



## SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into this 10th day of April, 2017, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "City," and **DUNCAN PARKING TECHNOLOGIES, INC**, of 316 N. Milwaukee Street, Suite 202, Milwaukee, Wisconsin 53202 hereinafter referred to as "Contractor."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** City agrees to hire Contractor as an independent contractor to provide the goods and services associated with Credit Card Enabled Single Space Parking Meter Mechanisms including Vehicle Detection System described in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof.

2. **Effective Date:** This Agreement is effective upon the date of its execution and will terminate on April 30, 2022. The parties may extend this agreement, by mutual concurrence, for two (2) years, in writing prior to its termination.

3. **Scope of Work:** The Contractor shall perform the services outlined in Exhibit "A". In performing these services, the Contractor shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefor, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

4. **Payment:** City agrees to pay Contractor the prices included in the Contractor's Price Proposal shown in Exhibit "B" for the work described in the Scope of Work in Exhibit "A". Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

If partial payment is requested by Contractor, it shall be made upon invoice and said estimate being proportioned to the work completed by the Contractor. City shall deduct five percent (5%) from each pay estimate to be held until the completion of the final scope of work. The final payment



shall be made only after acceptance of final invoice by the City, and determination has been made by the City that the scope of work has been satisfactorily completed.

**5. Independent Contractor Status:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation insurance coverage for all members and employees of Contractor's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

Contractor shall furnish City with copies showing one of the following: (1) proof of registration as a registered contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent contractors.

**6. Indemnity and Insurance:** Contractor agrees to indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Contractor or its agents or employees. **For this purpose, Contractor shall provide City with proof of both Commercial General liability and automobile insurance each issued by a reliable company or companies for personal injury and property damage, in an amount not less than \$1.5 million per occurrence and naming the City as an additional insured. The insurance must be in a form suitable to City.**

**7. Warranty:** Contractor warrants that all services and work will be performed in a good workman-like manner. Contractor acknowledges that it will be liable for any breach of this warranty for the lesser period of one (1) year from the time services are completed or any warranty described in the Scope of Work in Exhibit "A".

**8. Compliance with Laws:** Contractor agrees to comply with all federal, state, and local laws, ordinances, rules and regulations. Contractor agrees to purchase a City business license.

**9. Contractors' Gross Receipts Tax:** Contractor understands that all contractors or subcontractors working on a publicly funded construction project, including any work requiring the installation, addition, placement, replacement, or removal of any equipment, parts, structures, or



materials of any kind whatsoever, are required to pay or have withheld from earnings one percent (1%) of the gross contract price if the gross contract price is Five Thousand Dollars (\$5,000) or more.

**10. Nondiscrimination:** Contractor agrees that all hiring by Contractor of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

**11. Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within ten (10) calendar days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

**12. Liaison:** City's designated liaison with Contractor is Tracy Scott and Contractor's designated liaison with City is Mr. Bradley Magee.

**13. Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

**14. Severability:** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Contractor, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**15. Successors and Assigns:** Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without the written consent of the other.



**16. Ownership of Documents:** All documents, data, drawings, specifications, software applications and other products or materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. All such documents, products and materials shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if the documents, products and materials prepared by the Contractor are used for purposes other than those intended by the Agreement, the City does so at its sole risk and agrees to hold the Contractor harmless for such use. All or any portions of materials, products and documents produced under this Agreement may be used by the Contractor upon confirmation from the City that they are subject to disclosure under the Public Disclosure Act.

All services performed under this Agreement will be conducted solely for the benefit of the City and will not be used for any other purpose without written consent of the City. Any information relating to the services will not be released without the written permission of the City. The Contractor shall preserve the confidentiality of all City documents and data accessed for use in Contractor's work product.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF BILLINGS, MONTANA**

**DUNCAN PARKING TECHNOLOGIES, INC.**  
**CONTRACTOR**

By \_\_\_\_\_  
**THOMAS W. HANEL**  
Mayor

By *Michael Nickolaus*  
\_\_\_\_\_  
**MICHAEL NICKOLAUS**  
Chief Executive Officer

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
**BRENT BROOKS, City Attorney**



## **EXHIBIT "A"** **SCOPE OF WORK**

The proposed credit card meters shall include the following features:

### **1. GENERAL**

- a. Meters must be able to effectively operate in the weather conditions experienced in the City of Billings, Montana including but not limited to rain, snow, hail and temperatures between minus 50 degrees Fahrenheit to plus 150 degrees Fahrenheit.
- b. Meter mechanism and associated top cover will retrofit the Duncan Eagle 7242 meter housing base without modification to the existing base or housing. Existing keys must be used.
- c. Solar powered panel or equivalent that recharge internal batteries are required. Solar power or equivalent must be able to operate effectively on city streets that have 2-22 story buildings, large trees and snow.
- d. Must retain audit data despite battery failure or removal.
- e. Backlight feature for night time visibility. Backlight will be enabled automatically via light sensitivity and will require no additional settings to be adjusted. Backlight will only be enabled during transaction in order to conserve battery power.
- f. Alphanumeric LCD display with clearly visible numeric digits to enhance the display.
- g. On LCD display, "out of order" or "coin only" or "card only" when unit is partially or completely "out of order."
- h. On LCD display of "No Parking" symbol equivalent required to show "No Parking" when unit is completely "out of order".
- i. Rear display on street side must have red flashing display to indicate "meter expired."
- j. The mechanism shall be capable of displaying the rates per hour, maximum stay (time period) and other customized messages or graphics on the meter LCD screen.
- k. A UV resistant (non-yellowing) polycarbonate material shall be used to protect the LCD screen and solar panel or equivalent. The polycarbonate material must be treated with an anti-fog coating to maximize the user's ability to interact with the display at all times.
- l. Must be wirelessly networked via the cellular network and connected to a web-based management system.
- m. Must be able to operate in an independent network environment, such that each meter is wirelessly enabled to communicate without installation of any additional network equipment or additional infrastructure.
- n. Proposer's company must be able to provide on-going support and service to City staff after purchase and installation. Please submit how your company will provide such support and service.

### **2. CREDIT CARD**

- a. The vendor shall provide a secure gateway service to provide for secure, encrypted, credit card data transmission to the City's merchant account provider.
- b. Meter mechanism must accept Visa, MasterCard and Discover credit and debit cards with the same designations, at a minimum.
- c. Require a meter that can incorporate smart card and/or pay by phone technology.
- d. Credit Card reader mechanism must be able to process all credit and debit card transactions by obtaining authorization in real time.
- e. All credit card readers shall be integrated into the Internal meter mechanism.
- f. All credit card products shall be PCI PA-DSS compliant and all service providers shall be PCI-DSS Level 1 certified to protect cardholder data.
- g. Responding proposer must comply with, and be listed as a valid service provider for Visa Cardholder Information Security Program (CISP) and the MasterCard Site Data Protection (SDP) programs.
- h. All proposing vendors must submit PCI compliance certificates as part of their submission.



- i. Mechanism must adjust the amount of time purchased with a credit card and show the equivalent amount of time purchased.
- j. Mechanism must be able to cancel credit card transaction should the purchaser decide to not proceed with the transaction.
- k. Mechanism must have wireless reporting management system functions and credit card transaction capability via CDMA, GSM or equivalent wireless network configuration.
- l. In the event of a malfunction to the coin acceptor, the meter must be able to independently function using a credit card.

### 3. COIN ACCEPTANCE

- a. Must accept at least four different U.S. coin types \$0.05, \$0.10, \$0.25 and \$1.00 coins with optional acceptance of new coins and tokens.
- b. Coin chute or acceptor must allow for easy access for removal of foreign objects or other types of coin jams. The meter should incorporate a feature that will count invalid coins such as washers, gaming tokens, etc. enabling the City to monitor the locations where this type of activity is taking place. No time will be given for fraudulent coins.
- c. In the event of a malfunction of credit card acceptance, the meter must be able to independently function with coins.

### 4. COMMUNICATION AND PROGRAMMING SPECIFICATIONS

- a. Mechanism must be programmable via web-based meter management system connected through a wireless network.
- b. 365 day real time calendar clock which is synchronized with a centralized server.
- c. Programmable feature for automatic daylight savings time (DST) change and update of DST via the wireless system as well as capability of loading DST changes for multiple occasions.
- d. Time of day clock must track the day of the week.
- e. Programmable feature options with capability to change wirelessly, standard rate operation, time of day operation, day of week operation.
- f. Mechanism that can take prepayment of meter in non-paid working hours and the time is held for use within the next paid working hours operational time period.
- g. Mechanism must be configurable to define "No Parking" times.
- h. Mechanism must be able to have the option to require a minimum amount of time to be purchased prior to meter registering time.
- i. Mechanism must be able to record the value of coins validated and retrieve audit information via the wireless based management system.
- j. Mechanism shall reset to zero on the audit register after each transfer of audit information to the management system.
- k. The wireless based management system shall enable the control of mechanisms from the central office, to enable the quick and effective changing of data related to each mechanism, the replaced unit and the replacement unit.
- l. The wireless based management system shall have the capability to track audit amounts by mechanism, route and any selected meter configuration thereof.
- m. Login and access to the wireless based management system via the internet.
- n. All mechanisms must be able to report in to the wireless based management system.
- o. Management systems must be on line and security provided via password protection.
- p. Real time alarm and status reporting for maintenance via wireless based management system.
- q. Management system must be able to notify service technicians and key personnel of fault and status issues via email or text.
- r. Real time revenue and payment information via management system.



- s. Management system to provide a full set of reports including revenue for all transactions, by meter, by route, by zone, by redefined zone, across any period specified by used, (day, week, month) or any period defined within the date set including audit, maintenance.
- t. Mechanism as controlled and accessed by the wireless based management system shall be able to accommodate simple and complex dynamic rate structures that can be changed via the wireless based management system.

#### 5. TRAINING SPECIFICATIONS

- a. Vendor must provide on-site training to City parking staff on the programming of the meters and software management system.
- b. Vendor must provide on-site training to City technicians for routine maintenance, part replacement, clearing coin and credit card jams, mechanism replacement, and relocation of meters.
- c. Vendor must also provide on-site training to City technicians on testing the meter for purposes of parking citation contesting or appeals.
- d. Vendor must provide on-site training to City parking officers on meter operations and enforcement of meter violations.
- e. Vendor must provide marketing materials, customer instruction materials, and suggestions for a smooth transition for public users.

#### 6. DELIVERY REQUIREMENTS

Vendor will supply to the City of Billings upon delivery:

- a. All 150 meters and associated parts substantially at the same time. Associated parts include the vehicle detection sensors.
- b. Two (2) complete sets of all operating parts and technical repair manuals (can be electronic/digital copies).

#### 7. WARRANTY

- a. Vendor will warrant parking meter and products against defects in materials for twelve (12) months from date of installation or fourteen (14) months from the date of delivery to the City, whichever is sooner.
- b. Included in the limited warranty are electronic modules, replacement parts, certain software fixes and upgrades and accessories.
- c. The limited warranty applies to goods determined to be defective in material or workmanship under normal use and service. The following exclusions apply to this warranty:
  - 1. Parts determined to be abused, misused, incorrectly handled, improperly maintained, or vandalized.
  - 2. Consumables and batteries, unless proven to be defective upon supply.
  - 3. Unauthorized, imitation or other non-DPTI parts, accessories, or alterations.
  - 4. Goods affected by environmental conditions or acts of God.
  - 5. Software upgrades or changes to changes in City system, software, hardware or other operating environment changes.
  - 6. Change requests that modify the configuration or features of the system.
  - 7. This limited warranty is the exclusive and sole warranty provided by DPTI and excludes all other warranties whether statutory, express or implied, including without limitation, any warranty of merchantability or fitness for a particular purpose.
  - 8. DPTI is not responsible for any general consequential or incidental damages, loss of use or loss of profits.



**EXHIBIT "B"**  
**PRICE PROPOSAL**

<b>City of Billings Single Space Parking Meter Solution</b>	<b>Price</b>
Meter Cost (Quote for 150 meters)	<b>\$52,500.00</b>
Additional Meter Options (if applicable – add as many as necessary)	
-Communications Gateway (LoRaWAN, solar-powered)	<b>\$800.00</b>
Management Software (base cost)	<b>No Charge</b>
Additional Modules for Management Software (if applicable – add as many as necessary)	<b>No Charge</b>
Management Software Cloud Hosting (if applicable – include setup, configuration, and all on-going costs)	<b>No Charge</b>
Estimated Broadband Cellular Monthly Costs (based on 150 Meters)	<b>\$1,275.00</b>
Implementation & Training (include any travel related expenses)	<b>\$3,000.00</b>
Tech Support/Annual Maintenance (include both initial & on-going costs)	<b>No Charge</b>
Other:	
- Installation and Freight Cost (Meters/Sensors & Gateways)	<b>\$2,280.00</b>
- Annual Credit Card Gateway Fee (assuming 2 CC transactions, 300 days/year)	<b>\$5,400.00</b>





ONE TOWER SQUARE  
HARTFORD, CT 06183

**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**TYPE V INFORMATION PAGE WC 00 00 01 ( A)**

**POLICY NUMBER: (HJUB-1G75500-6-16)  
RENEWAL OF (HJUB-1G75500-6-15)**

**INSURER: TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA**

**NCCI CO CODE: 13579**

1.

**INSURED:**

**CIVICSMART, INC.  
316 N. MILWAUKEE ST., STE 202  
MILWAUKEE WI 53202**

**PRODUCER:**

**AON RISK SERVS CENTRAL  
10700 RESEARCH DR STE 450  
MILWAUKEE WI 53226**

Insured is **A CORPORATION**

Other work places and identification numbers are shown in the schedule(s) attached.

2. The policy period is from **07-30-16 to 07-30-17 12:01 A.M.** at the insured's mailing address.

3. **A. WORKERS COMPENSATION INSURANCE:** Part One of the policy applies to the Workers Compensation Law of the state(s) listed here:

**AZ CA GA IL MO VA WI**

**B. EMPLOYERS LIABILITY INSURANCE:** Part Two of the policy applies to work in each state listed in item 3.A. The limits of our liability under Part Two are:

**Bodily Injury by Accident: \$ 1000000 Each Accident  
Bodily Injury by Disease: \$ 1000000 Policy Limit  
Bodily Injury by Disease: \$ 1000000 Each Employee**

**C. OTHER STATES INSURANCE:** Part Three of the policy applies to the states, if any, listed here:

**AL AR CO CT DC DE FL HI IA ID IN KS KY LA MA MD ME MI MN MS MT NC  
NE NH NJ NM NV NY OK OR PA RI SC SD TN TX UT VT WV**

**D. This policy includes these endorsements and schedules:**

**SEE LISTING OF ENDORSEMENTS - EXTENSION OF INFO PAGE**

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All required information is subject to verification and change by audit to be made **ANNUALLY**.

**DATE OF ISSUE: 08-15-16 SG**

**OFFICE: CHICAGO 033**

**PRODUCER: AON RISK SERVS CENTRAL**

**RM230**