

**THE CITY OF SAN MARCOS PURCHASING OFFICE**



**SERVICES AGREEMENT**

**BETWEEN**

**THE CITY OF SAN MARCOS**

**AND**

**ACCESS EMPOWERMENT**

**FOR**

**PRIVILEGED PARKING TRAINING AND APPLICATION**

**CONTRACT NO. \_\_\_\_\_**

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STATE OF TEXAS §  
THE CITY OF SAN MARCOS §

**SERVICES AGREEMENT  
FOR PRIVILEGED PARKING TRAINING AND APPLICATION**

**This Contract** is made and entered into by and between the following parties: the City of San Marcos, Texas, (the “City”) and Access Empowerment, a Texas-based 501(c)(3) nonprofit organization (the “Contractor”).

**WHEREAS**, the City desires to address privileged parking abuse in utilizing a qualified firm to:

- provide an efficient method to engage, train and qualify Volunteers
- provide Volunteers with an efficient, safe, easy to use tool to report accessible parking violations.
- provide a software application that meets or exceeds all federal, state and local government laws, and regulations.
- provide an automated system to issue and manage citations issued by Volunteers
- offer an educational alternative option for first time accessible parking violators; and
- provide community education and awareness campaign about the importance of accessible parking to residents of ;

**WHEREAS**, Contractor has the professional ability and expertise, and any necessary professional degrees, licenses, and certifications to provide these services;

**NOW, THEREFORE**, the City and Contractor agree as follows:

**1.0 DEFINITIONS**

In this Agreement,

- 1.1 “Chief Information Officer” means Mike Strum or their successor.
- 1.2 “Citations” mean the official legal documents created by the Director’s office indicating a parking infraction. Citations are issued for the specific violations of current privileged parking laws.
- 1.3 “City Council” means the City Council of the City of San Marcos, Texas.
- 1.4 “City Manager” means Bert Lumbreras, or their successor.

- 1.5 “Director” means Chase Stapp, the Chief of Police of The City of San Marcos, or their successor.
- 1.6 “Fiscal Year” means the City fiscal year, currently that period beginning on October 1 of one year and continuing through September 30 of the following year.
- 1.7 “Is doing business” and “has done business” mean:
- 1.8.1 paying or receiving in any calendar year any money or valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for the purchase of any property or property interest, either real or personal, either legal or equitable; or,
- 1.8.2 loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;
- 1.8.3 **but does not include**
- 1.8.3.1 any retail transaction for goods or services sold to a Key Contracting Person, defined in Exhibit A, at a posted, published, or marked price available to the public,
- 1.8.3.2 any financial services product sold to a Key Contracting Person for personal, family or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by Contractor in the ordinary course of its business; and
- 1.8.3.3 a transaction for a financial service or insurance coverage made on behalf of Contractor if Contractor is a national or multinational corporation by an agent, employee or other representative of Contractor who does not know and is not in a position that he or she should have known about the Contract.
- 1.9 "Key Contracting Person" means any person or business listed in Exhibit 1 to Attachment D of this Agreement and marked as the Ethics Affidavit.
- 1.10 “Parties” means City of San Marcos and Access Empowerment.
- 1.11 “Purchasing Agent” means Lynda Williams or their successor.

## **2.0 EMPLOYMENT OF CONTRACTOR**

2.1 The Purchasing Agent acts as the City's overall contract administrator. The Purchasing Agent may designate representatives to transmit and receive information.

2.2 Authority. The Director or designee will act on behalf of the City with respect to the work to be performed under this Contract. The Director shall have complete authority to interpret and define in writing the City's policies and decisions with respect to Contractor's services. The Director may designate representatives to transmit instructions and receive information.

## **3.0 TERM**

3.1 Initial Term. The Initial Term of this Contract shall commence on April 17, 2018 and shall continue through April 16, 2019, unless sooner terminated as provided herein.

3.2 Renewal by Written Modification. Unless sooner terminated, and subject to continued funding by the City Council, this Contract may be renewed for one year by written modification signed by the City and Contractor. Unless otherwise provided in that modification, any renewal is on the condition that all terms and conditions, including negotiated rates, remain unchanged.

3.3 Termination. Either party may terminate this Contract at any time by giving the other party written notice of such termination at least thirty (30) days before the effective date of the termination.

## **4.0 CONTRACTOR'S RESPONSIBILITIES**

4.1 Scope of Services. Contractor shall perform, in a timely manner, the services and activities described in the Scope of Services set forth as Attachment A to this Contract, which is expressly incorporated herein and made a part hereof.

4.2 Ethical Standards. Contractor shall perform all services and exercise all discretionary powers in a manner consistent with applicable canons of professional ethics and his best professional judgment.

4.3 Subcontracting. Except as otherwise specifically provided herein, Contractor is prohibited from hiring or subcontracting with any other person to perform any of the Contractor's obligations under this Contract.

4.4 Civil Rights and Equal Opportunity in Employment. The Contractor agrees, during the performance of the services under this Agreement, that the Contractor shall provide all services and activities required in a manner that complies with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933], and all other federal and state laws, rules, regulations, and orders pertaining to equal opportunity in employment, as if the Contractor were an entity bound to comply with these laws. The Contractor shall not discriminate against any employee or applicant for employment based on race, religion, color, sex, national origin, age or handicapped condition. In accordance with Title VI of the Civil Rights Act of 1964:

4.4.1 Compliance with Regulations: Contractor shall comply with the requirements relative to nondiscrimination in Federally-Assisted programs, including but not limited to Title VI of the 1964 Civil Rights Act (42 USC Section 2000d, et. seq.), and 49 CFR Part 21, both as explained in Federal Transit Administration (FTA) Circular 4702.1A, as they may be amended (the “Regulations”), which are herein incorporated by reference and made a part of this Agreement.

4.4.2 Nondiscrimination: Regarding the work performed by Contractor under this Agreement, it shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Seller shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices.

4.4.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4.4.4 Sanctions for Noncompliance: If Contractor does not comply with the nondiscrimination provisions of this Agreement, the City shall impose the sanctions that it determines are appropriate, including, but not limited to, withholding of payments to Contractor under the Agreement until Contractor complies, or until cancellation, termination or suspension of the Agreement, in whole or in part.

4.4.5 Incorporation of Provisions: Contractor shall include the provisions of section 4.4 (regarding nondiscrimination) and 6.3 (regarding reports) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant to them.

4.5 Legal Compliance. Contractor shall comply with all federal, state, the City, and city laws, rules, regulations and ordinances applicable to the provision of the services described herein and the performance of all obligations undertaken pursuant to this Contract.

4.6 Payment of Property Taxes. Contractor warrants that Contractor is not currently delinquent in payment of property taxes to the Hays County Tax Assessor Collector.

4.7 Insurance Requirements. Contractor shall comply with the insurance requirements set out in Attachment C, "Insurance Requirements", which is incorporated by reference and made a part of this Contract.

4.8 Federal Funds. Contractor warrants that no Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

4.9 Communications. Contractor may communicate all requests for direction and factual information relating to services performed pursuant to this Contract to the Director and may rely on all factual information supplied by the Director in response to these requests. However Director shall not serve as the agent of the City or the City Council or any elected official of the City for any other purpose than conveying factual information.

4.10 Contractor expressly acknowledges that, in entering into this Contract, the City has relied on the representations of Contractor about the persons who will be performing the services and their qualifications and that any other person must be approved by City Council before providing services under this Contract. Contractor warrants that all work done will be done by the employees or members of Contractor that are presented as performing the services in Contractor's proposal.

4.11 Standard of Care. Notwithstanding anything in this Contract to the contrary, Contractor shall perform all services and responsibilities required of Contractor under this Contract using at least that standard of care which a reasonably prudent person in San Marcos, Texas would use in similar circumstances.

4.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion from Participation in Contracts Exceeding \$100,000.00

The Contractor certifies, by entering into this Contract, that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The Contractor shall include this certification requirement in all subcontracts to this contract that exceed \$100,000.00.

4.13 Upon request, Contractor shall be available to the City Council, the City Manager and their representatives for questions with respect to the services being performed pursuant to this Contract.

**5.0 COMPENSATION, BILLING AND PAYMENT**

5.1 Fees. For and in consideration of the satisfactory performance by Contractor of the services described in Attachment A, Scope of Services, and Contractor's compliance with the terms and conditions of this Contract, the City shall pay Contractor in accordance with the Fee Schedule which is attached hereto as Attachment B and made a part hereof.

5.1.1 Not to exceed amount: \$38,000.00 annually.

5.1.2 Additional Fees: None

5.2 Satisfactory Completion of Services. The City shall not be responsible for the costs of any services under this Contract that are not performed to the City's satisfaction and given the City's approval, which shall not be unreasonably withheld. the City's obligation to make any payment to Contractor is dependent upon completion of the services invoiced in a timely, good and professional manner and at a standard acceptable in Contractor's profession.

5.3 Timely Payment. The City shall pay Contractor within thirty (30) days after the receipt of a complete and correct invoice by the City Department. Accrual and payment of interest on overdue payments shall be governed by Chapter 2251 of the Texas Government Code.

5.4 Invoicing. Contractor shall invoice the City monthly for services performed pursuant to this Contract. Invoices shall be submitted by the 10<sup>th</sup> of the month immediately following the month in which the services were rendered.



5.4.1 The City pays by ACH/EFT or check upon satisfactory delivery and acceptance of items and submission of a correct and complete invoice to the address below:

Via e-mail to: [cosmap@sanmarcostx.gov](mailto:cosmap@sanmarcostx.gov)

Contractor may contact the Auditor's Office, Disbursements Division at (512) 854-9125 for assistance with setting up electronic payment through ACH, which deposits payments directly into the Contractor's account.

To be "correct and complete," an invoice must include at least the following information:

5.4.1.1 Name, address, and telephone number of Contractor, and the name should match the name shown on the W-9 that Contractor submitted to the Auditor's Office;

5.4.1.2 Name and address where the payment is to be sent, if payment is by check;

5.4.1.3 The City Contract Number and the City Purchase Order Number;

5.4.1.4 Identification of items or services as outlined in the Contract;

5.4.1.5 Quantity or quantities, applicable unit prices, total prices by item, and total invoice amount, and

5.4.1.6 Any additional payment information that may be called for by the Contract.

5.4.2 Additional Copy of Invoice: In addition, Contractor shall send a copy of the invoice to:

Chase Stapp  
Chief of Police  
2300 IH35 South  
San Marcos, Texas 78666

5.5 Overpayment. Contractor shall refund to the City any money which has been paid to Contractor by the City, which the City determines has resulted in overpayment to Contractor. Such refund shall be made by Contractor to the City within thirty (30) days after the refund is requested by the City. If the City enters into any subsequent Contract with Contractor and Contractor fails to refund any money owed to the City within thirty (30) days of request, the City may offset the difference against the next advance or payment payable to Contractor.

5.6 Taxpayer Identification. Contractor shall provide the City with an Internal Revenue W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations, and a statement of entity status in a form satisfactory to the City Auditor before any Contract funds are payable.

5.7 Delinquent Property Taxes. Notwithstanding anything to the contrary herein, if the Contractor is delinquent in the payment of property taxes at the time of invoicing, the Contractor hereby assigns any payments to be made for services rendered hereunder to the Hays County Tax Assessor-Collector for the payment of said delinquent taxes.

5.8 Disbursements to Persons with Outstanding Debt.

5.8.1 In accordance with Section 154.045 of the Local Government Code, if notice of indebtedness has been filed with the City Auditor evidencing the indebtedness of Contractor to the State, the City or a salary fund, a warrant may not be drawn on a the City fund in favor of the Contractor, or an agent or assignee of Contractor until:

5.8.1.1 the City Treasurer notifies Contractor in writing that the debt is outstanding; and

5.8.1.2 the debt is paid.

5.8.2 "Debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the City.

5.8.3 The City may apply any funds the City owes Contractor to the outstanding balance of debt for which notice is made under section 4.8.1.1 above, if the notice includes a statement that the amount owed by the City to Contractor may be applied to reduce the outstanding debt.

5.9 Period of Services. The City shall not be liable for costs incurred or performances rendered by Contractor before or after the term of this Contract.

5.10 Exemption from Procurement Requirements. Pursuant to TEX. LOC. GOV'T. CODE ANN. § 252.022(a)(13) et seq., the City Council hereby orders that this Contract is exempt from the requirements of procurement requirements because it is a Contract being performed by a blind or severely disabled person.

5.11 Funding Out. Notwithstanding anything to the contrary herein, if, during budget planning and adoption, the City Council fails to provide funding for this Contract for the following fiscal year of the City, the City may terminate this Contract after giving Contractor 20 days written notice that this Contract is terminated due to the failure to fund it.

## 6.0 RECORDS CONFIDENTIALITY AND ACCESS

6.1 Confidentiality. Contractor shall establish a method to secure the confidentiality of any records or other information in accordance with the applicable federal, state and local laws, rules and regulations, and applicable professional ethical standards. This provision shall not be construed as limiting the right of the City access any information related to Contractor's performance of services.

6.2 Records Maintenance. Contractor shall create, maintain, and retain, and shall make reasonably available to the City, all necessary and appropriate records, information, and documentation (including all accounting records) relating to services provided under the terms of this Contract for a period of three (3) years after the provision of the services, or until any litigation concerning any of the services has been satisfactorily resolved, whichever occurs later. Contractor shall provide copies of such records to the City upon written request to Contractor at a cost mutually agreed to by the City and Contractor.

6.3 Access to Records. The Contractor further agrees that the City or its duly authorized representatives shall have access to any and all books, documents, papers, reports and records of the Contractor, which the City deems are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions, and to ascertain compliance with federal and state employment discrimination laws. Contractor shall provide all information and reports required by Title VI of the 1964 Civil Rights Act (42 USC Section 2000d, et. seq.) and any regulations or directives issued pursuant to them. Contractor shall permit access to its books, records, accounts, other sources of information and its facilities as the City may determine to be pertinent to ascertain compliance with these regulations, orders, and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor shall so certify to the City, as appropriate, and shall state what efforts it has made to obtain the information.

6.4 Right to Contractual Material. All work products produced under this Contract including programming, reports, charts, schedules, or other appended documentation to any responses, inquiries, correspondence, and related material submitted by Contractor **will** become property of the City.

## 7.0 AMENDMENTS / MODIFICATIONS

7.1 General. Unless specifically provided otherwise in this Contract, any change to the terms of this Contract or any attachments to it shall be in writing and signed by each party. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF THE CITY HAS ANY AUTHORITY TO CHANGE THE TERMS OF THIS CONTRACT OR ANY ATTACHMENTS TO IT UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE CITY COUNCIL.

7.2 Requests for Changes. Contractor shall submit all requests for changes to the terms of this Contract or any attachment to it to the Director with a copy to the Purchasing Agent.

7.3 Purchasing Agent Authority. Contractor understands and agrees that the Purchasing Agent has certain authority to approve an Amendment subject to applicable law (specifically TEX. LOC. GOV'T CODE, Chapter 252, and other applicable law) and the City policy, as approved by the City Council. Within that authority, the Purchasing Agent may approve Amendment requests under this Contract. The Purchasing Agent will advise Contractor as to such authority upon submission of a request for Amendment; at any time, the Purchasing Agent may submit any request to the City Council for approval, regardless of the authority of the Purchasing Agent to sign the Amendment.

## **8.0 OTHER PROVISIONS**

8.1 INDEMNIFICATION. CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, NEGLIGENCE, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR ANY ACT OR OMISSION BY CONTRACTOR, OR FOR DAMAGE TO ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY CONTRACTOR UNDER THIS CONTRACT.

8.2 Copyrights, Patents & Licenses. Contractor represents and warrants that (i) all applicable copyrights, patents, licenses, and other proprietary or intellectual property rights which may exist on materials used in this Contract have been adhered to and (ii) the City shall not be liable for any infringement of those rights and any rights granted to the City shall apply for the duration of this Contract. Contractor shall indemnify the City, its officers, agents, and employees from all claims, losses, damages, causes of action, and liability of every kind including expenses of litigation, court costs and attorney fees for damages to any person or property arising in connection with any alleged or actual infringement of existing patents, licenses, or copyrights applicable to materials used in this Contract.

8.3 Claims Notification. If any claim, or other action, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor or the City in relation to the performance of this Contract, Contractor shall give written notice to the City of the claim or other action within three (3) working days after being notified of it or the threat of it; the name and address of the person, firm, corporation or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the

claim, action or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice shall be given in the manner provided herein. Except as otherwise directed, Contractor shall furnish to the City copies of all pertinent papers received by Contractor with respect to these claims or actions.

8.4 Suspension. If Contractor fails to comply with any provision herein, the City may, upon written notification to Contractor, suspend this Contract in whole or in part and withhold further payments to Contractor, until Contractor is in compliance with the terms of this Contract or Contract is terminated as provided herein.

8.5 Non-Waiver of Default.

8.5.1 No payment, act or omission by the City may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist.

8.5.2 All rights of the City under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or right to the City under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

8.6 Forfeiture of Contract: Contractor shall forfeit all benefits of the Contract and the City shall retain all performance by Contractor and recover all consideration or the value of all consideration, paid to Contractor pursuant to this Contract if:

(A) Contractor was doing business with any Key Contracting Person at the time of execution of the contract or had done business during the 365 day period immediately prior to the date on which it is executed; or

(B) Contractor does business with a Key Contracting Person at any time after the date on which the contract is executed and prior to full performance of the Contract.

8.7 Agreement.

8.7.1 Entire Agreement. All written or oral agreements between the parties to this Contract related to the subject matter of this Agreement that were made prior to the execution of this Contract have been reduced to writing and are contained in this Contract or in the policies and procedures approved by the City Council. Any prior agreements, promises, negotiations, or representations not expressly set forth in this document are of no force and effect.

8.7.2 Attachments. The attachments enumerated and denominated below are hereby made a part of this Contract, and constitute promised performances by Contractor in accordance with all the provisions of this Contract.

- 8.7.2.1 Attachment A – Scope of Services & Performance Measures
- 8.7.2.2 Attachment B – Fee Schedule
- 8.7.2.3 Attachment C – Insurance Requirements
- 8.7.2.4 Attachment D – Ethics Affidavit including:  
Exhibit 1 - List of Key Contracting Persons
- 8.7.2.5 Attachment E – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts

8.8 Notices:

8.8.1 Written Notice. Any notice required or permitted to be given under this Contract by one party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address herein specified.

8.8.2 The City Address. The address of the City for all purposes under this Contract shall be:

Lynda Williams (or their successor)  
Purchasing Manager  
630 E. Hopkins Street  
San Marcos, Texas 78666

With copies to (registered or certified mail with return receipt is not required):

Chase Stapp (or their successor)  
Chief of Police  
2300 IH35 South  
San Marcos, Texas 78666

8.8.3 Contractor Address. The address of Contractor for all purposes under this Contract and for all notices hereunder shall be:

Access Empowerment  
1101 W. 34<sup>th</sup> Street Ste. 175  
Austin, TX 78705

8.9 Change of Address. Each party may change the address for notice to it by giving written notice of the change in compliance with Section 7.8. Any change in the address shall be reported within fifteen (15) days of the change.

8.10 Dispute Resolution - Administration by Purchasing Agent. When the Contractor and/or the City have been unable to successfully resolve any question or issue related to this Contract, the Contractor or the City shall then present the matter to the Purchasing Manager by providing the Purchasing Manager with written notice of the dispute. Such notice shall contain a specific written description of the issues involved as well as the Contractor's requested resolution of the dispute and any other relevant information which Contractor desires to include. As of the receipt of such notice by the Purchasing Agent, the Purchasing Manager will act as the City representative in any further issuances and in the administration of this Contract in relation to the described dispute. Unless otherwise stated in this Contract, any document, notice or correspondence in relation to the disputes at this stage not issued by or to the Purchasing Manager is may be considered void. If the Contractor does not agree with any document, notice or correspondence relating to the dispute issued by the Purchasing Manager or other authorized the City person, the Contractor must submit a written notice to the Purchasing Manager with a copy to the Director within ten (10) calendar days after receipt of the document, notice or correspondence, outlining the exact point of disagreement in detail. The Purchasing Manager will issue a written notice of the final resolution of the dispute to the Contractor within thirty (30) days of receipt of the initial written notice of dispute by the Purchasing Agent. If this final resolution does not resolve the dispute to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the City Manager through the Purchasing Agent. The Purchasing Manager will provide a copy of such response to the Director. This Notice of Appeal must be submitted within ten (10) calendar days after receipt of the unsatisfactory final resolution. Contractor then has the right to be heard by the City Manager.

8.11 Mediation. If the Contractor is not satisfied with the resolution of the dispute pursuant to paragraph 8.10, Contractor shall notify the Purchasing Manager representing this Contract, and, if mediation is acceptable to both Parties in resolving the dispute arising under this Contract, the Parties agree to use a mediation group as chosen by the City and approved by Contractor, as the provider of mediators for mediation as described in the TEX. CIV. PRAC. AND REM. CODE, Section 154.023. Unless both Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in TEX. CIV. PRAC. AND REM. CODE, Section 154.073, unless both Parties agree, in writing, to waive the confidentiality.

8.12 Cooperation and Coordination. Contractor shall cooperate and coordinate with the City staff and other contractors as reasonable and necessary and as required by the Director.

8.13 Independent Contractor. The parties expressly acknowledge and agree that Contractor is an independent contractor, operating solely in that capacity, and assumes all of the rights, obligations and liabilities applicable to him as an independent contractor. Contractor shall not be considered an employee of the City, or gain any rights against the City pursuant to the City's personnel policies.

8.14 Non-party Beneficiaries. No provision in this Contract creates any rights in any person or entity that is not a party to this Contract, and the rights to performance in this Contract are only enforceable by the City and Contractor.

8.15 Governing Law. The validity of this Contract and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas.

8.15.1 Severability. Any clause, sentence, provision, paragraph, or article of this Contract held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Contract, but the effect thereof shall be limited to the clause, sentence, provision, paragraph or article so held to be invalid, illegal, or ineffective.

8.15.2 Law and Venue. All obligations under this Contract shall be performable in San Marcos, Texas. Venue for any litigation concerning this Contract shall be in San Marcos, Texas.

8.15.3 Assignment. No party may assign any of the rights or duties created by this Contract without the prior written approval of the other party. It is acknowledged by Contractor that no officer, agent, employee or representative of the City has any authority to assign any part of this Contract unless expressly granted that authority by the City Council.

8.16 Binding Contract. Notwithstanding any other provision of this Contract, this Contract shall be binding upon and inure to the benefit of the City and the Contractor and their respective successors, executors, administrators, and assigns. Neither the City nor the Contractor may assign, sublet, or transfer his interest in or obligations under this Contract without the written consent of the other Party.

8.17 Performance of Other Services. As a part of this Contract, it is understood that Contractor is free to provide services outside this Contract as it sees fit at those times which Contractor is not obligated to the City. It is also understood that the City is free to have more than one contractor providing the type of services included in this Contract.

8.18 Survival. Conditions and covenants of this Contract which by their terms are performable after the termination, expiration, or end of this Contract shall survive such termination, expiration, or end and remain fully performable.



8.19 Certificate of Contractor. The Contractor certifies that neither the Contractor nor any members of the Contractor's firm nor any Subcontractor has:

8.19.1 Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for the Contractor) to solicit or secure the work provided by the Contract.

8.19.2 Agreed, as an expressed or implied condition for obtaining this Contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Contract.

8.19.3 Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for the Contractor) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Contract.

8.19.4 Been suspended or debarred from federal or state procurement.

The Contractor further agrees that this certification may be furnished to any local, state or federal government agencies in connection with this Contract and for those portions of the program involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

8.20 Interpretational Guidelines.

8.20.1 Computation of Time. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that the City has declared a holiday for its employees, these days shall be omitted from the computation.

8.20.2 Number and Gender. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in the Contract clearly requires otherwise.

8.20.3 Headings. The headings at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Contract.

8.21 Conflict of Interest Questionnaire: If required by Chapter 176, Texas Local Government Code, the Contractor shall complete and file a Conflict of Interest Questionnaire with the City Clerk, Elections Division, 630 E Hopkins, San Marcos,

Texas 78666. The Contractor shall update this Questionnaire by September 1 of each year for the duration of this Contract, as required by Chapter 176 of the Local Government Code. In addition, if any statement on a submitted Questionnaire becomes incomplete or inaccurate, the Contractor shall submit an updated Questionnaire. The Contractor should note that the law requires the City to provide access to a filed Questionnaire on the City's official website.

8.22 The City Monitoring. Contractor will be monitored by the Director (or their designee) for compliance with the requirements of this Contract.

8.23 The person or persons signing this Contract on behalf of Contractor, or representing themselves as signing this Contract on behalf of Contractor, do hereby warrant and guarantee that he, she or they have been duly authorized by Contractor to sign this Contract on behalf of Contractor and to bind Contractor validly and legally to all terms, performances, and provisions in this Contract.

8.24 Prohibition on Contracts with Companies Boycotting Israel. Pursuant to Chapter 2270 and 808, Texas Government Code, Contractor certifies that is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate. Failure to meet or maintain the requirements under this provision will be considered a material breach.

8.25 2252 Compliance. Section 2252 of the Texas Government Code restricts y from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. Contractor hereby certifies that is not ineligible to receive the award of or payments under this Agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

DUPLICATE ORIGINALS

This Contract will be executed in duplicate originals and be effective when executed by both Parties.

Signature Page to Follow

**ACCESS EMPOWERMENT**

**THE CITY OF SAN MARCOS**

\_\_\_\_\_

\_\_\_\_\_

Chase Bearden, Board Chairman

Bert Lumbreras, City Manager

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

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

Approved as to Legal Form by:

\_\_\_\_\_  
Michael Cosentino, City Attorney

Approved by Purchasing:

\_\_\_\_\_  
Lynda Williams, Purchasing Manager

## **ATTACHMENT A**

### **SCOPE OF SERVICES**

CONTRACTOR shall provide all materials, software, programming and services as outlined in the Scope of Services.

The City desires to address the issue of Accessible Parking violations by recruiting and training citizen Volunteers through the use of a mobile application that supports both IOS and Android devices and web based Software Application provided by CONTRACTOR to allow Volunteers to electronically submit citations for vehicles in violation of disabled parking laws, in compliance with current statutes. Director will appoint and manage the Volunteers. CONTRACTOR will recruit and train those Volunteers, and Volunteers will use CONTRACTOR's software application to improve the process of submitting the Volunteers' CITATIONS.

#### **1.0 DEVICE AND TECHNOLOGY**

- CONTRACTOR will provide the Parking Mobility application including secure web portal for Volunteers and the City staff to access approved data.
- No additional hardware, software or programming will be required to be purchased by the City.
- CONTRACTOR will secure and comply with all of the City's Information Security requirements, and provide appropriate levels of confidentiality, integrity, availability and non-repudiation.
- CONTRACTOR shall support future scalability and ability to interface with the City's other data systems such as court records case management system for purposes of transferring ticket information data.
- CONTRACTOR will integrate the Parking Mobility system with the City's Case Management system as detailed in Section the Scope of Services. This integration will allow CONTRACTOR to upload data and the CITY can accept it.
- CONTRACTOR will provide a Software Application that meets or exceeds all federal state and local government laws and regulations, governing the creation, use storage, access, accessibility, maintenance, processing and transmission of information assets.
- CONTRACTOR will provide Volunteers a form on the software application designed by Director that contains all necessary information for a citation including exact coordinates/address where the violation occurred, violation information, and provide electronic data for the City review and processing.

- CONTRACTOR will provide the City with full access to all data and stored information.

## **2.0 VOLUNTEERS**

- CONTRACTOR shall recruit Volunteers for the CITY.
- CONTRACTOR will provide face to face interviews with potential Volunteers and in collaboration with the City create a questionnaire for the interview process.
- the CITY must approve of each Volunteer and the CITY will appoint and manage Volunteers that are deemed appropriate according to Texas Transportation Code §681.0101.
- CONTRACTOR will provide Volunteers training developed with the City to meet or exceed the requirements of Texas Transportation Code §681.0101.
- CONTRACTOR will provide the Parking Mobility Volunteer Information Portal to securely transmit Volunteer information to comply with the City background check.
- The City's Police Department will perform all background checks of Volunteers.
- Provide Volunteers with information on scheduling appointment to get an ID badge with the City's Police Department.

## **3.0 TRAINING AND SUPPORT**

- CONTRACTOR with the assistance of the City will provide the initial four (4) hours of training with all Volunteers in compliance with Texas Transportation Code §681.0101. The training was developed in collaboration with the City and includes:
  - i. how to handle/avoid confrontation;
  - ii. judgment based scenarios and personal safety;
  - iii. Volunteers rights and responsibilities;
  - iv. program policies and procedures;
  - v. appropriate reporting protocol
- CONTRACTOR will provide ongoing training of Volunteers:
  - i. Annual retraining;
  - ii. Event based training as identified by the City Staff
  - iii. Monthly email notification of online training opportunities for Volunteers choosing.
- CONTRACTOR will provide training to the City staff and Volunteers on use of the Parking Mobility software application systems.
- CONTRACTOR will provide ongoing technical support for Volunteers and

the City staff as required.

#### **4.0 COMMUNITY OUTREACH AND AWARENESS**

- CONTRACTOR will provide outreach to businesses in the City with information on Privileged Parking and the benefits to the business community.
- CONTRACTOR will collaborate with nonprofit agencies to recruit potential Volunteers, educate the community on the importance of Privileged Parking spaces, the Laws protecting them and the Privileged Parking Volunteer program.

#### **5.0 REPORTS**

- CONTRACTOR will provide monthly data analysis and reports to ensure transparency and effectiveness of the program. Reports will include:
  - i. Total violations written
  - ii. Average report time
  - iii. Volunteers feedback and comments
  - iv. Overall functionality of the technology

#### **6.0 TICKET GENERATION AND FILING**

- CONTRACTOR will provide electronically to Volunteers citations designed by the City to include all information currently in the citations used by the City's Police Department.
- CONTRACTOR will transmit Volunteers' information concerning vehicles, including make and model, license plate number, photo of vehicle demonstrating a violation, and owner information.
- The Parking Mobility software application will generate a citation to be mailed out to the offender by the City Staff.
- Director will review the Volunteers' citations before accepting them and forwarding them to the appropriate Municipal Court.
- The Parking Mobility System will generate an appearance letter designed by the CITY to be printed and mailed to the offender by the City Staff if a Volunteer's citation has been accepted by Director.
- The Volunteer complaint and affidavit generates electronically in a standard pdf format.
- The Parking Mobility software application will interface with the City's records management system to upload ticket information and eliminate data entry.
- CONTRACTOR's role in uploading ticket information will be purely ministerial as Volunteers will use CONTRACTOR's software application to

provide the complaint and affidavit. CONTRACTOR will not interfere with the law enforcement role of either the CITY or appointed Volunteers. CONTRACTOR shall not alter nor edit information contained in a Volunteer's citation.

## **7.0 TICKET ADJUDICATION**

- Parking Mobility provides an optional educational alternative program accessible to all parking violators that may be taken as a condition of deferred disposition. Contractor acknowledges and agrees that the City is under no obligation to refer any parking violator for Contractor's educational programs under this Contract and this Contract should not be so construed.
- - i. The Parking Mobility Accessible Parking Course (APC) is available to offenders who are approved by the City and:
    1. Offenders are financially responsible for a \$50 course fee.
    2. Parking Mobility provides electronic notification to Municipal Court staff when courses are completed.
  - ii. The Parking Mobility Placard Education Program (PEP) is available to offenders who are approved by the City and:
    1. Offenders are financially responsible for a \$25 course fee.
    2. Parking Mobility provides electronic notification to Municipal Court staff when courses are completed.
  - iii. Both APC and PEP courses can be provided in-person monthly or online on demand.

## **DETAILED SCOPE OF SERVICES**

### **CITY shall:**

- Collaborate with CONTRACTOR and provide the prompt and timely resources reasonably necessary to allow CONTRACTOR to fulfill its Scope of Services listed below, with emphasis on Tasks A.2 and A.6.
- Provide geo-location data in (*Keyhole Markup Language*) files or similar formats) for the CITY.
- Be responsible for running background checks on all Volunteers.

### **CONTRACTOR shall:**

- Maintain sufficient staff and administrative support to carry out the Scope of Services and any established goals, objectives and activities presented in this Agreement.
- Provide the CITY with access and use of the SOFTWARE APPLICATION.
- Provide the necessary infrastructure hardware and software to implement and support the project in Task A.1.
- Customize existing technologies to comply with the unique requirements of the PROGRAM in Task A.2.
- Recruit Volunteers who meet the MINIMUM REQUIREMENTS for the VOLUNTEER PARKING ENFORCEMENT program in Task A.3.
- Train the Volunteers to use the SOFTWARE APPLICATION and ensure that Volunteers have been provided the state mandatory four hour training designed in collaboration with the CITY and have been approved and deputized by the CITY before Volunteers are allowed to participate in the PROGRAM in Task A.4.
- Allow its current Volunteers who wish to be trained to participate in the training to use the SOFTWARE APPLICATION in Task A.4.
- Train the CITY on the use of THE SOFTWARE APPLICATION in Task A.5
- Collaborate with the CITY to implement technologies to provide the quantitative analysis which the CITY needs to evaluate the PROGRAM in Task A.6.
- Implement an appropriate offender optional educational alternative program as developed with the CITY stakeholders in Task A.7.
- Implement appropriate community awareness and education strategies as outlined in Task A.8.
- Support all Volunteers submitting Citations to the CITY through the SOFTWARE APPLICATION in Task A.9.
- Provide prompt and timely updates to the SOFTWARE APPLICATION as requested by the CITY or otherwise needed for proper utilization in Task A.01.
- Provide ongoing Volunteer engagement in order to determine user satisfaction, evaluate efficiency and collect user input on overall quality of



the SOFTWARE APPLICATION in Task A.11.

- Provide presentations, educational materials and data reports as requested by the CITY in Task A.12.
- Provide an analysis of the PROGRAM within 10 days following the end of each month of the PROGRAM in Task A.13.

**Task A.1 - CONTRACTOR shall provide the necessary infrastructure hardware and software to implement and support the PROGRAM.**

Task A.1.1 - CONTRACTOR shall provide infrastructure technologies to include but not limited to:

- Servers (load balancers, web servers and database servers)
- Data Storage
- Data Integration
- Web application hosting
- Bandwidth
- Quality Assurance software
- Security, Encryption and Multi-Factor Authentication

CONTRACTOR shall maintain separate infrastructures for testing, quality assurance and production to affect the CITY'S unique project requirements and goals.

The production infrastructure shall utilize highly-available, fully-redundant technology that minimizes service interruption and maximizes data integrity and protection. This includes, but is not limited to, load-balanced multiple web servers with a highly-available SQL database server with fail-over technologies. In addition, government-level security, encryption and multi-factor authentication features shall be implemented.

*Deliverables for Task A.1 - CONTRACTOR shall provide the CITY with a list of all technology utilized in implementation of project.*

**Task A.2 -CONTRACTOR shall customize existing technologies to comply with the unique requirements of the PROGRAM.**

Task A.2.1 – CONTRACTOR shall make modifications to the SOFTWARE APPLICATION to address the CITY'S requirements of the PROGRAM. CONTRACTOR shall collaborate with all relevant the CITY stakeholders to address goals of the PROGRAM.

*Deliverables for Task A.2.1 -CONTRACTOR shall provide a full report detailing the technology customization.*

Task A.2.2 – CONTRACTOR shall collaborate with the CITY to automate CITATION submissions.

Data from the SOFTWARE APPLICATION will be integrated with the CITY'S existing data system (Odyssey). This can be accomplished securely and in a manner in which the CITY retains full control. This CITATION automation provides the cost savings and procedural optimization necessary for the CITY to process the violations generated by the SOFTWARE APPLICATION.

CONTRACTOR shall implement a feature on the SOFTWARE APPLICATION which allows the CITY to do the following in a secure, web-based portal only accessible to (i) the CITY staff designated by the CITY and (ii) certain the CITY computers designated by the CITY:

- View all CITATIONS, including those which have yet to be processed by the CITY
- View the particular details of each unprocessed CITATION
- Approve a CITATION which:
  - i. Retrieves the most recent mailing address for the license plate of the vehicle in the CITATION and adds this mailing address to the CITATION;
  - ii. Prints out the CITATION in a format ready to mail to the vehicle's owner;
  - iii. Electronically submits the CITATION data to the the CITY'S systems that the CITY previously had to manually enter such CITATION data

In addition to encryption, the SOFTWARE APPLICATION uses RSA multi-factor technology locked to designate the CITY staff to ensure optimal security. CONTRACTOR utilizes security and architecture experts from Fortune 500 companies for design and implementation of this feature.

As implemented, this feature will be secure, save the CITY significant resources and allow the CITY to handle CITATIONS far more effectively and efficiently.

*Deliverables for Task A.2.2 -With the CITY'S collaboration, CONTRACTOR shall provide the prompt and timely resources reasonably necessary to fulfill Task A.2.2, CONTRACTOR shall demonstrate to the CITY that this CITATION automation feature*

*(i) fulfills the functionality outlined above, (ii) is only available to the CITY staff designated by the CITY and (ii) only functions on the CITY computers designated by the CITY.*

**Task A.3 - Recruit Volunteers who meet the MINIMUM REQUIREMENTS for the PROGRAM.**

**Task A.3 - CONTRACTOR shall recruit Volunteers who CONTRACTOR reasonably believes meet the CITY'S current screening requirements and pass background checks, and who own either an iPhone or Android-based smartphone.**

*Deliverables for Task A.3 - CONTRACTOR shall provide the CITY a list of Volunteers who meet the requirements as outlined above. CONTRACTOR shall provide a secure Volunteer Information Portal in order for Volunteers to submit personal information and to be screened by the CITY in compliance with current practices.*

**Task A.4 - CONTRACTOR shall train Volunteers on the use of the SOFTWARE APPLICATION and with assistance from the CITY provide state required Volunteer Training designed in collaboration with the CITY pursuant to Texas Transportation Code § 681.0101.**

Task A.4.1 - CONTRACTOR shall train Volunteers in the proper, accurate, and complete use of THE SOFTWARE APPLICATION. CONTRACTOR shall be the sole source for technical and user support related to the SOFTWARE APPLICATION.

*Deliverables for Task A.4 - CONTRACTOR shall certify to the CITY that each Volunteer has completed the CONTRACTOR'S training program. Volunteers will then be directed to the Volunteer Information Portal to complete the CITY'S background check procedures in order to be appointed by the CITY before being allowed to submit citations through the SOFTWARE APPLICATION.*

Task A.4.2 – CONTRACTOR with assistance from the CITY shall provide minimum four (4) hour training for each Volunteer as prescribed by Texas Transportation Code § 681.0101. Initial training shall include:

- Information on relative laws and violation types
- Appropriate reporting procedures
- Confrontation avoidance techniques
- Confrontation mitigation
- Purpose and scope of the program
- Rights and responsibilities of Volunteers
- How to access assistance from program staff

*Deliverables for Task A.4.2 – CONTRACTOR shall provide copies of all training materials for the CITY approval. CONTRACTOR shall provide certification of training completion for each Volunteer.*

*Task A.5 – CONTRACTOR shall train the CITY on the use of the SOFTWARE APPLICATION.*

**Task A.5 -CONTRACTOR shall train the CITY in the proper, accurate, and complete use of THE SOFTWARE APPLICATION, including but not limited to its web-based government administrative portal and the CITATION automation feature detailed in Task A.2.2. CONTRACTOR shall be the sole source for technical and user support related to the SOFTWARE APPLICATION.**

*Deliverables for Task A.5 – CONTRACTOR shall certify to the CITY that each designated the CITY personnel designated by the CITY has completed the CONTRACTOR'S training for the administrative aspects of THE SOFTWARE APPLICATION. As new administrative features are added or existing ones modified, CONTRACTOR shall augment the original training and certify that all the CITY personnel designated by the CITY are up-to-date on said training. CONTRACTOR shall promptly respond to support requests from the CITY and its designated staff.*

**Task A.6 – CONTRACTOR shall collaborate with the CITY to implement technologies to provide the quantitative analysis which the CITY needs to evaluate the PROGRAM.**

**Task A.6- CONTRACTOR shall engage the participation of the CITY IT staff in order to fully integrate all necessary data systems in order to:**

- **Track CITATIONS**
- **Provide geographical, map-based data**
- **Retrieve, compile and download/export data**
- **Provide project evaluation**

*Deliverables for Task A.6-CONTRACTOR shall provide a full implementation report.*

**Task A.7 – CONTRACTOR shall offer an appropriate offender optional educational alternative program.**

Task A.7.a CONTRACTOR shall collect a fee not to exceed \$50 from offenders upon completion of the optional educational alternative program. This fee is separate and apart from any fees in this CONTRACT and apart from any fees, fines or monies collected by the CITY. The CITY shall not be liable for payment of fees for the optional educational alternative program, nor shall the CITY have any obligation to refer anyone to this program. If the CITY refers an offender to the educational alternative program, CONTRACTOR shall provide certification of offender completion to the CITY immediately upon completion by the offender.

*Deliverables for Task A.7.a CONTRACTOR shall provide weekly reports of all educational alternatives attempted, completed and fees collected from violators.*

**Task A.8 - CONTRACTOR shall implement a multipoint community awareness and education strategy to create broad community awareness and engagement in ending accessible parking abuse.**

Task A.8.1 – CONTRACTOR shall engage community based nonprofit partners to educate and engage their constituents on the problem of accessible parking abuse and provide social change across a broad cross-segment of the CITY'S population.

*Deliverables for Task A.8.1 – CONTRACTOR shall provide a list of community partners; the number and type of outreach strategies and the number of individuals reached for each effort.*

Task A.8.2 – CONTRACTOR shall develop and distribute appropriate video and printed educational materials to driver's education programs, schools and other educational outlets to reach new drivers at a critical educational point.

*Deliverables for Task A.8.2 – CONTRACTOR shall provide copies of all materials produced and a list of distribution points, including numbers of individuals reached.*

**Task A.9 – CONTRACTOR shall support all Volunteers submitting CITATIONS to the CITY through the SOFTWARE APPLICATION.**

Task A.9.1 – CONTRACTOR will not review, alter nor edit Volunteers' CITATIONS, but will ensure that the software application is functioning properly to transmit the CITATIONS to the CITY.

*Deliverables for Task A.9.1 – Should the CITY notify CONTRACTOR that the software application is not functioning properly, CONTRACTOR will fix any problems within a reasonable timeframe.*

Task A.9.2 – CONTRACTOR shall provide additional training to Volunteers as needed.

*Deliverables for Task A.9.2 – Should the CITY inform CONTRACTOR that any VOLUNTEER needs further training in submitting CITATIONS, CONTRACTOR shall provide that training.*

**Task A.10 – CONTRACTOR shall provide prompt and timely updates to the SOFTWARE APPLICATION as requested by the CITY or otherwise needed for proper utilization.**

Task A.10 – CONTRACTOR shall promptly resolve functional issues which arise in any aspect of the SOFTWARE APPLICATION, including the smartphone and website technologies. CONTRACTOR shall implement new features requested by the CITY unless said features require substantial development, in which case CONTRACTOR will coordinate with the CITY to determine an additional invoice

amount to cover such development. CONTRACTOR shall provide training to Volunteers and the CITY concerning technological or procedural updates.

*Deliverables for Task A.10 – CONTRACTOR shall document and provide technological and procedural updates to the SOFTWARE APPLICATION as needed or as requested by the CITY.*

**Task A.11 – CONTRACTOR shall provide ongoing Volunteer engagement in order to determine user satisfaction, evaluate efficiency and collect user input on overall quality of the SOFTWARE APPLICATION.**

*Deliverables for Task A.11 – CONTRACTOR shall provide periodic analysis in written and electronic formats.*

**Task A.12 – CONTRACTOR shall provide presentations, educational materials and data reports as requested by the CITY representatives and officials.**

*Deliverables for Task A.12 – CONTRACTOR shall provide list of community partners, presentations, educational materials and data reports. Examples include:*

- *Community nonprofit partners*
- *Large and small group presentations*
- *Printed and electronic educational materials*
- *Web and DVD based educational videos and handouts*

**Task A.13 – CONTRACTOR shall provide an analysis of the PROGRAM within 10 days following the end of each month of the PROGRAM.**

**Task A.13 – Analysis shall include data relative to violations written, reporting time, final and current status of all violations reported, user comments and analysis, cost efficacy of the project and overall functionality of the technology. Analysis shall provide recommendations on implementation of scalability and functional program improvements.**

*Deliverables for Task A.13 - CONTRACTOR shall provide analysis in written and electronic formats.*

**ATTACHMENT B**  
**FEE SCHEDULE**

1. The City shall pay Access Empowerment during the initial Term:

Annual payment (spread over 12 monthly payments) not to exceed..... \$38,000.00

The first month's payment..... \$5,000.00

This includes a one-time integration fee (Term of Contract) of \$2,000 to integrate the Parking Mobility System with the City's Just Ware system

The remaining eleven monthly payments each being..... \$3,000.00



**ATTACHMENT C**  
**INSURANCE REQUIREMENTS**

Contractor shall have, and shall require all subcontractors providing services under this Contract to have, Standard Insurance meeting the General Requirements as set forth below and sufficient to cover the needs of Contractor and/or Subcontractor pursuant to applicable generally accepted business standards. Depending on services provided by Contractor and/or Subcontractor(s), Supplemental Insurance Requirements or alternate insurance options shall be imposed as follows:

**I. General Requirements Applicable to All Contractors' Insurance.**

The following requirements apply to the Contractor and to Subcontractor(s) performing services or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following concerning insurance requirements applicable to Contractor and subcontractor(s):

A. The minimum types and limits of insurance indicated below shall be maintained throughout the duration of the Contract.

B. Insurance shall be written by companies licensed in the State of Texas with an A.M. Best rating of B+ VIII or higher.

C. Prior to commencing work under this Contract, the required insurance shall be in force as evidenced by a Certificate of Insurance issued by the writing manager or carrier. A copy of the Certificate of Insurance shall be forwarded to the City immediately upon execution of this Contract.

D. Certificates of Insurance shall include the endorsements outlined below and shall be submitted to the Purchasing Manager within ten (10) working days of execution of the contract by both parties or the effective date of the Contract, whichever comes first. The Certificate(s) shall show the City contract number and all endorsements by number.

E. Insurance required under this Contract which names the City as Additional Insured shall be considered primary for all claims.

F. Insurance limits shown below may be written as Combined Single Limits or structured using primary and excess or umbrella coverage that follows the form of the primary policy.

G. The City shall be entitled, upon its request and without expense, to receive certified copies of policies and endorsements.

H. The City reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services has been expanded.

I. Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract. Contractor shall not permit the minimum limits of coverage to erode or otherwise be reduced. Contractor shall be responsible for all premiums, deductibles and self-insured retention. All deductibles and self-insured retention shall be shown on the Certificates of Insurance.

J. Insurance coverage specified in this Contract is not intended and will not be interpreted to limit the responsibility or liability of the Contractor or subcontractor(s).

## II. Specific Requirements

The following requirements (II.A - II.E, inclusive) apply to the **Contractor and Subcontractor(s)** performing services or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following concerning insurance requirements applicable to Contractor and subcontractor(s):

### A. Workers' Compensation and Employers' Liability Insurance

1. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act.
2. Employers' Liability limits are:  
\$500,000 bodily injury each accident  
\$500,000 bodily injury by disease  
\$500,000 policy limit
3. Policies under this Section shall apply to State of Texas and include the following endorsements in favor of the City:
  - a. Waiver of Subrogation (Form 420304)
  - b. Thirty (30) day Notice of Cancellation (Form 420601)

### B. Commercial General Liability Insurance

1. Minimum limit:  
\$500,000\* per occurrence for coverage A and B with a  
\$1,000,000 policy aggregate
2. The Policy shall contain or be endorsed as follows:
  - a. Blanket contractual liability for this Contract
  - b. Independent Contractor Coverage
3. The Policy shall also include the following endorsements in favor of the City:
  - a. Waiver of Subrogation (Form CG 2404)
  - b. Thirty (30) day Notice of Cancellation (Form CG 0205)
  - c. The City named as additional insured (Form CG 2010)

\* **Supplement Insurance Requirement** If child care, or housing arrangements for clients is provided, the required limits shall be:

\$ 1,000,000 per occurrence with a  
\$ 2,000,000 policy aggregate

### C. Business Automobile Liability Insurance†

1. If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$300,000\* per occurrence
2. Policy shall also include the following endorsements in favor of the City:

- a. Waiver of Subrogation (Form TE 2046A)
- b. Thirty (30) day Notice of Cancellation (Form TE 0202A)
- c. The City named as additional insured (Form TE 9901B)

† **Alternative Insurance Requirement**

If NO transportation services of any type is provided, and use of a motor vehicle is strictly limited to travel to and from work or work sites, evidence of Personal Auto Policy coverage with limits of \$ 100,000/\$300,000/\$50,000 may be provided in lieu of Business Automobile Liability Insurance.

D. Professional Liability/E & O Insurance

1. Coverage shall be provided with a minimum limit of \$1,000,000 per claim /\$3,000,000 aggregate to cover injury to a child while the child is in the care of Contractor or Subcontractor and to cover negligent acts, sexual harassment, errors, or omissions arising out of professional Services under this Contract.
2. If coverage is written on a claims made policy, the retroactive date shall be prior to the date this Contract is signed and/or effective, whichever comes first. Coverage shall include a three (3) year extended reporting period from the date this Contract expires or is terminated. Certificate of Insurance shall clarify coverage is claims made and shall contain both the retroactive date of coverage and the extended reporting dates.
3. Subcontractor(s) who are not covered under Contractor's professional liability insurance shall provide Contractor with current certificates of insurance annually on the renewal date of their insurance policy.

E. Blanket Crime Policy Insurance

1. If an advance against Contract Funds is requested or received in an amount greater than \$5,000, a Blanket Crime Policy shall be required with limits of the Contract Funds allocated in the Contract or the amount of scheduled advances.

If coverage is written on a claims made policy, the retroactive date shall be prior to the date services begin under this Contract or the effective date of this Contract, whichever comes first. Coverage shall include a three- (3) year extended reporting period from the date this Contract expires or is terminated. Certificate of Insurance shall clarify coverage is claims made and shall contain both the retroactive date of coverage and the extended reporting period date.

**ATTACHMENT D**  
**ETHICS AFFIDAVIT**

STATE OF TEXAS  
THE CITY OF SAN MARCOS

ETHICS AFFIDAVIT

Date: \_\_\_\_\_  
Name of Affiant: Mack Marsh  
Title of Affiant: Project Director  
Business Name of Proponent: Access Empowerment  
The City of Proponent: \_\_\_\_\_

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by Proponent to make this affidavit for Proponent.
2. Affiant is fully aware of the facts stated in this affidavit.
3. Affiant can read the English language.
4. Proponent has received the list of key contracting persons associated with this solicitation which is attached to this affidavit as Exhibit "1".
5. Affiant has personally read Exhibit "1" to this Affidavit.
6. Affiant has no knowledge of any key contracting person on Exhibit "1" with whom Proponent is doing business or has done business during the 365 day period immediately before the date of this affidavit whose name is not disclosed in the solicitation.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Address

SUBSCRIBED AND SWORN TO before me by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

Typed or printed name of notary  
My commission expires: \_\_\_\_\_



**ATTACHMENT E**  
**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS**

Federal Executive Order 12549 requires the City to screen each covered potential contractor to determine whether each has a right to obtain a contract in accordance with federal regulations on debarment, suspension, ineligibility, and voluntary exclusion. Each covered contractor must also screen each of its covered subcontractors.

In this certification "contractor" refers to both contractor and subcontractor; "contract" refers to both contract and subcontract.

**By signing and submitting this certification, the contractor/potential contractor accepts the following terms:**

1. The certification herein below is a material representation of fact upon which reliance was placed when this contract was entered into. If it is later determined that the potential contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government or the City may pursue available remedies, including suspension and/or debarment.
2. The potential contractor shall provide immediate written notice to the person to which this certification is submitted if at any time the potential contractor learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The words "covered contract," "debarred," "suspended," "ineligible," "participant," "person," "principle," "proposal," and "voluntarily excluded," as used in this certification have meanings based upon materials in the Definitions and Coverage sections of federal rules implementing Executive Order 12549.
4. The potential contractor agrees by submitting this certification that, should the proposed covered contract be entered into, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by a federal department or agency, and/or the City, as applicable.

**Do you have or do you anticipate having subcontractors under this proposed contract? \_\_\_YES \_\_\_NO**

5. The potential contractor further agrees by submitting this certification that it will include this certification titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts "without modification, in all covered subcontracts"; and in solicitations for all covered subcontracts.
6. A contractor may rely upon a certification of a potential subcontractor that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless it knows that the certification is erroneous. A contractor must at a minimum, obtain certifications from its covered subcontractors upon each subcontract's initiation and upon each renewal.
7. Nothing contained in all the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this certification document. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for contracts authorized under paragraph 4 of these terms, if a contractor in a covered contract knowingly enters into a covered subcontract with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, any federal agency and/or the City may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS**

Indicate in the appropriate box which statement applies to the covered contractor/potential contractor:

The contractor/potential contractor certifies, by submission of this certification, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency, the State of Texas, or the City.

The contractor/potential contractor is unable to certify to one or more of the terms in this certification. In this instance, the contractor/potential contractor must attach an explanation for each of the above terms to which he is unable to make certification. Attach the explanation(s) to this certification.

Name of Contractor

Vendor I.D. or Social Security No.

\_\_\_\_\_  
Signature of Authorized Representative      Date

\_\_\_\_\_  
Printed/Typed Name & Title of Authorized Representative

\_\_\_\_\_

\_\_\_\_\_