

ATTACHMENT B TO AGENDA FILE NO. 2020-0084

**AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
IPS GROUP, INC.
for
ON-GOING SOFTWARE FEES, SERVICES, AND AS-NEEDED FUTURE
EQUIPMENT PURCHASES AND REPAIRS
AGREEMENT NO. 88-2020MA**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and IPS GROUP, INC., a Pennsylvania Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or their designated representative informed of the progress of said services at all times.
2. **TERM OF AGREEMENT.** This Agreement shall commence on November 1, 2020, and shall terminate on October 31, 2025, subject to earlier termination as provided below. All current agreements and amendments with Service Provider shall terminate upon the commencement and execution of this agreement.
3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:
 - a. **Maximum Expenditure.** The maximum expenditure under this Agreement shall not exceed \$860,000.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum

Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

- b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.
- c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

- a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.
- b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

- c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-CONTRACTORS**

- a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's sub-contractors shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's sub-contractors. Service Provider shall compensate each Service Provider's sub-contractors in the time periods required by law. Any Service Provider's sub-contractors employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's sub-contractors satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

- b. Service Provider shall also include a clause in its Agreements with Service Provider's sub-contractors which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's sub-contractors to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

- a. In performance of this Agreement, Service Provider and Service Provider's sub-contractors shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.
- b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction

of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of Executive Director (President/CEO) of District in each instance, which agreement shall not be unreasonably withheld.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

- a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the Equipment and/or performance of Services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.
- b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the Equipment and/or performance of Services by Service Provider provided for in this Agreement.

- c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.
- d. Notwithstanding anything to the contrary in this Agreement, Service Provider shall not indemnify or hold the District harmless against any claim of indirect or consequential damages or loss of profits (collectively, Consequential Damages), except that Service Provider shall indemnify and hold the District harmless for against any claim of Consequential Damages due to Service Provider's failure to perform software services as required in Attachment A (Scope of Services) but said claim for Consequential Damages shall be limited to the Service Providers Professional [E&O], Data Breach, and Cyber Liability Insurance Coverage.

10. **INSURANCE REQUIREMENTS**

- a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:
 - (1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars (\$1,000,000) per Occurrence and two million dollars (\$2,000,000) Aggregate for bodily injury, personal injury and property damage.

- (a) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$5,000 unless District has approved of a higher deductible or self-insured retention in writing.
 - (b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit A, Certificate of Insurance, attached hereto and incorporated herein).
 - (c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.
 - (d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").
- (2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- (3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars (\$1,000,000) each accident, \$1,000,000 disease policy limit and \$1,000,000 disease

each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

- (4) Professional Liability insurance in the amount of \$1,000,000 per claim and \$1,000,000 aggregate.
 - (a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.
 - (b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, "tail" coverage in the same minimum amount as set forth in this paragraph.
 - (c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.
- (5) Cyber Liability insurance, with limits not less than two million dollars (\$2,000,000) per occurrence or claim and two million dollars (\$2,000,000) aggregate. Coverage shall be sufficiently broad to respond to the duties and obligation as undertaken by the service provider in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to the infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security. The policy shall provide coverage for breach response, notification and defense costs as well as regulatory fines and

penalties and credit monitoring expenses with limits enough to respond to these obligations.

- (a) The deductible or self-insured retention on this Cyber Liability policy shall not exceed one hundred thousand dollars (\$100,000) unless the District has approved of a higher deductible or self-insured retention in writing.
 - (b) The Cyber Liability policy shall be endorsed to include the District; its agents, officers, and employees as additional insureds in the form required by the District (see Exhibit A, Certificate of Insurance).
 - (c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.
 - (6) Umbrella or Excess Liability insurance with limits no less than one million dollars (\$1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer's Liability policies.
 - (7) Data Breach Liability insurance with limits not less than two million dollars (\$2,000,000) per occurrence or claim and two million dollars (\$2,000,000) aggregate. This policy must provide excess insurance over the same terms and conditions required above for Cyber Liability Insurance.
- b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form

acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit A and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

- c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.
- d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to

the project, including the Service Provider or its agents, employees, or subcontractors.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.
13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.
14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.
16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.
17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior

to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

- a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.
- b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, sub-contractor and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.
- c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived,

extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to reasonably estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS (IF APPLICABLE)**

- a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.
- b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District as required by law. Service Provider shall submit certified payrolls electronically via the software LCPtracker.
 - (1) LCPtracker is a web-based system, accessed on the World Wide Web by a web browser. Service Provider will be given a Log-On identification and password to access the San Diego Unified Port District's reporting system upon Service Provider's request.
 - (2) The use of LCPtracker by the Service Provider is mandatory. Access to LCPtracker will be provided at no cost to the Service Provider.
 - (3) In order to utilize LCPtracker, the Service Provider needs a computer and internet access. A digital camera and a scanner may be useful. For more information, go to www.lcptracker.com. To Login, go to www.lcptracker.net and from the homepage, select LOGIN and enter the Username and Password that will be provided to you by the District upon Service Provider's request.

- (4) Use of the system will entail data entry of weekly payroll information including; employee identification, labor classification, total hours worked and hours worked on this project, wage and benefit rates paid etc. The Service Provider's payroll and accounting software might be capable of generating a 'comma delimited file' that will interface with the software.
- (5) Service Provider must require all lower-tier sub participants the mandatory requirement to use LCPtracker to provide any required labor compliance documentation. Lower-tier sub participants will be given a Log-On identification and password from the Service Provider.
- (6) Training options can be provided to the Service Provider upon request.

21. **SERVICE PROVIDER/CONTRACTOR REGISTRATION PROGRAM (IF APPLICABLE)**

- a. In accordance with the provisions of Labor Code section 1771.1. (a) A contractor or subcontractor shall not be qualified to bid on; be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

- b. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
 - c. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
 - d. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
22. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.
23. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.
- a. Submit all correspondence regarding this Agreement to:

Ken Wallis, Director, Port as a Service
Port as a Service
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. 619-686-6361
Email: kwallis@portofsandiego.org
 - b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Chad P. Randall, Chief Operating Officer
IPS Group, Inc.
7737 Kenamar Court
San Diego, CA 92121
Tel. 877-630-6638
Email: chad.randall@ipsgroupinc.com

- c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

IPS GROUP, INC.

Ken Wallis
Director, Port as a Service

Chad P. Randall _____
Chad P. Randall
Chief Operating Officer

Approved as to form and legality:
GENERAL COUNSEL

By: Assistant/Deputy

A manually signed copy of this Agreement transmitted by email or any other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

ATTACHMENT A
SCOPE OF SERVICES
San Diego Unified Port District

District and Service Provider desire to enter into a Single Source Master Agreement for on-going equipment software services and fees (Services) and as-needed future purchases of parking technology hardware/parts (Equipment) and repairs, upon the terms and conditions set in the Agreement. Equipment is defined as all equipment and related parts listed in Attachment C, Equipment and Services, and Attachment D, Fee Schedule & Limited Warranty or any equipment or parts purchased from Service Provider at any time in the future.

1. District will compensate Service Provider for the purchase of Service Provider Equipment and Services, as set forth in Attachment B, Compensation and Invoicing. The Equipment and Services included are described in Attachment C, Equipment and Services, and Attachment D, Fee Schedule & Limited Warranty made a part of this Agreement.
2. **DATA MANAGEMENT SYSTEM (DMS):** Service Provider shall maintain and support Service Provider's Data Management System (DMS) that directs the parking meters' behavior and provides activity and financial reports.
 - a. Service Provider will provide its hosted DMS as long as any of its meters are in service in District tidelands.
 - b. Service Provider's DMS service level shall exceed 98% availability during metered and pay station parking hours; and login to the DMS shall take less than 60 seconds.
 - c. Access to Service Provider's DMS shall not require any software or "plug-ins" to the standard internet browsers currently used by District. Service Provider's DMS shall operate with the most recent versions of internet browsers, including Internet Explorer, Firefox, and Chrome.
 - d. Maintain and support a network for two-way communications between the parking meters and the DMS.
3. **CERTIFICATION AND COMPLIANCE:** Service Provider will maintain all required certifications and compliance throughout the term of this Agreement. Any renewals of certification shall be provided to the District no later than thirty (30) day prior to the expiration of the current certification.
 - a. Service Provider shall maintain PCI Certification, for the term of this Agreement.
 - b. Meter and/or pay station payment software shall be Payment

Application Qualified Data Security Standard (PA-DSS) validated by a Payment Application Qualified Security Assessor (PA-QSA) and be verified on PCI SSC's list of PA-DSS validated payment applications. Service Provider shall provide documentation of validation and verification prior to contract execution.

- c. Service Provider's credit card gateway shall have and maintain appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as a Level 1 Provider. The credit card gateway shall meet the credit card data security standards requirements outlined by the Payment Card Industry Security Standards Council for service providers and/or software vendors. Compliance with PCI DSS shall have been achieved through a third-party audit process. Service Provider shall comply with Visa Cardholder Information Security Program (CISP) and Mastercard Site Data Protection (SDP) programs.
- d. Should Europay, Mastercard and Visa (EMV) certification become a Regulatory Requirement or Industry Standard for acceptance of credit cards, Service Provider shall, at its own expense, obtain such certification and provide proof to District that this certification has been established.
- e. Service Provider shall, at its own expense, obtain and update certifications for Regulatory Requirements and Industry Standards that impact the Agreement as new requirements are established, and shall notify District in writing of the new requirements within thirty (30) days of these being in effect. Should District learn about new Regulatory Requirements, District will inform Service Provider and request that Service Provider verify compliance with such requirements. Service Provider shall be responsible at its own expense to establish proper certification at the first available opportunity and shall inform District in writing within thirty (30) days of the timeline for compliance and any potential impact to services pending compliance.
- f. The District may, from time to time, wish to implement available upgrades in meter hardware, including those that are the result of changes in certification standards. These associated hardware upgrade costs will be paid by the District as provided for in a quote by Service Provider separate from or by mutual written amendment to this Agreement. The District maintains the sole authority to determine when and where such upgrades will be implemented.

4. EQUIPMENT PURCHASE, MAINTENANCE SUPPORT, DELIVERY OF SPARES AND REPAIRS (RMA's): Purchase, delivery, and installation of future Equipment and technology, as detailed in Attachment C, Equipment and Services, and Attachment D, Fee Schedule & Limited Warranty.

- a. Service Provider shall deliver new, fully-tested Equipment. No used or previously owned Equipment will be allowed unless otherwise agreed to in writing by the District.
- b. Equipment shall be delivered complete, including all parts and materials needed for immediate deployment.
- c. Equipment shall be properly configured, tested, able to connect the network and fully operational at the time District takes possession.
- d. Delivery and installation of all Equipment will take place during standard business hours, Monday through Friday from 8:00 AM to 5:00 PM.
- e. Unless otherwise notified in writing, the Equipment shall be deemed accepted by the District and to its satisfaction no later than ten (10) business days following completed installation or ninety (90) days following delivery, whichever occurs first.
- f. Continued maintenance support of all Equipment, as listed in Attachment C, Equipment and Services, which will include on-going purchase of spare parts and warranty repair services for all current and future Equipment (which includes spare parts).

5. WARRANTY: Service Provider will provide a limited 12-month warranty on the Equipment as described in Attachment C, Equipment and Services, and Attachment D, Fee Schedule and Limited Warranty.

- a. Extended warranties are available for an additional fee, as detailed in Attachment D, Fee Schedule and Limited Warranty.
- b. District shall have the option to purchase extended warranty upon written request at least sixty (60) days prior to the expiration of a valid warranty term for the agreed rate, as defined and listed in Attachment D, Fee Schedule and Limited Warranty.
- c. Warranty will commence when Equipment from the point of installation or 15 months from the date of delivery, whichever is sooner as detailed in Attachment D – Fee Schedule and Limited Warranty.
- d. All newly purchased Equipment will be warranted to operate in full functionality for a period of one years from the date of acceptance.
- e. Service Provider warrants that is will convey good title to the Equipment purchased by District and that at the time of any such sale the Equipment shall be free and clear from all liens and encumbrances.
- f. Service Provider will pay for warranty shipments from General Services – Meter Shop to Service Provider warranty handling facility and back to General Services – Meter Shop.
- g. Service Provider will be responsible for providing all new software and firmware releases (as they become available and approved by

- the District) at no cost to District for the duration of this Agreement.
- h. Service Provider shall supply and maintain an adequate inventory of replacement components at their facility (e.g., card readers, batteries, coin validators, CPU boards).
 - i. Any meter or pay station mechanism that fails within the warranty period shall be replaced/repared within five (5) business days of product receipt and with proper notification via e-mail, fax, or phone call (including voice mail message) at no additional cost to the District.
 - j. Meters and pay stations shall be warranted to operate as proposed within a temperature range of 0 to 140 degrees Fahrenheit and under environmental conditions found in San Diego, including but not limited to wind-blown grime, rain, fog, humidity, sun (including direct sunlight), and vibrations.
 - k. Repair or replacement under warranty of any defective Equipment (including any meter or subcomponent) will not extend the warranty period for that Equipment.
 - l. Returns for credit will only apply once Service Provider has received the defective Equipment (including meter and subcomponents) and confirmed that the defects arose within the warranty period and are covered under the terms and conditions of the warranty contained in the Limited Warranty in Attachment D.
 - m. This warranty does not cover damages, defects, or failures caused by or due to accident, improper handling or operation, natural disaster (including earthquake), acts of terrorism, wars, riots, vandalism, neglect of routine maintenance as instructed by Service Provider, or use of parts not authorized by Service Provider.
 - n. The District acknowledges that any modification (not to include required maintenance and repairs) not reasonably in accordance with Service Provider's directions or performed by others in such manner to affect the work materially and adversely may void this warranty. Prior to any modification to the work, the District shall notify Service Provider in writing. Service Provider will respond in writing within five (5) business days describing how many such modifications will affect the warranty.
 - o. In the case of a non-warranty repair, Service Provider shall provide the District a quotation for any such services on an as-needed basis after inspection of the product to be repaired. Service Provider shall perform non-warranty repair services upon receipt of a purchase order in the amount of the approved price of the work. Service Provider shall use all reasonable endeavors to return non-warranty repaired equipment within 30-days of initial receipt and acceptance of the quoted price and equipment, as detailed in Attachment D, Fee Schedule and Limited Warranty.

- p. In the case of a warranty repair, Service Provider shall complete warranty repair services upon receipt and initial acceptance of equipment. Service Provider shall return warranty repaired equipment within 30-days of initial receipt and acceptance of equipment, as detailed in Attachment D, Fee Schedule and Limited Warranty.

6. CUSTOMER SUPPORT: On-going customer support for current and future Equipment, technology, data management, reporting and analytics.

- a. Service Provider will provide customer support via a toll-free number that shall be available, at a minimum, Mondays through Fridays from 8:00 AM to 5:00 PM PST. The District reserves the rights to change the business hours to reflect changes in the meter and/or pay station hours and days of operation.
- b. If customer support is not available when a call is placed, the District shall receive a call back within 15 minutes during operating hours.
- c. Calls requiring a response from a senior member of Service Provider's staff shall be returned within 30 minutes during the above hours.
- d. Emails sent to customer support and/or Service Provider's staff during the above-mentioned hours will receive a response within 24-hours of submitted email request.
- e. Service Provider can provide on-site services at the District's request. Lead times and costs for such services will be provided at the time of the request.
- f. Any subcontractor(s), (e.g., gateway companies, payment processors, etc.) will be subject to the same availability standards (i.e., between the hours of 8:00 a.m. to 5:00 p.m. PST) and shall return calls within 15 minutes.
- g. Service Provider shall send a representative to District within four (4) hours of request, should meter, pay station, or DMS malfunction require on-site resolution which is not covered by preventative maintenance (as described in this Agreement), as determined by the District. Should the malfunction have resulted from a failure by District to perform preventative maintenance, then District shall pay Service Provider the reasonable costs of Service Provider in making such on-site resolution.

7. TRAINING: Provide continued training for all new and current District employees who provide the following services for meters and/or pay station: installation, maintenance/repair, staff and end-customer support, enforcement, accounting/reconciliation/financial reporting, administration, and collections.

- a. Technical Training (4-hour training session): Service Provider shall provide the District staff with in-depth, hands-on, technical training on the functionality of the meters and pay stations. Training will be conducted in person, on an as needed basis, no more than twice annually. Training dates will be scheduled, by mutual agreement, at least thirty (30) days prior to the actual day. Technical training shall be divided into two sections: physical maintenance of the meter and pay station and virtual maintenance of the meter and pay station.
- b. At the conclusion of physical maintenance training, District staff will be able to easily complete the following tasks:
 - Deconstruct a meter and/or pay station down to its core elements;
 - Construct a meter and/or pay station from a core elements;
 - Clear all types of jams that may occur in a meter and/or pay station; and
 - Verify if a meter and pay station are operational.
- c. Virtual Maintenance: at the conclusion of virtual maintenance training, District staff will be able to easily complete the following tasks:
 - Access the Battery Voltage Report from the DMS;
 - Access the Automated Address Event Report from the DMS;
 - Access the Vault Collection Notification Report from the DMS;
 - Access the Electronic Maintenance Reporting system with the DMS;
 - Log an event in the Electronic Maintenance Reporting system;
 - Search for an event in the Electronic Maintenance Reporting system;
 - Modify meter and/or pay station information in the Electronic Maintenance Reporting system;
 - Access the Meter and Pay Station Maintenance Report from the DMS;
 - Access the Meter and Pay Station Communication Report from the DMS;
 - Access the GPS Location Report from the DMS.
- d. If, at the District sole discretion, more training is required, Service Provider shall provide up to three (3) additional, eight-hour days of detailed training covered deployment, maintenance, finance/accounting/audit, enforcement, and DMS usage, as scheduled by the District.
- e. Service Provider shall supply and keep current hard and digital copies of all operating, training and repair manuals. These comprehensive manuals will reflect all aspects of training described above, to provide a reference to personnel. Service Provider shall

- ensure the availability of current manuals and shall provide all manuals for any future upgraded or new services to the District.
- f. Service Provider shall be entitled to invoice and be paid for its reasonable cost (including a reasonable overhead recovery) in performing any obligation in terms of this section 7.
 - g. Service provider shall provide a quote for training costs to the District, and quote shall be signed and approved by the District prior to commencement of any training.
 - h. District shall not pay cost for any initial training related or required for any new parking technology deployed by Service Provider on District tidelands.
- 8.** District will make available to Service Provider any currently existing documents, data or information required for the performance of this Agreement, including any material updates therein. Designate a representative authorized to act on behalf of the District.
- 9.** District will keep, at its own cost and expense, the Equipment in good repair, condition and working order, adhering to any requirements for preventative maintenance.
- 10.** District will notify Service Provider of any need for customer service support or warranty repair work and will coordinate the return process with Service Provider. Be solely responsible for meter posts and housings, including keeping meter posts, keys locks and housings in good working order and in compliance with all applicable laws. Comply with all national, state, and local laws and regulations in any way relating to the possession or use of the Equipment and Services.
- 11.** District will be fully responsible, at its own cost and expense, to provide and maintain a merchant account and associated merchant account services using the District designated third party provider.
- 12.** Service Provider shall bear risk of loss of the Equipment, including any damage sustained during transportation to the delivery site. Risk in the Equipment shall pass to the District upon delivery. Transfer of title to Equipment shall only pass to District upon full payment for the Equipment.

**ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District**

1. COMPENSATION

- a. For the satisfactory performance according to the Equipment specifications and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.
- (1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted for Equipment and Services as described in Attachment A, Scope of Services. Invoice(s) shall be on a Fixed Fee basis and shall include:
- Date work performed;
Description of the work performed.
- (2) Equipment and Services shall be invoiced in accordance with Attachment D, Fee Schedule and Limited Warranty, made a part of this Agreement, and as further described in Attachment A, Scope of Services. Fees not specified in Attachment D will be allowed with written authorization by District.
- (3) Service Provider will submit a ninety (90) day written notice and obtain approval from District, prior to any price change or increases to prices listed within Attachment D, Fee Schedule and Limited Warranty. Said price changes or increases must be consistent with the Future Pricing Adjustment Section within Attachment D, Fee Schedule and Limited Warranty such approval may not be unreasonably withheld.
- (4) District may compensate Service Provider for any future equipment, services or fees not listed in this Agreement with prior written authorization from District.

2. INVOICING

- a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as may be reasonably required.
- b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section 1, above:

- 1) Agreement No. 88-2020MA
- 2) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

- 3) Dates of service provided
 - 4) Date of invoice
 - 5) A unique invoice number
- c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.
 - d. Invoices shall be mailed to the attention of: Liza Anderson, Port As A Service, San Diego Unified Port District, P.O. Box 120488, San Diego, CA 92112-0488.
 - e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.
 - f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

ATTACHMENT C

EQUIPMENT AND SERVICES

M5™ SINGLE SPACE METER

IPS single-space meters provide customers and their patrons with a simple and consistent parking user experience which is more cost-effective, customer-friendly, and more reliable than alternatives. The patented IPS solution uniquely provides a credit card enabled single-space meter. IPS smart meters offer multiple payment options (credit/debit card, optional contactless payment on M5™, coins, smart card, and tokens), access to real-time data, solar power technology, and a comprehensive web-based management system.

Primary Features/Benefits:

- Mechanism is protected by zinc alloy meter dome and UV resistant, anti-fog Lexan cover
- Keypad has four easy-to-read buttons for intuitive payment navigation—rated at more than 250,000 cycles
- LED lights on front and back of meter alert enforcement officers of meter status: paid (green), unpaid (red), and meter fault
- Vandal resistant coin slot/chute allows for worry-free operation and quick servicing
- Environmentally-friendly solar panel and combination rechargeable/back-up battery pack maximize ongoing power
- Proven ability to operate under varying environmental conditions such as snow, sleet, rain, humidity, dust storms, extreme cold, and extreme heat
- RFID technology automatically identifies the meter location and downloads the correct operating configurations



MS1™ PAY STATION

The MS1™ pay station is the latest generation of unattended payment systems from IPS Group. The MS1™ incorporates the unique features of the Proven™ IPS single-space platform, while offering customer focused features such as IntelliTouch™ transaction processing. The MS1™ features robust hardware design, which includes a stainless-steel cabinet and scratch-resistant armored glass.

Primary Features/Benefits:

- **Flexibility:** The MS1™ is available in pay-by-space, pay-and-display, and pay-by-plate models. A simple change of the keypad and a firmware update are all that are required.
- **Unparalleled Power Efficiency:** Powered by environmentally-friendly solar panel and combination rechargeable and back-up battery pack to maximize ongoing power.
- **Customization:** Configurable buttons available for help screens, alternative languages, max time, and more.
- **Guaranteed Quality:** High security stainless steel housing with weather and graffiti-resistant powder coating make it both durable and easy to maintain.
- **Improved Visibility:** Blue LED lighting above the display provides enhanced visibility for motorists, technicians, and collections staff.
- **Customer-Friendly Interface:** IntelliTouch™ provides additional flexibility when completing a transaction. Users may begin the payment sequence in any order. The MS1™ will then guide them through the transaction.
- **Dependability:** Pay stations communicate wirelessly on the GPRS/3G cellular network, ensuring fast and reliable communications while processing secure credit card authorizations, wireless downloads of rates and messages, and transmissions to DMS.
- **Easy Maintenance:** Modularly designed with the technician in mind for easy plug-and-play maintenance.
- **Future-proof Design:** IPS Group's open interface provides seamless integration with third-party systems, such as enforcement, permitting, and ANPR (automatic number plate recognition) in order to further optimize parking operations.



VECHICLE DETECTION SENSORS

IPS Vehicle Detection Sensors reliably detect the presence and absence of a vehicle in a parking space, while recording arrival and departure times. IPS sensor data integrates seamlessly with the IPS data management system and third-party enforcement applications, creating a powerful system for monitoring real-time occupancy and analyzing parking trends. The IPS sensor uniquely directs all sensing information to the IPS parking meter cellular communications backbone, saving customers the hassle of installing additional network equipment and dramatically reducing the cost of ownership. The IPS sensor uses multiple sensing technologies to detect vehicles. Its unique design provides the most accurate data on the sensor market and allows for quick installation and servicing. NOTE: While the Sensors provide accurate data no sensor system can be 100% accurate because of many variable conditions such as inaccurate parking, line of sight interference, weather conditions, human intervention and many other factors not associated with the Sensor operation.

Benefits of IPS Sensors

- Ability to reset the meter to zero when a vehicle leaves the parking space.
- Ability to prevent meter feeding, thereby generating turnover.
- Ability to offer courtesy time resulting in positive public perception of the meters.
- Access to real-time occupancy data.
- Installed under the ground or in the meter dome, eliminating the need for additional infrastructure.
- Proven to increase revenue.

Dome Mount (M5 only)

- Non-intrusive installation—sensor is integrated directly into the meter dome
- Easy access for maintenance and/or replacement
- Configuration for any parking environment
- Wireless connection to the IPS meter via cellular network—no additional infrastructure required

In Ground (M3 or M5)

- Underground sensor contains both power source and antenna for a completely wireless solution
- Wireless connection to the IPS meter via cellular network—no additional infrastructure required



DATA MANAGEMENT SYSTEM

The IPS Data Management System (DMS) is a real-time, web-based application that allows parking professionals to remotely monitor their parking network from anywhere, at any time.

Reporting & Analytics

A comprehensive set of financial, technical, and administrative reporting features paired with remote meter configuration make the DMS both intuitive and powerful. DMS analytics creates a visual representation from large tables of data to help managers gain helpful insight into the patterns and trends of their parking program and leverage this information to derive future strategy and optimize systems.

All reports are flexible with customized views for comparison purposes and/or to reveal “what-if” scenarios. With these fully integrated tools, customers can better manage the financial aspects of the Park’s parking program. All reports can be exported into various formats, including XLS, CSV, and PDF.

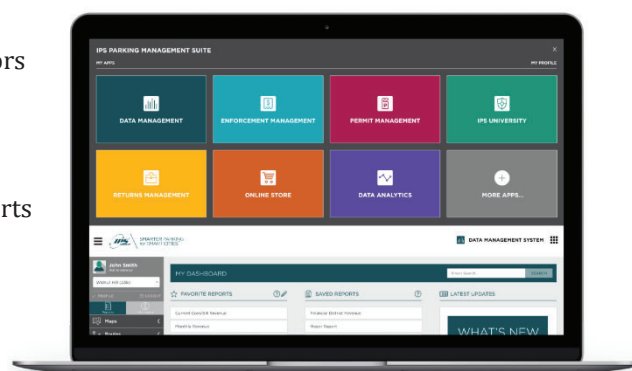
Seamless Integration

The DMS allows managers to seamlessly integrate parking meters with vehicle detection sensors, pay-by-cell capability, and other smart applications. A standard web browser is the only tool required to access the DMS and to make changes/ configurations to the Park’s meters.

- Hardware requirements: IPS provides a hosted DMS; there is no local hardware required other than internet access.
- Network requirements: IPS recommends a high-speed internet connection to the DMS service, such as cable or DSL access.
- Operating system software requirements: An internet browser is the only tool required to access the system. Windows and Apple iOS are typical.
- Browser requirements: Any current internet browser will be sufficient to access the IPS DMS. MS Explorer, Mozilla Firefox, Google Chrome, iOS supported browsers are all compatible, including mobile phone browsers.

Primary Features

- Real-time updates and live alerts
- Customizable routes to maximize efficiency
- Seamless integration with all IPS meters and sensors
- Flexibility to use as much, or as little data as you choose
- Ability to monitor meter health remotely
- Analytics view options to turn data into usable charts
- User profiles to control access
- Compatibility with Android OS and Apple iOS



MOBILE APP PAYMENTS

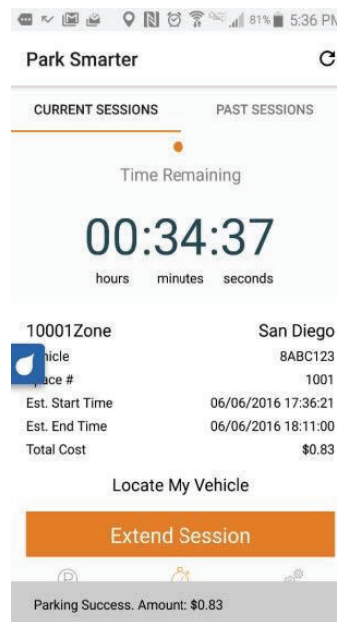
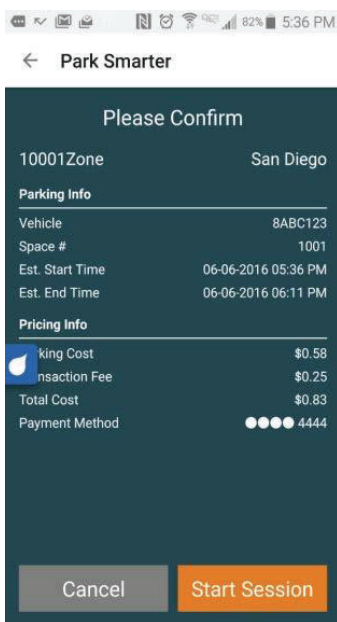
IPS offers its own integrated mobile app called PARK SMARTER™, which works with IPS Smart Meters to bring greater efficiency and choices to the on-street parking customer experience and parking operations.



PARK SMARTER™ integrates with the DMS so that cities can manage parking policy with live alerts, reporting and data analytics across both meters and the mobile app. The app sends expiration notifications and allows the ability to add time to prevent parking ticket fines. Users can add multiple vehicles and credit cards under one account, so business and personal parking is conveniently managed in one place.

Key Features

- Real-time notifications alert users in advance of parking expiration
- Optimized with optional BLE connectivity to put time directly on the meter
- Parking Finder provides direction to open parking spaces
- Ability to pay and extend parking session remotely (if allowed by parking policy)
- Integrates with Visa Checkout and Masterpass, as well as Visa Commerce Network (coming soon)
- No convenience fees



CUSTOMER SUPPORT PROGRAM

IPS clearly understands the importance of ongoing project support and we encourage the District to speak with our references in this regard. We also understand that ongoing support is a critical element of any successful project and the basis of a long-term partnership. IPS is uniquely positioned to provide support services that will translate into the most responsive and comprehensive service offering available to the District.

Help Desk & Ongoing Support: IPS will be providing telephone-based help desk services during standard business hours from 8 a.m. to 5 p.m. CST. IPS offers a toll-free telephone option (877.630.6638). Additionally, IPS provides after-hours service in case of emergency 24/7/365. Additionally, IPS will provide contact information for all IPS senior staff.

Online Help & Manuals: IPS provides online help tools, such as product manuals, frequently asked questions, and a portal to submit and track help tickets. IPS offers the online ability to monitor and track RMA status and view help and training videos. These tools can be accessed 24/7.



Onsite Support: IPS will support the District with onsite project management and technical support during the implementation phase of the contract. Onsite support can be extended at the request of the District. Additional onsite support services can be quoted upon request.

Spare Parts and Warranty Repair Services: Our US-based facility ensures that spare parts are immediately available to the District at any time. The warranty repair process is managed through the DMS. . IPS can solve most repair issues over the phone or will provide some additional training of District staff. For repair services not able to be first achieved on-site by the Customer or by phone, these meters will be returned to IPS at 7737 Kenamar Court, San Diego, CA, 92121, for repair or rework and IPS will endeavor to ship within 3-4 weeks of receipt, depending on the quantities received and work schedules. ALL RETURNS REQUIRE AN "RMA" NUMBER prior to shipment to IPS in order to avoid additional delays. An RMA may be requested by contacting the responsible IPS customer support manager, by contacting the IPS Help desk, phone (877) 630-6638 or (858) 404-0607 or email (support@ipsgroupinc.com). All items returned to IPS must be securely packaged to avoid further damage in shipment and all shipments will be via Ground Freight Service unless expedited service and payment of associated fees are requested. Automated RMA tracking, including work performed to repair meters, can be viewed at any time using IPS meter management system.

ATTACHMENT D

FEE SCHEDULE & LIMITED WARRANTY

SINGLE-SPACE AND SENSORS

Capital Costs

Product/Service	Price per unit
M5™ IPS Credit Card-Enabled Single-Space Meter (includes 12-month warranty, RFID tag, meter top)	\$495.00
Shipping	TBQ
Installation (per Technician per day)	\$950.00
Optional: Extended Warranty (per 12-month period)	\$50.00
Optional: Extended Warranty (48-month period)	\$170.00

M5™ Ongoing Monthly Fees	Option 1	Option 2
Secure Wireless Gateway/Data Fee and Meter Management System Software License Fee (per meter per month)	N/A	\$8.00
Secure Credit Card Gateway Fee (per transaction)	N/A	\$0.06
Optional: Merchant Processing Fees (per transaction)	Interchange + \$0.06	

The ongoing monthly fees will only apply to active single-space meters (meters). Single-space meters (meters) sent for repairs, considered spares and/or inactive, will not be charged the ongoing monthly fees.

NOTE: A functioning meter requires the installation of a meter mechanism, housing, and pole—sold separately. Price per meter/sensor (per unit) is the total fixed price for the equipment. Additional ongoing costs associated with wireless services, management system access, and credit card fees are ongoing and outlined below. Pricing does not include any applicable state or local taxes that are required to be paid by the District currently or in the future. Merchant Processing subject to merchant application and associated fees.

Vehicle Detection Sensors Capital and Ongoing Costs

Product/Service	Price per unit
In-Ground Vehicle Detection Sensors (includes 12-month warranty)	\$295.00
Dome Mount Vehicle Detection Sensors (includes 12-month warranty)	\$295.00

Shipping	\$0.00
Installation (\$2,500.00 minimum total fee)	\$0.00

Vehicle Detection Sensors Ongoing Costs	Cost per space per month
Management System/Base Data Fee	\$3.50
Optional: Real Time Reporting Fee	\$2.75

The ongoing monthly fees will only apply to active vehicle detection sensors. Vehicle detection sensors sent for repairs, considered spares and/or inactive, will not be charged the ongoing monthly fees.

NOTE: Price per sensor (per unit) is the total fixed price for the equipment. Additional ongoing costs associated with wireless services, management system access are ongoing and outlined above. All pricing does not include any applicable state or local taxes that are required to be paid by the District now or in the future.

Single-Space Spare Parts

M5™ parking meter Spare Part Pricing	M5™
Single Space Electronic Meter Mechanism	\$495.00
Hybrid Card Reader	\$52.00
Coin Validator	\$75.00
EMV Hybrid Card Reader	\$125.00
Complete Top Cover (with Lexan insert)	\$75.00
Lexan for Top Cover	\$25.00
Coin Entry Slot	\$2.00
Card Entry Keypad Assy	\$55.00
Validator Connector Board	\$35.00
M5 Battery Pack 795-600-H3 (non-rechargeable)	\$35.00
M5 Battery Pack (H5) (available on the 147/247 models only)	\$45.00
Validator Connection Cable	\$9.00
Solar Panel / Communications Board (CDMA)	\$185.00
Main Board	\$185.00
Expiry Indicator (rear)	\$9.00
Display Board without NFC	\$95.00
Display Board with NFC	\$140.00
BLE Beacon Upgrade	\$65.00
RFID Tag	\$10.00
MK5 Battery Charger (daisy chain charging unit)	\$77.00
Card Reader Cleaning Card featuring Waffletechnology® (40) per box	\$54.00

Battery Door Cover	\$5.00

Meter Housings and & Accessories

Product/Service	Price per unit
IPS Zinc top over Iron Vault-M90 style (large vault, std. locks, std. black color)	\$235.00
IPS All Iron -M95 style (large vault, std. locks, std. black color)	\$235.00
High Capacity Coin Can with IPS locks (holds approx. \$65-fits M90 or M95 style housings)	\$45.00
Standard Capacity Coin Can with IPS locks (holds approx. \$45)	\$35.00
Standard IPS Locks	\$25.00
Standard IPS Keys	\$15.00
Yoke Assembly (Twin Mounting Adapter) std. black color	\$75.00
Meter Poles (Schedule 40 -2" ID -Galvanized)	\$45.00
Vintage Sleeve – std. black color	\$49.00
Vintage Base- std. black color	\$60.00
Collar for Vintage Sleeve – std. black color	\$30.00
Medeco E-Lock (lock only) (NOTE: additional Medeco accessories require separate quote)	\$135.00

Collection Systems and & Accessories

Product/Service	Price per unit
Collection Cart Only (standard)	\$500.00
Collection Cart Only (with enhanced suspension)	\$795.00
Standard Collection Head	\$250.00
Smart Collection Head	\$695.00
Coin Collection Canister – Steel	\$500.00
Coin Collection Canister – Aluminum	\$500.00

Sensor Spare Part Pricing	In-Ground	In-Dome
IPS vehicle detection sensor	\$125.00	\$275.00
Meter Comms Board (for sensor)	\$125.00	NA
Battery Replacement (per D-cell)	NA	\$20.00

Note: This pricing is FOB, IPS Group, San Diego, CA. Sales taxes and shipping charges will be added to the final invoice.

Multi-Space

MS1™ Multi-Space	Price Per Unit
IPS MS1™ Multi-Space Pay Station – Pay and Display w/ Mechanical Locks (Solar powered, Includes 12-month warranty)	\$5,395.00
IPS Revolution™ Upgrade Kit Multi-Space Pay Station – Pay and Display (Solar powered, Includes 12-month warranty)	\$2,750.00
Shipping and Installation (per unit) – During normal business hours under normal conditions, without unexpected delays.	TBQ
Optional: Extended Warranty (per 12-month period)	\$295.00
Optional: Add for Bill Note Acceptor (BNA)	\$1,250.00
Optional: Add for Pay-by-Space	\$195.00
Optional: Add for Pay-by-Plate	\$225.00
Optional: Contactless Card Reader (NFC)	\$399.00
Optional: Additional Coin Box	\$195.00

NOTE: Price per unit is the total fixed price for the equipment. Additional ongoing costs associated with wireless services, management system access, and credit card fees are ongoing and outlined below. Pricing does not include any applicable state or local taxes that are required to be paid by the District currently or in the future. Pay-station installation assume surface mount to existing locations. This quotation does not include any civil or concrete work that may be required.

MS1™ Ongoing Costs	Monthly
Secure Wireless Gateway/Data Fee and Meter Management System Software License Fee	\$55.00
Secure Credit Card Gateway Fee (per transaction)	\$0.06

The ongoing monthly fees will only apply to active multi-space meters (pay stations). Multi-space meters (pay stations) sent for repairs, considered spares and/or inactive, will not be charged the ongoing monthly fees.

NOTE: A functioning meter requires the installation of a meter mechanism, housing, and pole—sold separately. Price per meter/sensor (per unit) is the total fixed price for the equipment. Additional ongoing costs associated with wireless services, management system access, and credit card fees are ongoing and outlined below. Pricing does not include any applicable state or local taxes that are required to be paid by the District currently or in the future.

Multi-Space Spare Parts

MS1™ & Revolution™ Upgrade Kit Spare Parts List	Price per unit
Standard Card Reader Assembly with PCBA	\$129.00
AC Power Upgrade Kit	\$150.00
Standard EMV Contact Card Reader Assembly with PCBA	\$499.00
Coin Validator Assembly	\$75.00
Bill Note Acceptor Assembly (with 600 note stacker) *	\$1,250.00
Additional 600 note stacker cartridge (No Lock)	\$230.00
Solar Panel Replacement Kit	795.00
Main Operating Board (with LCD and modem)	\$995.00
LCD Display Only (with armored glass)	\$295.00
Thermal Printer	\$795.00
4-key Horizontal Keypad	\$69.00
4-key Vertical Keypad	\$69.00
6-Key Horizontal Keypad	\$75.00
Pay-by-Space Keypad Assembly	\$195.00
Pay-by-Plate Alphanumeric Keypad Assembly	\$225.00
Battery 16Ah (rechargeable)	\$199.00
Battery 32Ah (rechargeable)	\$324.00
Coin Shutter	\$199.00
Additional Large Coin Canister	\$195.00
Additional Small Coin Canister	\$95.00
Paper Rolls (Sticky back) approx. 2400 2.75" tickets (.004" thick)	\$29.50
Paper Rolls (standard) approx. 2000 3" tickets (.0045" thick)	\$24.50

** only available on an upgrade kit if the original pay-station has the note acceptor option.*

NOTE: This pricing is FOB, IPS Group San Diego, CA and includes all applicable discounts. Any sales tax shall be in addition the prices quoted above.

Mobile Payments

ParkSmarter™ Mobile Payment Solution

Product/Service	Price per unit
ParkSmarter™ mobile payment decals	\$1.50
Decal Shipping	at cost
On-site Setup and Installation	see below
Additional signage or scope of work to be quoted upon request	TBD

On-site setup: IPS shall provide the District with instructions on how to setup / install decals in support of the ParkSmarter™ mobile payment application. However, IPS will send staff to provide installation and setup services. The costs for these services will be based on the costs of travel, rental car, hotel, and per diem expenses and will be added to the setup invoice at the completion of the service.

Per Transaction Fees	Fees
Secure Credit Card Gateway Fee (per transaction)	\$0.06
Optional: Merchant Processing Fees (per transaction)	Upon request

Per transaction fees: IPS shall charge the District the same per transaction gateway fee as we currently charge for the meter program in place today. No additional convenience charges are required.

Preferred Card Processing Rates: Using our own payment provider IPS can provide preferred pricing for small ticket mobile payment merchant processing. Quotes for this service are available upon request.

Implementation with 3rd parties

Product/Service	Price per unit
Implementation with 3 rd party for enforcement	TBD

Implementation: IPS shall integrate with 3rd party enforcement software or IPS can provide the District with IPS enforcement software at prices not included in this proposal. IPS does not intend to charge for 3rd party integration, however, if any District designated 3rd party charges IPS for such implementation, then those charges will be passed along to the District at IPS costs.

NOTE: Pricing does not include any applicable state or local taxes that are required to be paid by the District currently or in the future. This pricing is FOB, IPS Group, San Diego, CA. Sales taxes and shipping charges will be added to the final invoice.

REPLACEMENT PARTS & REPAIR SERVICES:

IPS shall provide warranty and non-warranty repair services based out of our office in San Diego, CA. For repair services not able to be first achieved on-site by the Customer or by phone, these meters will be returned to IPS at 7737 Kenamar Court, San Diego, CA, 92121, for repair or rework and IPS will endeavor to ship within 3-4 weeks of receipt, depending on the quantities received and work schedules. ALL RETURNS REQUIRE AN "RMA" NUMBER prior to shipment to IPS in order to avoid additional delays. An RMA may be requested by contacting the responsible IPS customer support manager, by contacting the IPS Help desk, phone (877) 630-6638 or (858) 404-0607) or email (support@ipsgroupinc.com). All items returned to IPS must be securely packaged to avoid further damage in shipment and all shipments will be via Ground Freight Service unless expedited service and payment of associated fees are requested. Automated RMA tracking, including work performed to repair meters, can be viewed at any time using IPS meter management system.

Product/Service	Price per unit
Single Space M3 TM or M5 TM Non-Warranty repair work (includes parts/labor)	\$95.00 + shipping
Multi-Space MS1 TM Non-Warranty repair work	To be quoted
On-site technical services: shall be quoted to include labor, travel costs, accommodation, car rental and per diem costs. Spare Parts shall be quoted and added to final costs based on the identified needs.	To be quoted
Shipping costs for any of the above shall be added to the final invoice	

Note: Please note that if upon receipt a meter is determined to be beyond repair, in IPS's sole discretion, the meter shall not be repaired for the fee described above and a replacement meter shall be required.

FUTURE PRICING INCREASES:

NOTE: Pricing within this Attachment D shall remain unchanged for the first 18 months after the Effective Date of the Agreement and the Service Provider shall have the right (not the obligation) to adjust by 2% annually thereafter for the remainder of the Agreement.

Limited Warranty

IPS will provide a limited warranty for any new meter (single-space or multi-space), sensor product, and all associated spare parts and products/services manufactured and supplied by IPS for 12 months. The warranty protects against defects in materials and workmanship from the point of installation or 15 months from the date of delivery, whichever is sooner, and 90 days from the date of delivery received in the case of spare or repaired products. Should IPS repair any equipment during the warranty period and in the process install a new part/s then that new part/s shall be covered by the same warranty period as applicable for the repaired equipment. For the avoidance of doubt should a piece of equipment (being 9 months from the date of installation) be repaired and a new part/s be installed therein then that new part/s shall be subject to 3 months warranty. IPS does not cover defects caused by improper care or use, lack of preventative maintenance, and does not warranty any defects due to vandalism or other factors contained as a part of the Force Majeure clause below.

Additional Warranty Provisions:

IPS must have the opportunity to assist in the initial deployment and system installation.

Repair or replacement under warranty of any defective product (including any meter or subcomponent) does not extend the warranty period for that product or subcomponent.

IPS will either repair or replace products or subcomponents, at our discretion, that are found to be defective within the defined warranty period.

Returns for credit will only apply once IPS has received defective product (including any meter or subcomponent) and confirmed that defects were within the warranty period and are covered under the terms and conditions of the warranty provided.

THE WARRANTIES CONTAINED IN THE AGREEMENT DOCUMENTS ARE IPS'S SOLE AND EXCLUSIVE WARRANTIES. THE EXTENT OF IPS'S LIABILITY FOR A WARRANTY CLAIM IS LIMITED TO THE REPAIR OR REPLACEMENT OF THE DEFECTIVE EQUIPMENT OR DEFECTIVE SERVICE. IPS AFFIRMATIVELY EXCLUDES ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE EQUIPMENT AND/OR SERVICES PROVIDED INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT IPS KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE) WHETHER ARISING BY LAW OR BY REASON OF CUSTOM OF THE TRADE.

Exclusions:

Warranty voided with use of imitation or non-genuine IPS replacement parts, unauthorized alterations, abuse, vandalism, improper handling or general misuse to the equipment (hardware or software), including attempted repairs that result in damage. Force Majeure: IPS shall not be liable for any warranty provisions where such product failure is as a result of Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electric Unified Port District or cellular telecommunication failures caused by any of the events or causes described above).

Preventative Maintenance (Meters):

Preventative maintenance will be similar to current single-space parking meters. However, the primary elements will be a working battery, card reader and coin validator.

Meters surfaces should be kept clean with mild soap and water.

The card reader heads should be cleaned with a cleaning card every 1-2 months to ensure optimum performance. Cleaning cards may be purchased from IPS.

At 9-12 month increments, the coin validator shall be visually inspected for any damage or debris. Compressed air may be used to keep the card reader, coin acceptor or printer (if applicable) clear of debris, every 9-12 months.

Additional preventative maintenance shall be administered by District staff at such time as it is apparent to be necessary, even if it should occur on a more frequent basis than described herein.

District, at its own cost and expense, shall keep the equipment in good repair, condition and working order after warranty expiration.

Notwithstanding anything to the contrary contained in this Agreement, the terms and conditions contained in this Limited Warranty will take precedence.

EXHIBIT A

CERTIFICATE OF INSURANCE

San Diego Unified Port District

By signing this form, the authorized agent or broker **certifies** the following:

- (1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.
- (2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage **noted on page 2 of this certificate**.
- (3) Signed copies of **all** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 100085 – 185
Duluth, GA 30096 – OR –
Email: portofsandiego@ebix.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)			SDUPD Agreement Number: _____ This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.	
CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability <input type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-made Form Retro Date _____ <input type="checkbox"/> Liquor Liability Deductible/SIR: \$ _____		Commencement Date: Expiration Date:	Each Occurrence: \$ _____ General Aggregate: \$ _____
	Commercial Automobile Liability <input type="checkbox"/> All Autos <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-Owned & Hired Autos		Commencement Date: Expiration Date:	Each Occurrence: \$ _____
	Workers Compensation – Statutory Employer's Liability		Commencement Date: Expiration Date:	E.L. Each Accident \$ _____ E.L. Disease Each Employee \$ _____ E.L. Disease Policy Limit \$ _____
	Professional Liability <input type="checkbox"/> Claims Made Retro-Active Date _____		Commencement Date: Expiration Date:	Each Claim \$ _____
	Excess/Umbrella Liability		Commencement Date: Expiration Date:	Each Occurrence: \$ _____ General Aggregate: \$ _____
CO LTR	COMPANIES AFFORDING COVERAGE		A. M. BEST RATING	
A				
B				
C				
D				
A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A-VII or better unless approved in writing by the District.				
Name and Address of Authorized Agent(s) or Broker(s)			E-mail Address: Phone: _____ Fax Number: _____ Signature of Authorized Agent(s) or Broker(s) <div style="text-align: right;">Date: _____</div>	

SAN DIEGO UNIFIED PORT DISTRICT
REQUIRED INSURANCE ENDORSEMENT

<u>ENDORSEMENT NO.</u>	<u>EFFECTIVE DATE</u>	<u>POLICY NO.</u>
NAMED INSURED:		
GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES): All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises		

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.
2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.
3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").
4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

(NAME OF INSURANCE COMPANY)

(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 100085 – 185
Duluth, GA 30096 – OR –
Email to: portofsandiego@ebix.com
Fax: 1-866-866-6516