR FAILS TO COMPLETE SERVICES IN ACCORDANCE WITH THE SCHEDULE OF PERFORMANCE.

BY PLACING THEIR INITIALS BELOW, CITY AND CONTRACTOR ACKNOWLEDGE THAT THE AMOUNTS SET FORTH BELOW HAVE BEEN AGREED UPON AS THE PARTIES' REASONABLE ESTIMATE OF CITY'S DAMAGES.

Failure to respond within thirty (30) minutes to a Level 1 (Emergency) notification	\$500 per occurrence
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“CITY”

“CONTRACTOR”

By: _____

By: _____

**SECOND REVISED APPENDIX B-2
WARRANTY & MAINTENANCE SERVICES PRICE LIST**

Table B2-1: Warranty & Maintenance Services Price List, starts after Initial Term (Amended by the Second Amendment)

Description	Option 1 (11/1/21- 10/31/22)	Option 2* (11/1/22- 10/31/23)	Option 3 (11/1/23- 10/31/24)	Option 4 (11/1/24- 10/31/25)	Option 5 (11/1/25- 10/31/26)	Option 6 (11/1/26- 10/31/27)	Option 7 (11/1/27- 10/31/28)	Option 8 (11/1/28- 10/31/29)	Option 9 (11/1/29- 10/31/30)	Option 10 (11/1/30- 10/31/31)
Software Support Services	Included	\$97,850	\$97,850	\$97,850	\$97,850	\$97,850	\$97,850	\$97,850	\$97,850	\$97,850
Hardware Maintenance Services	Included	\$93,500	\$93,500	\$93,500	\$93,500	\$93,500	\$93,500	\$93,500	\$93,500	\$93,500
Intercom System	Included	Included	Included	Included	Included	Included	Included	Included	Included	Included
Parking Space Count System	Included	Included	Included	Included	Included	Included	Included	Included	Included	Included
Proximity Card Access System	Included	Included	Included	Included	Included	Included	Included	Included	Included	Included
Web-based Validation Solution	Included	Included	Included	Included	Included	Included	Included	Included	Included	Included
FDMS	Included	\$16,250	\$16,250	\$16,250	\$16,250	\$16,250	\$16,250	\$16,250	\$16,250	\$16,250
Business Intelligence (up to 4,000 users)	Included	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000
Customer Loyalty Program (up to 25,000 accounts)	Included	\$37,700	\$37,700	\$37,700	\$37,700	\$37,700	\$37,700	\$37,700	\$37,700	\$37,700
Valet Parking System	Included	\$22,100	\$22,100	\$22,100	\$22,100	\$22,100	\$22,100	\$228100	\$22,100	\$22,100
Smarking (not-to-exceed)	\$92,000	\$92,000	\$92,000	\$92,000	\$92,000	\$92,000	\$92,000	\$92,000	\$92,000	\$92,000
Parking Network System	Included	\$25,500	\$25,500	\$25,500	\$25,500	\$25,500	\$25,500	\$25,500	\$25,500	\$25,500
Total Fixed Maintenance Fee	\$92,000	\$403,900	\$403,900	\$403,900	\$403,900	\$403,900	\$403,900	\$403,900	\$403,900	\$403,900
Time & Materials (not-to-exceed)	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000
Total Annual Compensation	\$342,000	\$653,900	\$653,900	\$653,900	\$653,900	\$653,900	\$653,900	\$653,900	\$653,900	\$653,900

*Beginning with Option 3 (11/1/23), Contractor may request compensation adjustment on each anniversary of the performance period pursuant to Section 6 of Second Revised Exhibit B