

AGREEMENT FOR
MANAGEMENT OF AUTOMATED RED LIGHT ENFORCEMENT CITATION SYSTEM
BETWEEN THE TOWN OF CHAPEL HILL
AND
ACS STATE & LOCAL SOLUTIONS, INC.

THIS AGREEMENT entered into this 10th ^{April} day of 2003, by and between the Town of Chapel Hill, North Carolina (a Municipal Corporation, hereinafter referred to as the "Town") and ACS State & Local Solutions, Inc. a New York Corporation, having a place of business at 1200 K Street, NW, Washington, DC 20005 (hereinafter referred to as the "Contractor").

GENERAL RECITALS

ARTICLE 1 – PROJECT DESCRIPTION

The Contractor shall be responsible for services to be performed in accordance with the terms and conditions herein, including conducting studies to identify applicable installation locations; providing, installing, maintaining, and operating equipment and; providing collection, customer service, public information program, and management services associated with an Automated Red Light Enforcement Citation System (hereinafter referred to as the "Project").

- 1.1 PHASING - The Project involves initially conducting a study to identify intersections as described in Section 2.1 of this Agreement within thirty (30) days of the execution of this Agreement. A total of up to ten (10) cameras will be installed in the initial phase. Upon approval of the locations by the Town, Town shall issue a Notice to Proceed to Contractor and the first two cameras must be installed and fully operational within sixty (60) days of the issuance of the Notice to Proceed, in accordance of Article 3 of this contract. "Fully operational" is defined as the cameras being installed in final configuration and in full working order as per the Service Standards specified in Exhibit 1, the process to capture, transport and process images to the location where the citations are to be produced; the office for processing of citations must be operating with needed personnel hired, processing equipment in place; any software needed to

produce citations, track violations, issue citations; production of clear, easily identifiable citations; connections needed with the Division of Motor Vehicles to obtain motor vehicle registration information. The remaining eight (8) cameras, assuming they have met the violation criteria set forth in Section 2.1, shall be installed and fully operational within one hundred twenty (120) days after issuance of the Notice to Proceed, or such later date if directed otherwise in writing by the Town. Notwithstanding this section, any cameras to be installed after the initial phase shall be subject to a mutually agreed upon price.

- 1.2 PHOTO CITATION CIVIL PENALTY RATES - Pursuant to N.C.G.S 160A-300.1 and Chapter 21, Article II (A) of the Chapel Hill Town Code, the civil penalty amount for running a red light is set by State statute at \$50.00. If the penalty is unpaid and no appeal is received within thirty (30) days after issuance of the citation, an additional civil penalty of \$50.00 is assessed.
- 1.3 PROJECT LOCATION: A substantial portion of the operations of this Project must be located within the Town of Chapel Hill as indicated in the Service Standards, Exhibit I.
- 1.4 WARNING PERIOD: Upon installation of the first two cameras, warning citations shall be issued for a period to be specified by the Town Project Manager. During this period citations will be issued to violators, but no penalty will be collected. Notwithstanding the fact that no civil penalties will be collected from the warning citations, for purposes of compensation, such citations shall be treated as if penalties were paid within thirty (30) days pursuant to Section 12.1, Item 1 of the Contract. The Town will make payments for warning citations issued pursuant to this section within one hundred eighty (180) days from the commencement of warning period. Citations invoiced during this period shall count toward number of citations accrued as part of the collection year.

ARTICLE 2 - SCOPE OF SERVICES

The detailed Scope of Services for this contract is specified in Service Standards, Exhibit 1 which is incorporated herein with this Agreement. It includes the following functions:

- Analyzing intersection approaches for enforcement
- Installing and maintaining red light camera units
- Developing and assisting in the implementation of a public information campaign
- Capturing and storing images of vehicles running red lights
- Identifying the vehicle license plate number
- Acquiring name and address of the vehicle owner
- Generating citations for the Town officials to review and approve
- Mailing of citations approved by the Town officials
- Processing payments received from violators
- Answering inquiries from the public in-person and by phone
- Responding to written correspondence
- Scheduling hearings for adjudication requests
- Preparing hearing packets for Adjudicator
- Sending out follow up notices and applying penalty amount owed
- Maintaining database of financial history on all citations
- Taking collection actions if necessary
- Providing management reports to be agreed upon
- Maintaining records of citations, complaints, resolutions and actions taken

2.1 IDENTIFICATION OF MONITORING LOCATIONS: Within thirty (30) days of execution of this Agreement, the Contractor must complete a study of intersections designated by the Town for possible locations of the Automated Red Light Enforcement Citation System. The study must include field inspections of forty (40) intersections and video validation of a maximum of twenty five (25) approaches provided by the Town for red light violations. The video validation data and any relevant information shall be provided to the Town within 30 days of execution of this agreement.

The Town agrees to review the data provided by the Contractor and finalize the

possible first two locations within fifteen (15) days and the remaining eight locations within thirty (30) days of video validation submission by the Contractor. The parties agree that if there are fewer than ten (10) intersection approaches which meet the twenty (20) violations per day minimum criteria, Contractor will have no further obligation to continue to search for viable enforcement sites. Contractor will install those intersections that have met the 20 minimum violation criteria only.

- 2.2 **PROCUREMENT OF EQUIPMENT:** Contractor agrees to procure Town-approved equipment for monitoring of up to ten (10) intersections. All equipment shall remain the property of the Contractor; however, upon termination of the contract, all below grade property (detection loops, etc.) shall transfer to the Town. All Equipment must meet the criteria provided in Service Standards, Exhibit I.
- 2.3 **MAINTENANCE:** Subject to the provisions of Article 8 (4), the Contractor shall maintain the Photo Citation System and all associated equipment in good working order in accordance with the Service Standards specified in Exhibit 1. Any malfunctioning camera or related equipment shall be returned to good working order within 24 hours of notification that the equipment is not in proper working order.
- 2.4 **ENFORCEMENT:** Using Town-authorized contractor personnel, the Contractor shall issue civil citations to enforce regulations associated with Chapter 21, Article II (a) of the Chapel Hill Town Code.
- 2.5 **COLLECTIONS:** The Contractor shall collect and deposit payments on civil penalties from the public, issued pursuant the Chapter 21, Article II (a) of the Chapel Hill Town Code. Collections shall include referral to a collections agency and the filing of a civil action for collection in the nature of a debt, in accordance with the Town-approved procedures. Contractor shall be responsible for paying any and all filing and process fees that may be required in conjunction with the institution of civil actions and will be entitled to receive any such advanced costs that are awarded and received as

provided in Section 12.1. Funds collected shall be deposited into an account designated by the Town. Funds collected shall be deposited within 24 hours of receipt.

2.6 **ADDITIONAL MONITORING:** The Contractor may provide enforcement monitoring of traffic regulations, other than red light violations, if permitted by State Statute and if directed by the Town, at a compensation to be mutually agreed to.

2.7 **ADJUDICATION:** The Contractor shall coordinate hearing appeals process for citizen protests of citations and collect and process appeal hearing deposits.

The Contractor will be responsible for providing a copy of the citation under appeal along with an affidavit designed to authenticate the citation to facilitate its admissibility into evidence. The affidavit must be from someone capable of stating facts necessary to qualify the citation as a business record and to establish the reliability of the equipment and processes that produced the citation.

In the event that a court requires the personal appearance of an individual capable of testifying as to the authenticity of the citation as a business record and/or to establish the reliability of the equipment and processes that produced the citation so as to facilitate the admissibility of the citation, the Contractor will be responsible for satisfying any such court-imposed requirement.

The Town will be responsible for costs related to hearing officers and the hearing location or for the retention of records of the hearings.

2.8 **MANAGEMENT:** The Contractor shall manage the Project, at the direction of the Town Project Manager.

2.9 **CUSTOMER SERVICE:** The Contractor shall respond to and take care of all public inquiries about the Project in accordance with the Service Standards, Exhibit I,

including ticketing and enforcement, and any other citizen's concerns, in accordance with the Town of Chapel Hill's standing principles and practices regarding customer service. The Contractor shall keep records of citizen's inquiries and their resolution.

2.10 PUBLIC INFORMATION PROGRAM: The Contractor shall develop a public information program to the Town satisfaction within 45 days of execution of this contract in accordance with the Town procedures and guidelines, and including with the following components, at no cost to the Town:

- Developing the Website for the Project
- As mutually accepted, Develop public awareness program materials and implement the program as directed by the Town
- Hold monthly press conferences
- Coordinate the Project with the UNC-Chapel Hill, other educational agencies, and citizen groups as required

2.11 RECORD KEEPING: The Contractor shall keep true and accurate Project related records of revenue, expenses, and shall provide copies to the Town upon request in a form to be mutually agreed upon by the Town and Contractor. All financial records relating to the Project, with the exception of Contractor's cost or pricing data, shall be made available to a duly authorized representative of the Town upon request. The Contractor may be requested to maintain other non-financial information as it relates to the Project, and as mutually agreed upon.

2.12 ADDITIONAL SERVICE: The Contractor shall set up additional locations for red light monitoring, at a mutually agreed upon price, provided they meet the twenty (20) minimum violations per day criteria, at the direction of the Town Project Manager. The unit price charged by the Contractor for additional locations shall be the same unit price specified in Article 12 of this Contract. The Contractor shall relocate a camera from one location to another for a price of \$37,500. This price will consist of \$17,500 to cover engineering drawings, engineering review and construction oversight and the

cost of the poles, housing and flash units. The remaining \$20,000 will be used to cover the cost of installing the electromagnetic loops, connection to a power source, installation of conduit, if necessary and installation of the pole base. If the cost of construction exceeds \$20,000 then the Contractor will invoice the Town for the difference.

- 2.13 WARRANTIES: The Contractor represents and warrants that: (i) the Photo Citation equipment and program provided shall be in accordance with all requirements and specifications set forth in the Service Standards specified in Exhibit I of this contract and any addenda thereto, unless otherwise exempted; (ii) all services performed by the Contractor will be of a professional quality and performed in a workmanlike manner with qualified personnel; and (iii) none of the products or services provided by the Contractor will infringe on any third-party's patent, copyright, trademark, trade secret, or other right to tangible or intangible property.

Contractor will not be responsible for inaccuracies, delays, interruptions or errors caused by software, systems or data provided by the Town or the Town's other contractors.

ADDITIONAL WARRANTIES

Contractor further represents and warrants that:

- (1) It is a corporation duly incorporated, validly existing and in good standing under the laws of the State of New York and is properly registered to do business in the State of North Carolina;
- (2) It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
- (3) The execution, delivery, and performance of this Contract have been duly authorized by the Contractor;
- (4) No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter

- into and perform its obligations under this Contract; and,
- (5) In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses.

ARTICLE 3 - NOTICE TO PROCEED

A Notice to Proceed for installation of cameras at intersection approaches will not be issued to the Contractor until the selection of monitoring locations is completed in accordance with section 2.1 of this Agreement, and upon receipt of a fully executed contract, insurance certificates and any other documentation required by this Agreement. Upon issuance of the Notice to Proceed, the Contractor shall proceed to be fully operational as required by section 1.1 of this Contract.

ARTICLE 4 - TERM OF CONTRACT

The initial term of this contract is three (3) years, commencing with issuance of the Notice to Proceed pursuant to Article 3 and, at the Town's option, may be renewed for two (2) successive one-year terms. The Town shall provide Contractor with no less than ninety (90) days written notice of its intent to renew the contract. No changes in the contract terms shall be effective unless agreed to and accepted in writing, by the Town and the Contractor.

ARTICLE 5 - OWNERSHIP AND USE OF DOCUMENT

Upon request, all documents, reports, and computations prepared or obtained under the terms of this Agreement, excluding any previously developed proprietary software, shall be delivered to and become the property of the Town without restriction or limitation on their use in conjunction with the Project. The Town accepts responsibility for any changes made to these documents after final submittal by the Contractor.

ARTICLE 6 - CONTRACT EXTENSIONS

Reasonable extensions of time for unforeseen or unavoidable delays may be made by mutual consent of the parties involved. Such extensions shall be made in writing.

ARTICLE 7 – TERMINATION

7.1 **WITHOUT CAUSE:** This Agreement may be terminated without cause by the Town upon thirty (30) days written notice. In the event of termination, the Contractor shall immediately terminate work, but shall bring to a reasonable state, not to exceed seven (7) days, the completion of those items whose value would be otherwise lost and shall turn over to the Town all data, charts, reports, notes, figures, drawings, and other records or information collected or secured herein, whether partial or complete. Upon such termination, the Contractor will be paid: (i) the compensation provided in Article 12 of this Contract for all civil penalties collected as of the termination date; and (ii) 60% of the amount Contractor would receive pursuant to Section 12.1 if all outstanding civil penalties for violations of Chapter 21, Article II (a) of the Chapel Hill Town Code that occurred within the 365 day period immediately proceeding the date that notice of termination is given were paid immediately without additional collection efforts (*i.e.* addition of late payment civil penalty to citations not yet thirty (30) days old, referral of civil penalty accounts to collection agency, or filing of civil action to recover civil penalties).

7.2 **FOR CAUSE:** Either party may terminate this Contract immediately upon written notice to the other if:

- A) Either party materially violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the defaulting party cures such default within twenty (20) days of receipt of written notice of default from the other party. The parties stipulate and agree that a failure to deliver any services within ten (10) days after the time required for delivery in the delivery schedule agreed upon by the parties shall not be deemed a failure "reasonably susceptible to cure," and that such failure shall constitute an Event of Default

which entitles the Town to immediately terminate this Contract by written notice to the Contractor; or

- B) The Contractor ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of the Contractor's assets or properties; or
- C) The Contractor fails to obtain or maintain the insurance policies and endorsements as required by this Agreement; or fails to provide the proof of insurance as required by this Agreement; or
- D) Subject to the provisions of Articles 16.2 (Force Majeure) and 16.3 (Town and Contractor Not Liable for Delays), either party materially fails to meet the schedule set forth in Section 1.1 of the Contract.

Upon termination under this provision, the Contractor will not be reimbursed for any unamortized expenses but will receive payment for all work performed until the date of termination.

7.3 FAILURE TO PERFORM OBLIGATIONS: Subject to the provision of Section 7.2 A, if the Contractor fails to provide services, as described in this Contract on any day (or days) for which this Contract calls for such services to be provided, the Contractor will be in default and the Town may take any of the following actions:

- A) Employ such means as it may deem advisable and appropriate to continue work until the matter is resolved and the Contractor is again able to carry out operations under this Contract; and/or

B) Deduct reasonable operating expenses incurred by the Town from any money then due or to become due the Contractor.

7.4 CANCELLATION OF ORDERS AND SUBCONTRACTS: In the event this Contract is terminated by the Town for any reason prior to the end of the term, the Contractor shall upon the effective date of termination (unless the Town's notice of termination directs otherwise), immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and any subcontracts which are chargeable to the contract. As soon as practicable after receipt of notice of termination, the Contractor shall submit a statement to the Town, showing in detail all products delivered and all services performed under the contract to the date of termination.

7.5 AUTHORITY TO TERMINATE: The Town Manager is authorized to terminate this Contract in accordance with the terms and conditions set forth in Article 7.2 and 7.3. The Town Manager upon receiving approval from the Town Council, is authorized to terminate the contract in accordance with the terms and conditions set forth in Article 7.1. Any termination of this Contract shall not relieve the Contractor of the obligation to pay any fees, taxes or other charges then due to the Town nor relieve the Contractor of the obligation to file any daily, monthly, quarterly or annual reports for services for which such reports have not already been provided, which reports shall be filed within thirty (30) days of termination. In addition, the Contractor shall not be relieved from any claim for damages previously accrued or then accruing against the Contractor.

ARTICLE 8 - THE TOWN'S RESPONSIBILITIES

The Town Manager or his authorized representative will:

- (1) Designate, in writing, a Project Manager who will coordinate all communication between the Contractor and all other parties, and who is authorized to act on behalf of the Town.

- (2) Provide Contractor with "as-built" traffic signal drawings as required for the preparation of drawings for the installation of the loops, wiring and unattended housings.
- (3) Not levy any permit fees, or if municipal ordinance requires the assessing of such fees, the Town shall pay for such fees associated with the installation of the unattended housings.
- (4) The Town will reimburse Contractor for any damage done to loop detectors, wiring, camera units, unattended housings, or any other piece of Contractor equipment resulting from any negligent act or omission of the Town or its employees while working on Town projects.
- (5) Assist Contractor, as set forth in Exhibit 1, in expediting the permit approval process so as not to delay the installation and implementation of equipment in accordance with the construction schedule agreed to by the parties.
- (6) Inspect and give final acceptance of all intersection/approach construction and installation prior to that intersection/approach becoming fully operational.

ARTICLE 9 - [Unused]

ARTICLE 10 - TAXES

The Contractor shall pay all applicable Federal, State and Local taxes which may be chargeable.

ARTICLE 11 - DRUG FREE WORKPLACE REQUIREMENT

Drug-Free Workplace: The Town of Chapel Hill is a drug-free workplace employer. The Chapel Hill Town Council has also adopted a policy requiring Town construction and service contractors to provide a drug-free workplace in the performance of any Town contract. The Contractor shall provide a drug-free workplace during the performance of this Contract. This requirement is met by:

- (a) notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken for violations of such prohibition;
- (b) establishing a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the contractor's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;
- (c) notifying each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlines in (a) above, and (ii) notify the contractor of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;
- (d) imposing a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by any employee convicted of drug crime;
- (e) making a good faith effort to continue to maintain a drug-free workplace for employees; and
- (f) requiring any party to which it subcontracts any portion of the work under the contract to comply with the provisions of (a) - (e) of this article.

Failure to comply with the above drug-free workplace requirements during the performance of this contract shall be grounds for suspension, termination or debarment.

ARTICLE 12 - COMPENSATION

12.1 The contractor shall be compensated in accordance to the following pricing schedule:

Item	Description	Amount
1	For civil penalties assessed for violations of Chapter 21, Article II of the Chapel Hill Town Code, the amount the Town will pay the Contractor for each of the civil penalties that are deposited in a designated Town bank account within the "collection year". A "collection year" shall be the period beginning when the first warning citation is issued pursuant to Section 1.4 and ending June 30, 2003, and each twelve-month period thereafter beginning July 1 and ending the following June 30.	<ul style="list-style-type: none"> • \$48.00 per citation fine collected when 1 to 1,750 citation fines are collected per month; • \$28.50 per citation fine collected for citations from 1,751 to 3,500 citation fines are collected per month; • \$23.50 per citation fine collected for citations from 3,501 or more citation fines are collected in a month.
2	For civil penalties assessed pursuant to Chapter 21, Article II of the Chapel Hill Town Code for failure to timely pay the initial penalty, the amount the Town will pay the Contractor for each penalty deposited in a designated Town account within the same collection year, as defined above.	\$10.00 for each penalty collected without civil court action
3	This Part 3 shall be used based on collections procedures for implementing Part 2 above of this Article, as specified by the Town. If such penalties are collected by a collection agency to which the Contractor had referred the penalty or as a result of a filing of a civil action, as specified by the collections procedures above, the additional amount the Town will pay the Contractor. Any court costs are to be paid by the Contractor and will be repaid by the Town upon collection of the debt.	\$12.50 for each penalty collected by civil court action or by collection agency
4	Cost of moving camera from one designated location to another. (Note that this is not the cost of adding additional monitoring sites.)	\$37,500 per approach (including all new housing, pole, flash, and base unit excluding the

		camera). Any additional cost shall be paid in accordance with Article 2.12.
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12.2 Contractor will invoice the Town in accordance with the provisions established in Items (1), (2) and (3) of Article 12.1. For example:

- a. Civil penalty fee schedules for violations of Chapter 21, Article II of the Chapel Hill Town Code are based upon the notice volumes stated within Article 12.1, Item 1 of this contract.
- b. In accordance with Article 12.1, Item (2), Contractor will bill additional fees to the Town for those penalties collected after assessment of the late penalty pursuant to Chapter 21, Article II of the Chapel Hill Town Code. The fee under Item (2) will be added to the fee under Item (1) as described above.
- c. Item (3) of Article 12.1 reflects the fee the Town will pay the Contractor for those penalties collected after a collection notice is sent. This fee will be added to those fees due under Item (1) and (2) of Article 12.1 above.

12.3 Prior to the start of the program, and by January 15th of each year thereafter, the Contractor shall submit an estimate of total payments to be invoiced and revenue for the following fiscal year, beginning July 1, or as may be consistent with Town budget practices.

12.4 Payment of the fees provided for under this Agreement will be made to the Contractor on a monthly basis upon submission of an invoice by the 15th of each month stating the amount due, and accompanied by proper supporting documentation. Proper supporting documentation is to include the number and dollar amount of citations collected, the late fees and any civil action. In the event that the Contractor is to be paid on a time and materials basis for any work performed under this contract, proper

supporting documentation will include the date of the service was performed and the hours spent performing the service. A correct payment request is defined as an invoice which indicates only those items which have been satisfactorily completed and accepted by the Town. For the first twelve months of the contract, the Contractor may invoice and be paid by the Town on a bi-monthly basis.

12.5 Invoicing: Original invoices shall be sent to:

Town of Chapel Hill
306 N. Columbia Street
Chapel Hill, NC 27516
Attn: TOWN MANAGER

ARTICLE 13 - CONTRACT CORRESPONDENCE

13.1 All notices, demands, consents or reports provided for in this Agreement shall be in writing and shall be given to the Town or the Contractor at the address set forth below or at such other address as each may specify hereafter in writing:

Town:

Town of Chapel Hill
306 N. Columbia Street
Chapel Hill, North Carolina 27516
Attn: TOWN MANAGER

Contractor:

ACS State & Local Solutions, Inc.
1200 K Street, NW
Washington, DC 20005
Attn: Vice President, Transportation Safety Solutions

Any such notice, demand, consent or report, shall be deemed to have been rendered or given on the date when it is received by the addressee or when it shall have been delivered by hand.

ARTICLE 14 - PERSONNEL

The Contractor shall not replace the Project Manager without prior written approval from the Town, which approval shall not be unreasonably withheld.

ARTICLE 15 - INDEMNIFICATION AND INSURANCE

15.1 Indemnification: The Contractor will indemnify and save harmless the Town of Chapel Hill, its officers, agents, employees and assigns from and against any and all loss, cost, damages, expense and liability arising out of or resulting from the negligent or intentional tortious acts or omissions of Contractor, its employees and agents in their performance under this contract. The Town will, to the extent allowed by law, indemnify and save harmless Contractor, its officers, agents, employees, and assigns from and against any and all loss, cost, damages, expense and liability arising out of or resulting from the negligent or intentional tortious acts or omissions of the Town, its employees and agents in their performance under this contract. Neither party shall be liable or responsible to the other for any consequential, indirect, special or exemplary damages.

15.2 Insurance - Contractor shall not commence any work in connection with this agreement until it has obtained all of the following types of insurance and such insurance has been approved by the Town. Nor shall the contractor allow any subcontractor to commence work on its subcontract until all similar insurance required of the Subcontractor has been obtained and approved. All insurance policies shall be with insurers qualified and doing business in North Carolina recognized by the Secretary of State and the Insurance Commissioners Office. The Town of Chapel Hill shall be named as additional insured under the commercial general liability insurance for operations or services rendered under this contract. Certificates of required insurance shall accompany all contract documents. The Town shall in no way be liable for any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or Subcontractor providing such insurance.

The Contractor will purchase and maintain during the life of this contract, with an

insurance company rated not less than A- by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Town of Chapel Hill the following insurance:

- A) **Automobile Liability** - Bodily injury and property damage liability covering all of Contractor's owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit per accident - bodily injury and property damage.

- B) **Commercial General Liability** - Bodily injury and property damage liability as shall protect the Contractor performing work under this contract, from claims of bodily injury or property damage which arise from Contractor's operation of this contract, whether such operations are performed by Contractor, or employees of the Contractor. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products/completed operations, personal injury liability and contractual liability.

- C) **Worker's Compensation**- meeting the statutory requirements of the State of North Carolina and Employers Liability \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit providing coverage for all employees and owners.

The Contractor's insurance shall be primary of insurance otherwise carried by the Town for all loss or damages arising from the Contractor's operations under this agreement.

Certificates of such insurance shall be furnished to the Town of Chapel Hill and shall

contain the provision that the Town be given thirty (30) days written notice of any intent to materially change the limits required by this contract or terminate by either the insured or the insuring company, with the exception for non-payment of premium in which case 10 days written notice of cancellation will be provided.

If any part of the work under this contract is sublet, the subcontractor shall be required to meet all insurance requirements as listed above, naming the Town and Contractor as additional insured under the commercial general liability. However, this will in no way relieve the Contractor from meeting all insurance requirements or otherwise being responsible for the subcontractor.

ARTICLE 16 - GENERAL PROVISIONS

16.1 Independent Contractor Status: The Contractor and the Town agree that the Contractor is an independent contractor and not an employee nor agent of the Town. Nothing herein shall be construed as creating a partnership, agency, joint venture or other similar relationship between the Town and Contractor.

The Contractor agrees that it will not represent to anyone that its relationship between the Town is other than that of an independent contractor. The Contractor shall be fully and solely responsible for its own acts and omissions and those of its employees, officers, agents and subcontractors.

16.2 Force Majeure: Either party shall not be liable for any failure or delay in the performance of its obligations pursuant to the contract and such failure or delay shall not be deemed a default of the contract or grounds for termination hereunder if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of Government, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or any other cause beyond the reasonable control of either party.

Upon the occurrence of a Force Majeure Event, the Contractor shall immediately notify

the Town by telephone (to be confirmed by written notice within two (2) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event lasts for more than thirty (30) days, either party shall have the right to terminate the contract by written notice to the other.

16.3 **Town and Contractor Not Liable for Delays:** It is further expressly agreed that in no event shall the Town or Contractor be liable for or responsible to each other, any subcontractor or to any other person for or on account of any stoppages or delay in the work herein provided for by injunction or other legal or equitable proceedings or on account of any delay for any cause over which the Town or Contractor has no control.

16.4 **Amendments to the Contract:** Any changes in this Contract must be mutually agreed upon by the parties and must be incorporated by written amendments to this Contract. The Town Manager shall have the authority to amend the Contract on behalf of the Town. Vice President, Transportation Safety Solutions shall have authority to amend the Contract on behalf of Contractor.

16.5 **Waiver:** A waiver of any breach of any provision of this Contract shall not constitute or operate as a waiver of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of the enforcement of such provision or any other provision.

16.6 **Law to Govern:** The parties acknowledge that the contract is made and entered into in Chapel Hill, North Carolina, and will be performed in Chapel Hill, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties and liabilities of the parties under the Contract, and that North Carolina law shall govern the interpretation and enforcement of the Contract and any other matters relating to the Contract (all without regard to North Carolina conflicts of law principles). The parties further agree that any and all legal actions or proceedings relating to the Contract shall be brought in a state court sitting in Orange

County, North Carolina. By execution of the Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections which they may have with respect to venue in any court sitting in Orange County, North Carolina.

16.7 **Entirety of Contract:** This Agreement and addenda thereto which are incorporated by reference, comprise the entire Agreement between the Town and the Contractor. In the event of a conflict, the terms of this Agreement control over any addenda.

16.8 **Severability:** The invalidity of one or more of the phrases, sentences, clauses or sections contained in the Contract shall not affect the validity of the remaining portion of the Contract so long as the material purposes of the Contract can be determined and effectuated.

16.9 **No Jury Trial:** The Town and Contractor waive and will waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matter whatsoever arising out of or in any way connected with or related to the Contract or the relationship of the Town and the Contractor under the Contract.

16.10 **Approvals:** Notwithstanding anything herein which may be to the contrary, all approvals or consents required or permitted pursuant to the Contract shall be in writing in order to be considered valid and effective.

16.11 [Unused]

16.12 **Change of Control:** The Contractor shall notify the Town within ten days of the occurrence of a change in Control. As used in this Agreement, the term "Control" shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Contractor or (ii) the power to direct or cause the

direction of the management and policies of the Contractor whether through the ownership of voting securities, by contract or otherwise. A change in control or ownership shall not be considered an assignment for purposes of this Agreement.

16.13 **Successors and Assigns:** This contract shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto; provided, however, this provision shall not be deemed to authorize the assignment or other transfer of this Contract which may only be accomplished as expressly provided in this Contract.

ARTICLE 17 - CONTRACTOR CERTIFICATION

By signing this Agreement the Contractor certifies:

- 17.1 Neither he/she, nor any official, agent or employee of the Contractor has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive contracting in connection with this Contract.
- 17.2 He/she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, affectional preference, national origin, disability, or veteran status.
- 17.3 The Town of Chapel Hill has an equal opportunity purchasing policy. The Town of Chapel Hill seeks to ensure that all segments of the business community have access to supplying the goods and services needed by Town programs. The Town affirmatively works to encourage utilization of minority business enterprise in our procurement activities. The Town provides equal opportunity for all businesses and does not discriminate against any vendors regardless of race, color, religion, age, sex, affectional preference, national origin or disability.

ARTICLE 18 - HUMAN RESOURCES PROVISIONS

18.1 PERSONNEL ADMINISTRATION

- A) Character and Conduct of Employees

- 1) The Contractor's employees who normally and regularly come into direct contact with the public shall be clearly identifiable by, but not limited to, individual uniforms with name badges, name tags or identification cards.
- 2) The Contractor shall assure that its employees serve the public in a courteous, helpful and impartial manner. All employees of the Contractor in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Contractor.
- 3) In the event a report is received alleging an employee(s) of the Contractor was discourteous, belligerent, profane or in any way intimidating, either physically or verbally, the Contractor shall submit a written report to the Town Project Manager, outlining the complete details of the incident. Said report shall include the nature of the incident, time, date and location, and name, address and telephone number of the person alleging the violation. The report shall also include the name and title of the employee and what resolution or disciplinary action, if any, was taken. The report shall also include the action taken to recontact the complaining party. The Contractor shall keep on file such reports for the duration of the Project, and make them available upon request by the Town Project Manager.

B) Nondiscrimination

- 1) The Contractor agrees that it has adopted and will maintain and enforce a policy of nondiscrimination on the basis of race, color, religion, sex, affectional preference, age, national origin, or disability.
- 2) The Contractor agrees that on written request, it will provide the Town with a copy of its Equal Employment Opportunity (EEO) Policy.
- 3) The Contractor agrees that it will inform the Town of any final court judgments which find Contractor liable of violating employment practices

in connection with the Chapel Hill Photo Citation Program.

18.2 Audit & Inspection - The Contractor agrees to an annual audit of the Project financial information by a licensed independent auditor mutually acceptable to the Town and the Contractor. The independent auditor shall be hired by the Contractor and the expense of the audit is to be paid by the Contractor. The Town will reimburse the Contractor half of the expense of the audit after receiving the invoice from the Contractor. In addition, the Contractor must agree to periodic and random inspections of the Project records and equipment by duly authorized Town staff and the independent auditor. The results of the audit are to be the basis of an annual performance review of the Contractor.

18.3 Minority and Women Business Development Program (MWBD) - The Contractor will attempt to expend a minimum of 10% of total operating expenses under the contract with Minority Business Enterprises and Women's Business Enterprises. The Town reserves the right to request verification of MWBD payments.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on their behalf by their duly authorized representatives, under seal, all as of the day and year first above written.

"TOWN"

"CONTRACTOR"

TOWN OF CHAPEL HILL, NC

ACS STATE & LOCAL SOLUTIONS, INC.

By: _____

By: Joseph S. Martz

Typed Name: W. CALVIN HORTON

Typed Name: Joseph S. Martz

Title: W. Calvin Horton
TOWN MANAGER

Senior Vice President & Managing Director
Title: Municipal Services Group

Attest: Joyce A. Smith
By: Town Clerk 4-10-03

Attest:
By: Richard J. Russin

Typed Name: JOYCE SMITH

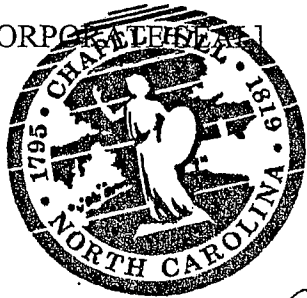
Typed Name: Richard J. Russin

Title: TOWN CLERK

Title: Sr. V.P.

[CORPORATE SEAL]

[CORPORATE SEAL]



APPROVED AS TO FORM: Ralph D. Karpinos
TOWN ATTORNEY

THIS INSTRUMENT HAS BEEN PRE-AUDITED IN THE MANNER REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT.

James M. Baker
FINANCE DIRECTOR

Glenn L. ... 3/31/03
ENGINEERING DIRECTOR

EXHIBIT 1: SERVICE STANDARDS
MANAGEMENT OF AUTOMATED RED LIGHT ENFORCEMENT CITATION SYSTEM

Service Standards		Service Provided by The Contractor
1	Substantial portion of the operations must be located in the Town of Chapel Hill, including an office space for the Town's Project Manager.	All customer facing operations, including walk-in customer service, walk in online cashiering, and telephone customer service shall take place in Chapel Hill office. In addition, IT support, field maintenance and repair, adjudication support, and communications and network support shall be performed within The Contractor's Chapel Hill office. Other non-customer facing, back office functions will be initially performed within The Contractor's Charlotte, NC office.
2	The Contractor must install the first two (2) cameras within sixty (60) calendar days of award of contract by Council, and they must be fully operational as proposed in the Contract.	Contractor shall install approaches that are video validated/identified with at least 20 violations per day. Upon issuance of the Notice to Proceed in accordance with Article 3 of the contract, the Contractor shall install the first two (2) cameras that comply with §2.1 of the contract within sixty (60) calendar days of approval by the Town of Chapel Hill's Project Manager for the selection of the two approaches for enforcement. Adherence to this standard also requires expedited approval of permit by the Town for the installation. The Contractor has allotted thirty (30) working days for the issuance of permit and the construction of the initial two (2) cameras. The Contractor agreed to meet the 60-day standard if permits are issued within ten (10) working days of permit application submittal.
3	The Contractor must be prepared to install the remaining eight (8) cameras within one hundred twenty (120) days of notice to proceed after completion of the testing of the first two (2) cameras described in service standard #2, unless otherwise directed by the Town.	Assuming all remaining approaches have been video validated/identified with at least 20 violations per day as set forth in §2.1 of the contract, the Contractor shall install the remaining eight (8) cameras within one hundred twenty (120) days of notice to proceed after completion of testing of the first two (2) cameras. The Contractor shall meet the standard if permits are issued within ten (10) working days of permit application submittal.
4	Systems proposed for the Town of Chapel Hill should currently be in operation elsewhere. "In operation" includes not only camera operation, but also film/image processing and software operation.	The Contractor shall meet this standard. The Contractor currently operates more than 500 Gatsometer supplied red light enforcement systems in the US - 85% of all installed automated red light cameras in the country. The Contractor has more US contracts (57) than all other vendors combined. The Contractor is also expert providing turnkey services in registered owner, decriminalized traffic enforcement environments. The Contractor provides all services, including payment processing, online cashiering, hearing scheduling, customer service, and collections for nearly all of its East Coast, decriminalized customers, including Charlotte, NC, Fayetteville, NC, Baltimore, MD, Alexandria, VA, Fairfax Town, Fairfax County, Prince George's County, MD, Anne Arundel County, MD, Bowie, MD, College Park, MD.
5	The Automated Red Light Enforcement Citation System should provide clear daytime and nighttime images such that the license plate, the vehicle make, and the traffic signal indication are clearly discernible. <i>Black & white, color and other images are acceptable.</i>	The Contractor shall meet this standard and provide the Town digital automated red light enforcement systems for consideration. This system is provided by Gatsometer, the worlds leading provider of automated traffic enforcement systems with more than 6,000 systems installed in more than 30 countries. All images, including environmental and tag close-ups, will be full color.
6	System should be able to record all violators on the approaches being monitored. Locations may have as many as three (3) approach lanes to be monitored.	The Contractors' system will monitor and record violations up to three (3) lanes in an approach. The Contractor shall offer the Town digital automated red light enforcement camera system provided by Gatsometer. With inductive loops, no violations will escape detection. The loops are unaffected by

Service Standards

Service Provided by The Contractor

		environmental conditions and do not rely on less reliable prediction, laser, radar, or video for operation. Loops can be installed in as many lanes as the Town chooses to enforce.
7	The Contractor shall supply all Automated Red Light Enforcement System hardware as well as the installation of this equipment, with the exception of the connection to the Town's traffic signal cabinet.	The Contractor shall supply all automated red light enforcement systems hardware as well as the installation of this equipment with the exception of the connection to the Town's traffic signal cabinet.
8	Contractor will be fully responsible for maintenance of camera system. Any repairs needed should be made within 24 hours of reported malfunction.	Except as set forth in Article 8 (4) (Town Responsibilities) of the contract, the Contractor shall be fully responsible for all camera system maintenance and repair. The Contractor guarantees repair and/or replacement of systems within 24 hours of reported malfunction. The Contractors' maintenance plan begins with proactive, preventative maintenance provided by our first line and second line of support. Our third and fourth lines of support are immediately available as needed to resolve technical issues. Spare parts and equipment will be on hand at all times to ensure there is minimal down time within 24 hours of problem notification.
9	Photo Citation system must be able to operate from vehicle detectors (loops, sensors, cameras) installed at the stop bar. Contractor shall work with the Town to identify detector placement.	The Contractor shall offer the Town, Gatsometer's state of the art digital violation detection system. The digital detection system allows the Digital Red Light Camera system, Digi Cam, accurately monitor both the direction and speed of vehicles traversing the detector loops. Our red light vehicle detection system is composed of a four or six channel self-tuning loop detector (GLD4). This approach provides a highly sensitive detection field for sensing offending vehicles within the detection zones. A rectangular loop detector zone is used to ensure that all vehicles entered the zone along the same axis, and that the intensity of the magnetic field was equal throughout the zone. This configuration has proven to be very successful in detecting and photographing vehicles which are crossing the intersection during the red signal sequence.
10	The equipment must be able to automatically detect a vehicle that is violating a red traffic signal, including detecting the speed of such vehicles and the amount of time elapsed between the time that the signal turned red and the time that the violation occurred.	Contractors' Gatsometer's digital automated red light enforcement system will automatically detect a vehicle that is violating a red light traffic signal using its digital detection system as described in Service Standard #9. Gatsometer's digital system will detect and record time of violation, date of violation, length of time elapsed between time signal turned red and the time of violation, length of yellow cycle before violation, violation lane, location code, violation number, length of time between first violation image and second violation image, and vehicle speed. Section 3.1 provides more detail regarding information captured and how it is displayed.
11	The equipment must be able to capture two (2) images of the red light violation clearly showing the violating vehicle entering the intersection while the signal indication is red and also depicting the same vehicle beyond the stop bar in the intersection while the signal indication is red. The equipment must be capable of taking pictures with a grace period (delay time) of 3/10 of a second after the signal is turned red.	Contractor's Gatsometer's digital automated red light enforcement systems have the ability to capture two images of the red light violation clearly showing the violating vehicle entering the intersection while the signal indication is red and also depicting the same vehicle beyond the stop bar in the intersection while the signal indication is red.
12	The camera must be able to operate in all lighting and weather conditions to produce clear and legible images.	Contractor's Gatsometer's digital automated red light enforcement system operate in all lighting and weather conditions, producing clear and legible images.
13	Ninety percent (90%) of images taken should be able to be	The Contractor shall meet the ninety percent standard assuming that those images deemed to be non-

Service Standards

Service Provided by The Contractor

	<p>developed as citations. All images, including those not fit to be issued as a citation, shall be stored by the Contractor. Images that cannot be used to support issuance of a citation should be clearly marked with the reason(s) why the image was not used.</p>	<p>citable or unissuable based on criteria established would be excluded. For example, images taken of emergency vehicles, vehicle license plates obstructed by a trailer hitch, images determined to be non-citable, or other factors not under The Contractor's control should be excluded from the base number of images taken in determining the issuance performance. Uncontrollable Initial Rejects (which shall be considered non-citable/unissuable events) are events captured by the system in which the license plate cannot be identified for reasons other than image quality problems (e.g., no plate, car obstructed, funeral procession). All images, including those not fit to be issued as a citation, will be stored by the Contractor. Images that cannot be stored will be clearly marked with the reasons why the image was not used.</p>
14	<p>The camera should be capable of being mounted either on a stand-alone pole or an existing utility pole. The camera housing and pole, if stand-alone, must be approved by the Town.</p>	<p>Contractors' Gatsometer's automated red light enforcement cameras are capable of being mounted either on a stand-alone pole or an existing utility pole. The Contract shall get approval from the Town.</p>
15	<p>Camera housing should be secure and tamper-proof to protect against unauthorized opening. Also, must be designed so access can be achieved without disrupting traffic.</p>	<p>Gatsometer's housings are secure and fully tamper proof, ensuring no unauthorized access. Access to the cabinet is easily achieved with electronic up-down housings. The Contractor shall provide telecommunications connectivity back to the central processing server, eliminating any manual intervention. If there are delays in the local telephone company installing the ISDN lines at the required intersections, the Contractor staff will manually download digital images from the camera unit.</p>
16	<p>Each red light citation should be processed and mailed to the registered owner of the violating vehicle within two business days of the violation for North Carolina vehicles and five business days of the violation for out-of-state vehicles.</p>	<p>The Contractor shall meet the two business day turnaround requirement for North Carolina vehicles and five business days for out-of-state vehicles. Violations for which the registered owner information has been found and those which have met established issuance criteria will be forwarded online to the Town Project Manager for final approval on the second business day. Using TIMS online verification system, the Town Project Manager will review and approve or reject violations. Those violations that are approved by the Town Project Manager will be printed and mailed on the second business day.</p>
17	<p>Contractor should resolve ninety-eight percent (98%) of all citizen inquiries and/or requests for assistance.</p>	<p>The Contractor shall meet the standard of resolving 98% of all citizen inquiries and/or requests for assistance. The Contractor will perform all customer-facing functions at the proposed Chapel Hill office. Walk-in payments will be accepted at the proposed Chapel Hill office.</p>
18	<p>Collect fines for at least eighty percent (80%) of all citations issued.</p>	<p>The Contractor shall meet the eighty percent (80%) collection rate standard assuming sufficient time has elapsed so that all of the proposed collection activities can be completed. The Town and Contractor will mutually agree to establish the method of computing the collection rate. The Contractor offers a comprehensive collection and payment processing plan that is the result of over twenty years public collection experience. The Contractor offers to implement an array of proven collections tools to maximize program compliance and collections.</p>
19	<p>Store data and citation information in a database. Describe the information system to be used. The information software system must provide record keeping and tracking functions for all citations from issuance through final disposition, including</p>	<p>The Contractor will meet this standard and will use Ticket Information Management System (TIMS), which is the most proven violations processing system for automated red light enforcement in the industry.</p>

Service Standards

Service Provided by The Contractor

	<p>the capability of producing the following reports:</p> <ul style="list-style-type: none"> a. Total violations per location by hour of day, day of week, week of month, month of year, and year. b. Total payments received by day of week, week of month, month of year, or year. c. Total number and dollar amount of delinquent offenders. List of delinquent offenders. d. Statistical report of billing and collections. e. Statistical report of revenue collected or billed by type (fine, late fee). f. Number and list of payments from first notice, second notice, and third notice. g. Number and list of non-finable violations by exception code. h. Number of violations per State (based on registration plate). i. Number of violations at specified speeds. 	
20	Software should be able to interface with North Carolina DMV records to automatically insert vehicle ownership records.	The Contractor shall meet this standard.
21	The system must imprint on each image attached to the citation: the time and date of the violation; frame sequence number; intersection identification; amount of time (to the nearest tenth of a second) that the picture was taken after the signal had turned red; the length of the signal's amber time; and the speed of the violating vehicle.	Contractor's Gatsometer's digital system imprint the time and date of the violation, frame sequence number, intersection identification, amount of time that picture was taken after the signal had turned red, length of the signal's amber time, and the speed of the violating vehicle.
22	The system should be able to enhance images in low-light or glare conditions. All images must be clear and readable during daylight hours and should be clear and readable at all times, regardless of weather condition and time-of-day.	The Contractors' traffic service agents, using TIMS, will enhance images in low light and glare conditions. The Contractor agreed to meet this standard.
23	The cameras shall operate 24 hours per day, 7 days per week	The Contractor shall meet this standard.

