

# SERVICES CONTRACT

CONTRACT NO. 31000128

for

## RED LIGHT CAMERA SYSTEM

This Contract made and entered into this first day of April, 2010, by and between ACS State & Local Solutions, Inc., hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City. This Contract may refer to the City and Contractor individually as a "Party" or jointly as the "Parties."

### WITNESSETH:

ARTICLE I. The Parties hereto mutually covenant and agree to and with each other as follows:

1. **SCOPE OF WORK:** Contractor shall provide, install and maintain a fully testing and functioning red light camera system for the City of Portland. The Portland Police Bureau proposes to engage the Contractor for the following services:

- A. Take photographs of persons who appear to violate the law by disobeying red light traffic signals; and
- B. Assist the City when prosecutions of alleged violators occur.
- C. Processing and mailing of the notice of violations and the preparation of court related documents.
- D. The conversion of all existing approaches from current wet film cameras to the latest digital technologies.

All supplies, equipment, materials and services shall be delivered or work shall be performed in accordance with Attachment A.

2. **EFFECTIVE DATE AND DURATION:** The initial term of this Contract shall begin on April 1, 2010 and shall expire on March 31, 2015 unless terminated sooner as provided herein. By Council action, the Parties may agree, by mutual consent, to extend this Contract for an additional four year period, taken individually or in multiple years. At least thirty (30) days prior to the expiration of the initial term, or extension, the Parties shall commence discussions if they desire to extend the Contract. The Contractor shall provide a written extension proposal within fifteen (15) calendar days following the City's request for such a proposal. However, nothing binds or requires either Party to extend this Contract for the additional four years. The total term of this Contract shall not exceed nine (9) years.

3. **CONSIDERATION:** The City agrees to pay Contractor a sum not to exceed \$750,000.00/year for completion of the work or receipt and acceptance of the goods for a total contractual not to exceed amount of \$3,750,000.00. Interim payments shall be made to the Contractor according to the schedule identified in Attachment B.

4. **INVOICING:** The City of Portland is a tax-exempt governmental agency. Prices shall not include federal, state, local, or other taxes designated now or hereafter, unless the City is responsible therefore. The Contractor shall submit billings in a timely fashion. Invoices shall be sent to:

City of Portland  
Portland Police Bureau  
Traffic Division  
4735 East Burnside  
Portland, OR 97215

Attn: Sgt. Todd Davis

Contractor is at all times solely responsible for billing accuracy and timeliness; Contractor shall provide invoices for the goods and services to the City electronically and in paper form. Invoices will not be processed for payment until receipt of a properly completed invoice and until all invoice items are received and satisfactory performance of Contractor has been attained. Invoice payment terms including any offered prompt payment discounts shall start on the date of the invoice.

**5. INVOICE PAYMENT:** Invoices submitted for payment shall identify the goods and services, the time covered by the invoice and invoice total. Additional billing details may be agreed upon between the Parties. Invoicing for goods and services shall at all times be in arrears. Invoices for payment shall be provided to the City within ninety (90) days of successful delivery of the billed goods and services.

Revised invoices or billing adjustments shall apply only to goods and services that can be verified by the City. Requests for such adjustments shall be submitted in writing to the City within six (6) months of acceptance of the goods and services, shall reference the original invoice in which the error was made, and contain the level of detail defined in billing detail above. Billing adjustments shall not be submitted to the City in any form other than a paper document. The City shall pay undisputed portions of disputed or incorrect invoices where the City can easily identify the undisputed portion. Failure by the City to pay any portion of or the entire invoiced amount based on Contractor billing errors, goods and services that fail to comply with this Contract, or disputed charges shall not constitute default under this Contract. Payment of an amount less than the total amount due on all unpaid invoices shall be any particular amount or item, which is subject to any claim of error or dispute between the Parties, without prior written City approval.

ARTICLE II. Shipping of goods and materials shall not commence until all insurance requirements have been met and certificates thereof have been filed with the Chief Procurement Officer or the Auditor. The insurance requirements are as follows:

**6. INSURANCE – PROOF OF COVERAGE:** Work shall not commence until all insurance requirements have been met and certificates thereof have been filed with the Chief Procurement Officer or the Auditor.

Commercial General Liability Insurance – includes Bodily Injury and Property Damage

The Contractor shall provide and maintain public liability and property damage insurance in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate that protects the Contractor from any and all claims, demands, actions and suits for damage to property or personal injury arising from the Contractor's work under this Contract.

The insurance shall be without prejudice to coverage otherwise existing, and shall include as additional insureds the City and its officers and employees. Notwithstanding the including of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

The insurance shall provide that the insurance shall not terminate or be canceled without thirty (30) days written notice first being given to the City Auditor. If the insurance is canceled or terminated prior to completion of the Contract, the Contractor shall provide a new certificate of insurance with the same terms. The Contractor agrees to maintain continuous, uninterrupted coverage for the duration of the Contract.

Business Automobile Liability

Automobile liability insurance with a combined single limit of not less than \$1,000,000 each accident for bodily injury and property damage. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles by the Contractor.

Workers' Compensation

Prior to the performance of any work under a Contract awarded by the City, the Contractor shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656, the Contractor shall maintain coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City Auditor for the entire period during which work is performed under the Contract.

Certificate of Insurance

As evidence of the required insurance coverage, Contractor shall furnish acceptable insurance certificates to the City with the return of the signed Contract. The certificates shall specify the City of Portland as additional insured and shall include a 30-day notice of cancellation clause.

ARTICLE III. In consideration of the premises, and in accordance with the provisions for acceptance and payment for work set forth in these Standard Terms and Conditions and Special Terms and Conditions, the City and Contractor hereby agrees as follows:

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## STANDARD TERMS AND CONDITIONS

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**7. INDEPENDENT CONTRACTOR STATUS:** The Contractor is engaged as an independent contractor and shall be responsible for any federal, state, and local taxes and fees applicable to payments hereunder. The Contractor, its subcontractors, and their employees are not employees of the city and are not eligible for any benefits through the city including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

**8. NO THIRD PARTY BENEFICIARIES:** Contractor and City are the only Parties to this Contract and are the only Parties entitled to enforce its terms. Nothing in this Contract gives, assigns or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons.

**9. SUCCESSORS IN INTEREST:** The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and approved assigns.

**10. SURVIVAL:** The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

**11. COMPLIANCE WITH APPLICABLE LAW:** In connection with its activities under this Contract, Contractor shall comply with all applicable federal, state and local laws and regulations. All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and the State of Oregon shall be followed with respect to this Contract. The following additional conditions apply to this solicitation and any resultant purchase order or contract: Appendix A as attached hereto.

The Contractor must be in compliance with the laws regarding conducting business in the City of Portland before an award may be made and shall be responsible for the following:

**Certification as an EEO Affirmative Action Employer:** The Contractor is certified as an Equal Employment Opportunity Employer as prescribed by Chapter 3.100 of the Code of the City of Portland through December 31, 2012. The certification will be maintained throughout the duration of the Contract.

**Non-Discrimination in Employee Benefits (Equal Benefits):** The Contractor has complied by providing the Equal Benefits Compliance Worksheet/Declaration Form indicating: Option B..

**Business License:** The Contractor license # 425104 is in compliance with the City of Portland Business License requirements as prescribed by Chapter 7.02 of the Code of the City of Portland and will be maintained throughout the duration of this Contract.

**12. GOVERNING LAW / VENUE:** The provisions of this Contract shall be construed in accordance with the provisions of the laws of the State of Oregon without reference to its conflict of laws provisions. Any action or suits involving any question arising under this Contract shall be brought in the appropriate court in Multnomah County, Oregon. By executing this Contract the Contractor agrees to in personam jurisdiction of the Oregon courts.

**13. NONDISCRIMINATION:** Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS Chapter 659.425, and all regulations and administrative rules established pursuant to those laws.

**14. INDEMNITY:** Contractor shall hold harmless, defend, and indemnify the City of Portland, its officers, employees, and agents, from all claims, demands, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature, including all attorney's fees and costs, resulting from or arising out of negligent or intentional wrongful acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Contract.

**15. SEVERABILITY:** In the event that a court, government agency, or regulatory agency with proper jurisdiction determines that this Contract, or any provision of this Contract, is unlawful, this Contract, or that provision of the Contract to the extent it is unlawful, shall terminate. If a provision of this Contract is terminated but the Parties can legally, commercially, and practicably continue without the terminated provision, the remainder of this Contract shall continue in effect.

**16. FUNDING:** In the event the City, during the adoption of the City's annual budget, reduces, changes, eliminates, or otherwise modifies the funding for any of the projects identified herein, the Contractor agrees to abide by any such decision including revision or termination of services.

**17. ASSIGNMENT AND SUBCONTRACTING:** This Contract or any interest therein shall not be assigned or subcontracted to any other person or entity without the prior written consent of the City of Portland. In the event of transfer without prior written consent, the purported transfer is void and the Contractor remains liable for performance of the Contract. The Contractor shall not subcontract its work under this Contract, in whole or in part, without the prior written approval of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Contract, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

**18. LIENS:** Contractor shall not permit any claim to be filed or prosecuted against the City or any lien against the property purchased in connection with this Contract and agrees to assume responsibility should such lien or claim be filed.

**19. SUSTAINABLE PROCUREMENT:** Pursuant to the City's Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, and incorporate these Principles into the scope of work with the City wherever possible. Therefore in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of products or services that help to minimize the human health and environmental impacts of City operations. Contractors are encouraged to incorporate environmentally preferable products or services into their work wherever possible. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

Packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, recyclable in local recycling programs, is made from recycled materials, and/or is collected by the vendor for reuse/recycling.

**20. FORCE MAJEURE:** Neither City nor Contractor shall be held responsible for performance if its performance is prevented by unforeseeable acts or events beyond the party's reasonable control including, but not limited to: acts of God; fire, flood, earthquakes or other catastrophes; strikes or other labor unrest; power failures, electrical power surges or current fluctuations; nuclear or other civil or military emergencies; or acts of legislative, judicial, executive, or administrative authorities; or any other circumstances that are not within its reasonable control.

**21. AMENDMENTS:** All changes to this Contract, including changes to the scope of work and Contract amount, must be made by written amendment and approved by the Chief Procurement Officer to be valid. The City's Chief Procurement Officer is authorized to execute amendments to this Contract without the City's further approval, provided such amendments are in writing, signed by both Parties, and approved by the City Attorney's Office. Contractor understands that City employees have no actual or apparent authority to enter into amendments, except as may be specifically granted by the City Council to the Chief Procurement Officer, or to waive the approval of the City Attorney's office.

**22. NON-WAIVER:** No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and signed by both Parties. Such waiver, consent, modification, or change if made, shall be effective

only in specific instances and for the specific purposes given. The failure of the City to enforce any provision of this Contract shall not constitute a waiver of that or any other provision.

**23. COORDINATION WITH OTHER CONTRACTORS AND OTHER SERVICES:** The Contractor shall cooperate fully with other contractors and City employees providing systems or support to the City during installation, operation, or maintenance of the services. This includes planning for and integration of the services provided under this Contract with those provided by others. Further, Contractor shall make every reasonable effort to cooperate with City to minimize and/or prevent any degradation of the other computer and telecommunications systems, equipment, or services of the City by the installation, operation, or maintenance of the services. Contractor's failure to cooperate with the City and other contractors may be grounds for termination as provided herein.

**24. ACCESS TO RECORDS:** The Contractor shall maintain professional accounting standards and on a current basis, and the City and its duly authorized representatives shall have access to, the books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of two (2) years after final payment. Copies of applicable records shall be made available upon request.

**25. AUDITS:** The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the two (2) year period established by ACCESS TO RECORDS. Audits shall be conducted in accordance with generally accepted auditing standards.

If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices. If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies as provided under EARLY TERMINATION OF CONTRACT and REMEDIES. In addition, the Contractor agrees to abide by the standards of the Office of the Comptroller set forth in May, 2002 Office of Justice Programs (OJP) Financial Guide, including without limitation in accordance with Office of Management and Budget (OMB) Circulars A87, A-102, A-122, A-128, A-133. All financial records, supporting documents, statistical records and all other records pertinent to this Contract shall be retained by the Contractor for a minimum of two (2) years for purposes of State of Oregon or the OJP Financial Guide from the Office of the Comptroller and apprise itself of all rules and regulations set forth.

**26. EMPLOYEES NOT TO BENEFIT:** No City employee or elected official of the City shall be admitted to any share or part of this Contract or to any benefit that may arise there from; but, this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

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## SPECIAL TERMS AND CONDITIONS

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**27. CITY FURNISHED PROPERTY:** No materials, labor or facilities will be furnished by the City unless otherwise provided for within this Contract.

**28. ADDITIONAL PURCHASES:** The City reserves the right to purchase additional goods, materials and services beyond the quantities stated in the bid documents at the same prices submitted by the Offeror. Such additional purchases are not guaranteed and will be made at the City's sole discretion. Contractor agrees to extend identical prices and services under the same terms and conditions to all regional public agencies. Each participating agency will execute its own Contract with the Contractor for its requirements.

Following any initial purchase(s) by the City of Portland, additional quantities of the materials listed herein may be purchased to replace or supplement existing supplies and will be funded by various general funding sources of the various agencies.

**29. RIGHT TO CHANGE:** The City reserves the right to order changes to the goods, materials, equipment and services outlined herein. The City and the Contractor shall determine a fair and equitable cost and if required, additional time for such changes. All such changes shall be ordered in writing and agreed to by the Parties.

30. **NOTICE:** Except as otherwise stated in this Contract, any notice or demand to be given under this Contract shall be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed as follows:

**CONTRACTOR:**

ACS State & Local Solutions, Inc.  
1220 SW Morrison. STE 200  
Portland, OR 97205

**CITY:**

City of Portland  
Portland Police Bureau, Traffic Division  
4735 E. Burnside Street  
Portland, OR 97215

Attn: Mr. Vincent ~~Parke~~

Sgt. Todd Davis

If either Party changes its address or if a Party's representative changes, the other party shall be advised of such a change in writing, in accordance with this section.

31. **EARLY TERMINATION OF CONTRACT:** The City and the Contractor, by mutual written agreement, may terminate the Contract at any time. The City, on thirty (30) days written notice to the Contractor, may terminate this Contract for any reason deemed appropriate in its sole discretion. Either the City or the Contractor may terminate this Contract in the event of a material breach of the Contract by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and the party's intent to terminate. If the party has not entirely cured the breach within thirty (30) days of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

32. **SUSPENSION OF THE WORK:** The City may at any time give notice in writing, by electronic mail, or by facsimile to the Contractor to suspend this Contract. The notice of suspension shall specify the date of suspension and the estimated duration of the suspension. In no event shall the Contractor be entitled to any lost or prospective profits or any incidental or consequential damages because of suspension.

33. **PAYMENT ON EARLY TERMINATION:** In the event of termination under EARLY TERMINATION OF CONTRACT hereof, the City shall pay the Contractor for goods and services in accordance with the Contract prior to the termination date and delivered to City provided that such goods and services conform to Contract specifications and are of use to the City. In the event of termination under EARLY TERMINATION OF CONTRACT hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor for goods delivered and services performed in accordance with the Contract prior to the termination date subject to set off of excess costs, as provided for in Remedies. In the event of early termination all of the Contractor's work product shall become and remain property of the City. Under no circumstances shall the City be subject to early termination penalties for recurring charges for goods or services that the City cancels during the term of this Contract.

34. **REMEDIES:** In the event of termination under EARLY TERMINATION OF CONTRACT by the City due to a breach by the Contractor, then the City may procure goods and services outstanding from another contractor and the Contractor shall be liable for additional re-procurement costs incurred by the City. The City also shall be entitled to any other equitable and legal remedies that are available. Except as expressly contained in this Contract, the remedies for a breach of this Contract shall not be exclusive, or construed as a limitation on any other equitable and legal remedies that are available or may become available.

35. **PERMITS AND LICENSES:** The Contractor shall be required to have or obtain, at their expense, any and all permits and licenses required by the City and/or County, state and Federal (except FCC radio licenses), pertaining to the materials and services to be provided.

36. **INTELLECTUAL PROPERTY:** The City requires the following regarding copyrighting and patent pending on work products pertaining to this Contract:

- A. **Copyright:** All work products of the Contractor which result from this Contract are the exclusive property of the City. If this Contract results in a copyright, the City of Portland reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for governmental purposes, the work or the copyright to any work developed under this Contract and any rights of copyright to which the Contractor or its sub-vendor, purchases ownership with grant support.
- B. **Patent:** If this Contract results in the production of patentable items, patent rights, processes, or inventions, the Contractor or any of its sub-vendors shall immediately notify the City. The City will



provide the Contractor with further instruction on whether protection on the item will be sought and how the rights in the item will be allocated and administered in order to protect the public interest, in accordance with federal guidelines.

**37. SPECIFICATIONS:** This Contract authorizes the Contractor to provide and the City to procure those goods, materials, equipment and services, and establishes the terms and conditions for the City to obtain said goods, materials, equipment and services from the Contractor. Goods, materials, equipment and services to be provided under this Contract are described in the Attachments hereto. The Contractor shall provide to the City those goods, materials, equipment and services described in the attachments in accordance with the prices shown herein. Payment shall be made only in accordance with the payment schedule identified herein.

**38. WARRANTY:** The Contractor shall guarantee its products to be free from defects in materials and workmanship, given normal use and care, over the period of the manufacturer warranty. The Contractor shall agree to repair and/or replace within forty-eight hours without charge (including freight inbound and outbound) to City Users any product or part thereof, which proves to be defective or fails within the warranty period as specified.

**39. PROPRIETARY AND CONFIDENTIAL INFORMATION:** The Oregon Public Records Law, ORS 192.410 et seq. strictly governs the City's treatment of requests for public records pertinent to this Contract. City agrees that any documents, programs, source and object code, or other matters relating to the red light camera system which is provided by the Contractor, remains the proprietary and intellectual rights of the Contractor and shall not be disclosed to third parties.

Contractor agrees to hold in confidence any and all information of the City's it receives while performing any of the contemplated function of the Contract and shall not disclose any such information to third parties. Training, educational and other proprietary materials provided by the Contractor during the term of the Contract will be returned to the Contractor at the end of the contractual term.

**40. RELEASE OF PROPRIETARY INFORMATION:** The Oregon Public Records Law, ORS 192.410 et seq. strictly governs the City's treatment of requests for public records pertinent to this Contract

**41. NEWS RELEASES AND PUBLIC ANNOUNCEMENTS:** The Contractor shall not use in its external advertising, marketing programs, or other promotional efforts, any data, pictures or other representatives of the City, except with prior specific written authorization from the City.

Contractor shall not issue any news release or public announcement pertaining to this Contract or the project without prior written approval of the City, which may be withheld in the City's sole discretion. A minimum of three (3) business days notice is required for a response to a request for such approval. If approval is not issued within the three (3) business day period, the request shall be deemed denied.

**42. INTERGOVERNMENTAL CO-OPERATIVE PURCHASING:** The Contractor having submitted a bid agrees to extend identical prices and services under the same terms and conditions to all public agencies. Quantities stated in this proposal reflect the City of Portland usage only.

A public agency wishing to purchase items will execute its own contract with the awarded bidder for its requirements. The Contractor shall provide quarterly usage reporting of the City of Portland and that of other public agencies. Any proposer, by written notification included with their bid, may decline to extend the prices and terms of this bid to any and/or all other public agencies.

**43. ENTIRE CONTRACT:** This Contract and its Attachments represent the entire Contract between the Parties. This Contract is a final, complete exclusive statement of the terms thereof, and supersedes and terminates any prior Contract, understanding, or representation between the Parties with respect thereto, whether written or oral.

ARTICLE IV. This Contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Contract. The Parties agree the City and Contractor may conduct this transaction, including any Contract amendments, by electronic means, including the use of electronic signatures. It is understood and agreed by the Parties hereto that:

1. Any reference in this Contract to the scope of work or specifications is intended as a convenience to the Parties in administration of the Contract. Therefore, in the absence of an express statement to the contrary herein, any

restatement or partial restatement in this Contract of any provision of the scope of work or specifications is not intended, nor shall be construed to change, alter, modify, amend, or delete the requirements of the scope of work or specifications.


2. All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and State of Oregon shall be followed with respect to this Contract.

3. The Contractor certifies that no officer, agent or employee of the City who has a pecuniary interest in this Contract has participated in preparation of the proposal or resulting Contract, that the proposal was made in good faith without fraud, collusion, or connection of any kind with any other Offeror of the same proposals, and that the Offeror is competing solely in its own behalf without connection with, or obligation to any undisclosed person or firm

ARTICLE V. This Contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, Contractor and City have caused this Contract to be executed by their duly authorized representative(s), all on the day and year first above written.

**ACS STATE & LOCAL SOLUTIONS, INC.**

by   
Vice President  
Name and Title

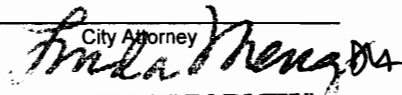
**Address:** 8260 Willow Oaks Corporate Drive,  
Second Floor  
Fairfax, VA 22031

**Telephone No:** 703-891-8700

**Fax No:** 703-891-8839

Approved as to form:

**APPROVED AS TO FORM**

  
City Attorney  
**CITY ATTORNEY**

**CITY OF PORTLAND**

by   
Chief Procurement Officer

INITIALS: bg

DATE: 02/17/10



## **ATTACHMENT A**

### **SPECIFIC WORK REQUIREMENTS**

1. **SCOPE OF WORK:** Contractor shall provide, install and maintain a fully testing and functioning red light camera system for the City of Portland. The Portland Police Bureau proposes to engage the Contractor for the following services:

- A. Take photographs of persons who appear to violate the law by disobeying red light traffic signals; and
- B. Assist the City when prosecutions of alleged violators occur.
- C. Processing and mailing of the notice of violations and the preparation of court related documents.
- D. The conversion of all existing approaches from current wet film cameras to the latest digital technology on a mutually agreed upon schedule.

All supplies, equipment, materials and services shall be delivered or work shall be performed in accordance with this Attachment A.

2. **TECHNICALSERVICES AND SCHEDULE:**

A. **DETERMINATION OF RED LIGHT CAMERA LOCATIONS**

1. The Contractor and the City will identify new camera locations throughout the City for installation of new camera systems. Based on the information provided by the City and the Contractor's own assessment, the Contractor may suggest additional approaches that, in its opinion, will limit the number of vehicular crashes per intersection due to vehicles that disobey a red light traffic signal.

2. Contractor shall be prepared to install its Red Light Camera (RLC) System at a minimum of five (5) additional approaches by the end of the second year of the Contract; each location will have received prior approval from the City. The number of Red Light Camera systems and unattended housing may be increased by mutual consent of the City and Contractor, as limited by state law.

3. By mutual agreement of the Parties may remove red light camera systems and housing from intersections where such systems have been installed and the City may determine whether those camera systems will be reinstalled in others locations.

B. **IMAGE TECHNOLOGY:** Contractor shall use the most current digital technology, consisting of a camera apparatus for taking photographs. It shall be formatted into digital images and placed on a computer or computer-type storage device.

C. **ONGOING SERVICES:** The Contractor shall provide the following services:

1. Provide a method for an employee of the City to certify that all citations noted are in accordance with Oregon Law. The City will accept Contractor's proposal to install a PC (personal computer) workstation at a location identified by the City in order to satisfy this Contractual requirement. Contractor also agrees to provide an electronic file of citations that will include digital images and/or video, where applicable, of the violations for review by designated City staff that will permit City to authorize Contractor to print the citation or to reject the citation.

2. To the greatest extent possible, the Contractor will provide a method for accessing the Department of Motor Vehicles for all states which will comply in respect with the laws of the State of Oregon and the policies of the Oregon Department of Motor Vehicles. City accepts Contractor's representation that it has "dial in" access to the LEDS (Law Enforcement Data System) or through a connection to the Portland Police Bureau. The City understands there can be a 10-day business day mail requirement in order to access DMV information from other states.

3. Provide additional information about those registered vehicle owners not responding to the

original summons. To fulfill this requirement, the Contractor shall store that information on its own proprietary processing system/database that will maintain the initial violation data and all relevant camera information in addition to subsequent transactional data, such as collection activity, payments, adjudications, correspondence and name and address changes.

4. Provide one Field Service Technician (FST) responsible for the retrieval of red-light camera images based upon a schedule established by the City. The FST will respond to any report of a red-light camera problem. All repair activity will be tracked by the FST on the electronic maintenance log. Field Technician will remove images and perform a quality check of the equipment.

5. Provide the services of an employee or sub-contractor who is able to be qualified as an expert witness under current court requirements to testify in court in regard to the camera system and the information surrounding the citation and any documentation that may be required. The technician as a witness must be able to testify to the accuracy, calibration, maintenance, repair documentation, technical operation and equipment effectiveness of the technology and system of inquiry. In support of such testimony,

6. Provide a system that will continually perform a statistical analysis of violations, location of violations, number of violations and vehicle registration by state.

D. **SOFTWARE AND HARDWARE:** Contractor shall perform the following in regards to providing software and hardware for its RLC system:

1. Provide a digital Red Light Camera system that incorporates and implements all technical upgrades as they become available. Contractor shall provide or have available to the City all relevant specifications, manuals and materials and the corresponding warranties relating to the capability, operation and warranty of the equipment.

2. Contractor shall update and/or retrofit the current ten (10) approaches presently using wet film to current digital technology at no cost to the City. Contractor will also provide the ability to enforce "right turn on red" violations at intersections mutually agreed upon by the contractual Parties.

3. Contractor will provide alternatives to the use of inductive loops at intersections that include streetcar operations.

4. Provide all warranties for the equipment used under the resulting Contract. Notwithstanding the provisions of any manufacturer's warranty, the Contractor warrants that the equipment is fit for its intended purpose. If within the applicable Contract period, the work or equipment is found to be defective or not in accordance with the Contract documents, the Contractor shall, promptly after its receipt of written notice of the City, remedy the defective work or equipment. Within 48 hours, excluding weekends and holidays, of the determination of a problem with equipment, the Contractor shall provide spare parts and/or replace equipment that meets the acceptable equipment specification.

3. Provide training services necessary to ensure the proper operation of the equipment and performance of those functions for which the City staff will be responsible. Provide all training materials in sufficient quantity. Training shall include both initial and ongoing training and shall include appropriate levels of "hands-on" training. Include instructions and procedures, tutorial materials, application reference guide and problem solving material.

4. All data generated by the system shall become the property of the City. The bi-annual evaluation report and any others reports will include an analysis of the initial program, the impact of the program on driving behavior, opportunities for program improvement and future program recommendations.

E. **DOCUMENTATION AND MANUALS**

1. The Contractor shall provide the City with all operational and training manuals for the equipment used under this Contract.

2. Contractor shall provide the City with all relevant specifications, manuals and materials relating to the capabilities and operation of all the equipment. Within 90 days of the effective date of the Contract agreement, the Contractor shall obtain from the manufacturer of the equipment any rights, licenses or permits required for the City to make and provide copies of non-proprietary manual pages and materials in response to discovery requests.

3. Contractor agrees that detailed maintenance logs will be kept, meticulously recorded, archived and available for use in court. Additionally, all digital files shall be backed up to prevent loss or damage.

4. Assist and help the City in the preparation of the required documentation for the Legislative report scheduled for the 2011 and 2013 Legislative sessions for the Oregon Department of Transportation's overview of this program.

F. PUBLIC INFORMATION: The Contractor shall assist the City in providing public information about its RLC services, including the following:

1. Provide public education about the program, to improve safety on City streets and to advise motorists of the potential consequences of running red lights within the City. As part of this ongoing public education, the Contractor will provide:

a) A Communications Strategy Manual that will outline the public education program designed as an ongoing dialogue with community organizations, neighborhood associations and the stakeholders.

b) A survey measuring local support shall be conducted one year after the effective date of this Agreement.

c) A link to the Contractor's traffic safety web site by providing a "photo enforcement" web page onto the City's existing web page.

2. The Contractor shall provide to the Portland Police Bureau additional training opportunities for consideration.

G. TELEPHONE HOTLINE: The Contractor will provide a toll-free telephone hotline that will be staffed from 8:00 a.m. to 5:00 p.m. Monday through Friday PST of each week excluding holidays. During other times, Contractor's hotline will permit callers to obtain information and to leave a voice message. The letters that accompany issued citations will have the corresponding toll-free number written on them.

1. When citizens call, the City will schedule appointments for the public to view images on which citations were based at the designated location of the Police Bureau.

2. The City shall provide Contractor with answers to questions that are frequently asked by the general public when calling in to the Hotline. Contractor shall provide those answers to the public in response to their questions.

H. PERFORMANCE CRITERIA: As used in this section, the terms "photo," "photograph" or "photographs" shall be interpreted to include the two color photographs per violation and the Contractor's equipment shall satisfy the following minimum criteria regarding the images portrayed: (1) it will depict the vehicle when it enters the approach while the governing traffic signal is red, and (2) it will depict the same vehicle at or beyond a given point at a fixed time after the first photo.

1. The equipment shall capture a minimum of two (2) photographs per violation and video clip where applicable.

2. The following information must be imprinted on each photograph without obstructing the images of the vehicle, license plate and/or the violation:

a) Date, time and year of the alleged violation

- b) Time of the alleged violation stated in military time of hours, minutes and seconds
- c) The frame sequence
- d) Approach identified by designated location code as required by the camera system
- e) The amount of time in fractions of a second from the time the signal turns red to the time of the alleged violation
- f) The amount of time in fractions of a second from the first photo to the second photo taken
- g) The speed of the vehicle at the time of the alleged violation

3. The equipment shall be able to provide an image visible to the naked eye that is clear enough for the license plate of the vehicle to not only be visible but also clear enough to be read. After the initial photograph and development of the image, the image may be converted to a digital format for retrieval and archiving purposes. However, the original image must be maintained until such time as the case has been completely adjudicated.

4. The equipment shall automatically detect a vehicle that is allegedly violating the red traffic signal including the speed at which the vehicle is traveling and the amount of time elapsed between the time when the signal turned red and the time of the alleged violation.

5. Equipment will provide clear and readable photographs twenty-four hours a day in any type of weather conditions, including but not limited to, bright sunlight, darkness, fog, wind, rain or snow, which show clearly:

- a) Scene of the alleged violation
- b) Vehicle allegedly in violation clearly identified by color, make and model of vehicle
- c) The license plate of the vehicle including license plate number and letter in the state of issuance
- d) A clear image of the person operating the vehicle
- e) At intersections equipped with this capability, an 8-12 second video clip of the alleged violations will be provided

6. The equipment will minimize operator error including but not limited to: functions of aperture setting, focusing and leveling must be automated to the degree possible, and ease of operation.

7. The mounted camera equipment will have enclosures that are tamper proof and designed so that maintenance and other operations can be accomplished easily, quickly and without creating a public safety hazard.

I. COLLECTION AND PROCESSING OF IMAGES: The Contractor shall:

- 1. Collect all images captured by the red light camera system.
- 2. Process all images, determine and enter license plate information, review the image of the driver of the vehicle to ensure the driver can be identified, and then forward that information to the Portland Police Bureau for review and its determination whether a citation should be issued.
- 3. After accessing DMV information regarding registered vehicle owners, Contractor shall verify information obtained during its review of the images, such as license plate information, registered owner information, performing a visual review to see if the gender of the driver in the photograph matches the gender of the registered owner (if the registered owner is an individual), and comparing the type of vehicle with that registered with DMV.

4. Contractor shall prepare all images for storage.

5. Comply with Oregon chain of custody requirements in order to facilitate the prosecution of violations. Such procedures shall specifically include a written method whereby all public records retention or destruction as defined in required sections of Oregon Law as amended and the retention of those schedules adopted therein are applicable.

J. APPROVAL, PRINTING AND MAILING OF RLC VIOLATIONS AND COURT ASSISTANCE: The Contractor shall:

1. Provide City with a secure database to allow the Police Bureau to review alleged RLC violations so it can decide whether or not to issue a citation. If the City determines a citation is warranted, the Contractor will print the citation and transmit it to the Police Bureau for signature. The Police Bureau will then return the citation to the Contractor, who will mail the citation to the owner of the registered vehicle as required by Oregon law, together with an approved cover letter, the alleged violation photograph and Affidavit of Non-Liability and Certificate of Innocence forms.

2. Meet the State's ten-business day citation mailing requirement.

3. Provide the appropriate paper copy of each issued citation to the Circuit Court, together with an electronic file that contains the following information: officer name, DPSST number, citation number, name of the alleged violator, the alleged violation, fine amount, court hearing date and time, court location, courtroom number, and any other information that the court may request.

4. Prepare and provide documentation to be provided to the officer who will testify regarding the alleged violation. Such documentation will include information about the operation of the camera, a checklist regarding camera operation and repair, two photographs, maintenance logs (if necessary or requested), a Contact log showing any contacts with the alleged violator and any other information that may be required.

5. Update the status of any citations that have been issued on its records.

6. Provide expert witnesses for court testimony as reasonably necessary.

K. RECORDS MAINTENANCE: Contractor shall provide a database and reporting system which allows statistical analysis of alleged violations and related data over the period of the Contract. The City will use the information generated to evaluate the performance of the overall program as well as to determine future modifications and/or changes.

1. Therefore, the desired statistics shall include, but not necessarily be limited to, the number of photos, numbers of identifiable photos, number of alleged violations sorted by locality, citations, the number of filed affidavits, the fine payment, the collection rate, the disposition of the alleged violations and any other pertinent or related information required to properly and accurately measure program performance.

2. The Contractor will periodically update its database to include information regarding the Certificate of Innocence and Affidavit of Non-Liability forms received from the Court.

3. The Contractor shall maintain and provide detailed maintenance logs to the City and to the Circuit Court records that support the citations issued. These logs will be maintained on a regular basis, meticulously recorded, archived and made available to the City and for use in Court. All digital files shall be backed up to prevent loss or damage.

4. City directs the Contractor to store all digital images for which citations have been issued for a period of two (2) years from the date of the citation or 30 days after disposition of the case, whichever is later. Contractor shall keep all images for which citations are not issued for at least 30 days. When citations are dismissed by the police Bureau or the Circuit court or when citations are not issued, the City directs the contractor to destroy all images after 30 days. City directs Contractor to delete all images for which citations have been issued for a period of two (2) years from the date of the citation or 30 days after disposition of the case.

5. Contractor shall maintain a list of all images that are destroyed.

L. EQUIPMENT MAINTENANCE: Contractor will maintain all installed equipment under the resulting Contract in a continuously operating condition.

1. Provide a maintenance log that is attached to each camera in order to track the status of each camera requiring service or repair. The log shall provide a complete record of all maintenance activity and document the calibration, repair, and routine maintenance of the equipment to assure at all times that the evidence is properly documented. All such records shall be available to the City upon demand so as to resolve evidentiary and administrative procedures.

2. Contractor shall perform preventive maintenance during the time allotted for image retrieval in order to ensure maximum system operation time. In addition, Contractor shall ensure proper calibration of the portable red light camera within its fixed installation site as a normal component of its servicing routine. Any required calibration will be completed by the Contractor on site, or if bench maintenance calibration is necessary at the Contractor's Regional Maintenance and Operations facility, FST Contractor shall replace any faulty component in the system within 48 hours, excluding weekends and holidays, of notification and determination of problem.

3. An electronic log of all camera component problems reported and all repair activity will be maintained by the Contractor for each incident reported. All records of maintenance and repair of equipment shall be available for inspection by the City within five days following the City's request.

4. The Contractor shall maintain the RLC system and all associated equipment in good working order. Any malfunctioning camera or related equipment shall be returned to good working order within forty-eight (48) hours of notification that the equipment is not in proper working order, excluding weekends and City holidays.

5. Contractor shall provide a preventive maintenance program in order to achieve reasonable reliability and availability of the equipment. Maintenance shall occur at regularly scheduled intervals and at times when the equipment is not being used. Maintenance shall include the running of diagnostics to ensure the early identification of any component failure.

6. Contractor shall work with the Portland Police Bureau to provide a mechanism and procedure for backing up all data files.

M. REPORTS: The Contractor shall submit to the City a monthly report on project results within (30) days following the end of each calendar month.

1. The report shall include such information as is mutually agreed to by both Parties to this agreement including but not limited to the following mandatory items:

- a) Number of alleged violations recorded
- b) Number of non-issued alleged violations
- c) Breakdown of reasons for non-issuance
- d) Number of citations issued
- e) Camera equipment hours of service, hours lost and film run outs
- f) Location and description of camera malfunctions
- g) Average number of days to repair and the days lost to malfunction
- h) Number of viewing appointments scheduled

2. The Contractor shall provide additional reports about its RLC system upon request or as the Contractor deems important to the operation of the system. Any additional cost for such peripheral reports may result in additional fees charged by Contractor to City and will be executed only upon

advance knowledge and agreement by the City.

- N. **POSSIBLE FUTURE SERVICES:** In the event that state law permits the City to enforce other traffic violations, infractions and crimes through the use of an RLC system, the Contractor and City will agree to discuss whether this scope of work should be expanded.

O. **TRAINING REQUIREMENTS**

1. Contractor shall provide two (2) training classes. One class shall be a two-day training session for police officers who will testify in court. This class will include both classroom and field training and will encompass the theory and operation of the equipment and the manner in which the equipment is installed in the intersections. The second training class will be an overview briefing for City staff, Court staff and judges.

2. Contractor shall supply all technical training materials and handouts in sufficient quantities to cover the training of identified persons.

3. Contractor shall provide the City with the license to duplicate the training materials, if necessary.

4. All training will occur in City provided facilities.

3. **WORK PERFORMED BY THE CITY:** Bureau staff shall make available sufficient hours of staff personnel as is required to meet with the Contractor and provide such information as required. The Portland Police Bureau, Traffic Division has assigned a project manager who will oversee the work and provide support as needed.

The City shall be responsible for implementing and maintaining usual, customary and appropriate internal accounting procedures and controls, internal controls and other appropriate procedures and controls for the City. These controls will include information technology, proprietary information, and trade secret safeguards if appropriate to City work.

4. **TIME IS OF THE ESSENCE:** Contractor shall make every reasonable effort to meet established delivery dates and other deadlines. Circumstances that may delay the delivery of goods and services from established delivery dates and other deadlines, including excusable delays and force majeure events, shall be reported to the City immediately upon discovery. The City and Contractor shall mutually agree upon any schedule or pricing change due to excusable delays or force majeure events in writing. In the event Contractor does not meet the established delivery dates or other deadlines and Contractor has failed to cure such breach within fifteen (15) days of written notice by the City, the City may obtain the undelivered goods and/or non-performed service from another source, and no recurring charges, one-time charges, or termination charges or other penalties shall be due the Contractor. In addition, the City will be entitled to reasonable compensation as stated under REMEDIES.

5. **DELIVERY:** All goods, materials and services shall be FOB delivered to the Portland Police Bureau, Traffic Division at the location as mutually agreed upon in Portland, Oregon or as designated by the work conducted within this Contract. All prices offered shall be inclusive of all shipping and delivery costs. The Contractor must be prepared to furnish the items requested within thirty (3) calendar days after receipt of an order.

With assembly, installation, calibration and other services required under this Contract, offered prices shall include all costs associated with delivery, assembly, setup, and proper disposal of packaging material. The offer price shall be exclusive of any sales, purchaser, or consumer tax. Tax exemption certificates will be furnished to the successful Offeror, upon request.

Delivery of the item(s) on the purchase order shall not be completed until all discrepancies have been corrected. Items not meeting Contract specifications shall be returned at Contractor's expense. Contractor shall replace rejected items within thirty (30) calendar days after receipt of re-order request.

Acceptance occurs when the City authorizes payment of the invoice.

6. **PRICES AND PRICE CHANGES:** Initial Contract prices shall be as established herein. Unit prices shall remain firm through the second year of the Contract. At the end of the second-year period following the date of acceptance, price changes may be allowed herein. Contractor agrees to provide pricing for all products for which Contractor is an authorized distributor for the duration of this Contract. Following the end of the second year period referenced above, City and Contractor acknowledge that prices for goods and services furnished by Contractor under



this Contract may need to be adjusted during the term of the Contract due to changes in Contractor's prices, rate plans, or product offerings. Such price changes shall be documented in writing between Contractor and City's Chief Procurement Officer as amendments.

Contractor shall submit any proposed pricing revisions in writing to the Project Manager for consideration at least thirty (30) days before the proposed effective date. All proposed price adjustments shall be calculated consistent with the methodology used to calculate the prices set forth in Section 8, Escalation/De-Escalation, the Contractor shall certify this in its request for price adjustments. Price adjustments shall become effective thirty (30) days from the date of last signature on the Contract amendment document or as otherwise stated therein. Except that no increase in price adjustments shall become effective prior to a date two years following the date of acceptance. Price adjustments will only become effective by fully executed amendments, following receipt by the Project Manager of the requested price adjustment.

**7. ESCALATION/DE-ESCALATION:** Pricing offered in this bid may be adjusted up or down on a cent-for-cent basis via pass-through from the manufacturer after the initial first year, supported by submission of copies of the manufacturer's price change notices, and corresponding to changes in the vendor's wholesale posted/or book price, and in effect to all similar classes of customers at the time of delivery. Additionally, all price reductions shall be passed on, in total, as of the effective date. The City of Portland shall have the option of accepting the price increase or canceling the balance of the Contract. The Contractor shall notify the City of all price increases and decreases as far in advance of the effective date as possible. No upward price adjustment of any sort will be allowed during the first year of the Contract period. All decreases will be passed on to the City as of the effective date, not at the end of the first year period. Notification shall be in writing and will be confirmed in writing by the City of Portland.

It is anticipated that the Contractor may introduce promotional pricing during the term of this Contract and in that event, Contractor shall offer and City may take advantage of such promotional pricing if the City satisfies all terms and conditions necessary to qualify. For the purpose of this section, the term "promotional pricing" includes the cost of goods and services as well as the addition of features, functionality, or additional usage of goods and services. The Contractor shall immediately notify the City's Chief Procurement Officer in writing of such promotional pricing.

## **ATTACHMENT B**

### **CONTRACTOR'S PRICE PROPOSAL\***

\*Note: Alternate #1 is selected for this Contract



### ACS Price Proposal

ACS is pleased to offer a price proposal that enables the City to replace the existing systems with state of the art digital cameras [REDACTED]

[REDACTED] Additionally, if selected, ACS offers [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

ACS is pleased to propose the fee schedule outlined below. This price proposal contains two alternative fee structures for the City. We are flexible and willing to accept either alternative or consider other fee structures should the City prefer a different approach. The proposed fees are inclusive of all services requested in the RFP and are fully compliant with all RFP requirements. Benefits of our proposed pricing include:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



## APPENDIX A

Contractor shall observe all applicable state and local laws pertaining to public contracts including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the rules, ORS Chapters 279A, 279B and 279C require every public contract to contain certain provisions. Pursuant to those chapters, the following provisions shall be a part of this contract, as applicable.

Pursuant to ORS 279B.220, on every public contract, the contractor shall make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract; shall pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

- Pursuant to ORS 279C.505, on public improvement contracts, the contractor shall make payments promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract. The contractor shall pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract. The contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. The contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall demonstrate that an employee drug-testing program is in place.
- Pursuant to ORS 279C.510 (1), in every public contract for demolition the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. Pursuant to ORS 279B.225 and 279C.510 (3) in every public contract and every public improvement contract for lawn and landscape maintenance, the contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
- Pursuant to ORS 279B.230(1), in every public contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
- Pursuant to ORS 279B.230(2), in every public contract, all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- Pursuant to ORS 279B.235(1), persons may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it. In such cases, the employee shall be paid a) at least time and half pay for all overtime in excess of 8 hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or b) for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and c) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
- Pursuant to ORS 279C.515(1), on public improvement contracts, if the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing the state, county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the contractor by reason of such contract. The payment of a claim in the manner authorized by ORS 279C.515 shall not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.
- Pursuant to ORS 279C.515(2), on public improvement contracts, if the contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contract agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.
- Pursuant to ORS 279C.515 (3), in every public improvement contract and every contract related to the public improvement contractor, if the contractor or subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
- Pursuant to ORS 279C.520, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of

contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. The contractor shall give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. In the case of contracts for personal services as defined in ORS 279C.100, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime. Persons employed under contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540 (1) (b)(B) to (G) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The contractor shall give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- Pursuant to ORS 279C.530(1), in every public improvement contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such contractor, of all sums which the contractor agrees to pay for such services and all monies and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. In every public contract, subject to ORS 279C, all employers working under the contract are subject employers that shall comply with ORS 656.017.

- Pursuant to ORS 279C.580(3)(a), the contractor shall include in each public improvement subcontract for property or services entered into by the contractor and a subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the contractor by the public contracting agency under such contract, and an interest penalty clause that obligates the contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to ORS 279C.580 (3), for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and computed at the rate specified in ORS 279C.515 (2).

- Pursuant to ORS 279C.580(4), the contractor shall include in each of its subcontracts for a public improvement, for the purpose of performance of such contract condition, a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of ORS 279C.580 (B) (4) in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

- Pursuant to ORS 279C.830(1)(a) workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

July 25, 2008