



Takoma Park City Council Meeting – October 16, 2019 Agenda Item 4

Work Session

Discussion of Request for Approval of a Contract between the City of Takoma Park and Conduent State and Local Solutions, Inc. for Photo Speed Enforcement Services

Recommended Council Action

Consideration of contract.

Context with Key Issues

The Police Department is seeking authority to enter into a new contract with Conduent State and Local Solutions, Inc. (Conduent) in accordance with the terms of an existing contract between Conduent and Prince George's County. The City is currently in a month-to-month contract for photo speed enforcement services with Conduent, riding off Montgomery County's contract with a cost of \$6,451 per month per camera. The current cameras and equipment in use under the existing contract are aging (10 years old) and in need of replacement; replacement can only occur with a new contract due to the depreciation of equipment. Montgomery County has not entered into a new contract with Conduent. Therefore, the City of Takoma Park is seeking to ride Prince George's County's contract for photo enforcement services.

The proposed contract, riding off Prince George's County's contract, will provide all new equipment and significantly reduce administration costs to run the program. The new contract will stipulate the replacement of all equipment with robust high-quality resolution cameras with multi-lane capture capacities at the reduced cost of \$3,349 per month per camera.

Council Priority

Engaged, Responsive and Service Oriented Government

Environmental Considerations

The City of Takoma Park and Conduent State and Local Solutions, Inc. are entering into this contract to reduce speeding on residential streets and schools to prevent injuries and fatalities among pedestrians and motorists.

Fiscal Considerations

Significant reduction in administrative costs for the *Safe Speed Program* plus the opportunity to cite drivers in each travel lane of New Hampshire Avenue. The estimated cost saving of entering into a new contract with Conduent State and Local Solutions, Inc. is approximately \$257,604.

Racial Equity Considerations

In July 2017, the City Council passed Resolution 2017-45 Establishing the City Council's Goals and Priorities for the Takoma Park Police Department. It is the expectation of the City Council that the

Contract authorized by this Ordinance is consistent with these goals and priorities and that any employee authorized to perform duties under the *Safe Speed Program* in the City of Takoma Park will be familiar with and abide by those Goals and Priorities pertinent to their role in the City. Use of speed cameras reduces concerns that traffic enforcement may be subjective and possibly affected by the race of vehicle occupants.

Attachments and Links

- Contract between Conduent State and Local Solutions, Inc. and Prince George's County
- Link to: Prince George's County Government RFP NO. S18-010

Introduced by:

Single Reading Ordinance

**CITY OF TAKOMA PARK, MARYLAND
ORDINANCE NO. 2019-_____**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER
TO EXECUTE A CONTRACT FOR A PHOTO SPEED ENFORCEMENT PROGRAM**

- WHEREAS, Maryland law allows municipalities to enact photo speed enforcement programs; and
- WHEREAS, the goal of the photo speed enforcement program set forth in Maryland law is to reduce speeding on residential streets and streets near schools in an effort to prevent injuries and fatalities among pedestrians and motorists; and
- WHEREAS, photo speed cameras are an additional tool available to police in speed enforcement; and
- WHEREAS, the City's current contract with Conduent State and Local Solutions, Inc. (Conduent) for photo speed enforcement has a cost of \$6,451.00 per month per camera; and
- WHEREAS, the cameras in the City are outdated, and the City must enter into a new contract to obtain replacement cameras; and
- WHEREAS, Prince George's County has competitively bid and awarded a contract for a photo speed enforcement program to Conduent with a cost of \$3,349.00 per camera per month; and
- WHEREAS, entering into a new contract with Conduent under the terms of the Prince George's County contract would result in the installation of new cameras in the City and cost savings; and
- WHEREAS, in accordance with the City's purchasing code, the City may enter into contracts or agreements for cooperative purchasing, without the requirement of competitive bidding.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:

SECTION 1. The City Manager is authorized to enter into a contract with Conduent State and Local Solutions, Inc. for a photo speed enforcement program.

SECTION 2. This ordinance shall become effective upon adoption.

Adopted this _____ day of _____ 2019.

AYE:

NAY:

ABSTAIN:

ABSENT:

**AGREEMENT
AUTOMATED SPEED ENFORCEMENT PROGRAM**

THIS AGREEMENT (the "Agreement") is made this 26 day of Feb 20 19 (the "Effective Date"), by and between Conduent State and Local Solutions, Inc. (the "Contractor"), whose principal business address is 12410 Milestone Center Drive, Germantown, MD 20876, and Prince George's County, Maryland, a body corporate and politic (the "County").

RECITALS

WHEREAS, the County issued Request for Proposal S18-010- Automated Speed Enforcement Program soliciting offers for the deployment of automated traffic violation enforcement devices and the implementation of a digital automated traffic violation enforcement system program; and

WHEREAS, in response to the RFP, the Contractor submitted technical and cost proposals to the County dated April 23, 2018, as amended by the Contractor's Best and Final Offer dated September 17, 2018; and submitted a revised Best and Final Offer dated November 2, 2018; and

WHEREAS, both parties are willing to, and do hereby enter into, this Agreement for an automated speed enforcement program.

WITNESSETH, that for and in consideration of their mutual promises and agreements as herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, it is agreed between the Contractor and the County as follows:

1. **CONTRACT DOCUMENTS.** This Agreement is set forth in the following documents, which are attached hereto, incorporated herein by reference, and shall be collectively referred to as the "Contract Documents." In the event of a conflict between the terms and conditions of any of the Contract Documents, the controlling terms and conditions shall be in the order the Contract Documents are listed below:
 - A. This Agreement;
 - B. The County's Request for Proposal Number S18-010-Automated Speed Enforcement Program, issued February 1, 2018, and the Addendums (Addendum No. 1, dated March 14, 2018; Addendum No. 2, dated April 6, 2018; and Addendum No. 3, dated April 12, 2018) thereto (collectively, the "RFP");
 - C. Contractor's Best and Final Offer dated November 2, 2018; and
 - D. Contractor's Technical and Cost Proposals dated April 23, 2018;

Both parties are bound to and shall abide by all terms and conditions of the Contract Documents. In the event of a conflict or inconsistency between any of the terms of the above listed documents, the order of precedence shall be that order in which the documents are listed in this Section 1.

2. **SCOPE OF WORK.** The Contractor shall provide the technical expertise and management skills necessary to furnish, implement, operate and maintain a County wide Automated Speed Enforcement Program which includes furnishing any and all hardware, equipment, software, communications, materials and services for each camera system that is necessary or appropriate in accordance with the requirements and specifications of the RFP. All services provided and Contractor responsibilities shall be in accordance with Section III: Scope and Requirements of the RFP.
3. **COMPENSATION.** The Contractor shall be paid for the Scope of Work provided at a fixed price of \$3,349.00 per operational camera per month (not including replica cameras). In addition, the Contractor will be paid a one-time fee of \$2.70 per violation assigned from the previous contractor. The Contractor shall submit monthly invoices which shall include the following:

- (a) Contractor's name and remittance address; and
- (b) Contractor's Tax Identification Number; and
- (c) Documentation as to the resultant service completed during the time covering the invoice.

COLLECTIONS - The Contractor shall on a monthly basis submit to a vendor selected by the County, in an agreed data file format, all citation data for any violation that has exceeded 180 days outstanding. In addition, the Contractor shall, upon request, modify their data files to include any fees charged to the violator for collection services. The Contractor shall participate in data uploads and downloads to ensure that the citation files have the most current information available.

4. **CONTRACTOR PROMPT PAYMENT.**

- a) Contractor shall pay each of its subcontractors (including a material supplier) for satisfactory performance under the respective subcontract within seven (7) calendar days after receipt of such amounts that are paid to Contractor by the County for such work performed under the contract. In the event that there is a good faith dispute over all or any portion of the amount due on a payment from Contractor to a subcontractor, Contractor may withhold the disputed amount but shall pay the undisputed amount. A subcontractor who further subcontracts work on procurement projects is responsible for the same requirements and interest penalties for payment to its subcontractors (lower tier subcontractors) after receiving payment as applicable to Contractor.
- b) Interest penalties. Any contractor who violates Paragraph (a), above, shall pay to the subcontractor a penalty of one and a half percent (1.5%) of the amount due per month for every month (or such other percentage as identified in County Code Section 10A-153) to

the subcontractor owed payment or portion thereof that payment is not made. Interest penalties shall accrue daily beginning eight (8) calendar days after payment is received by the Contractor (or higher tier subcontractor) and ending on, but excluding, the payment date, using the rate established in this Paragraph calculated on a monthly (30-day) basis. This requirement is enforceable in the Circuit Court of Prince George's County, and is not intended to create a private right of action against the County. Willful violations of this requirements may also result in a contractor being suspended or debarred.

- c) **Subcontract Clause Requirements.** Contractor shall include in each of its subcontracts:
- i) a payment clause which obligates Contractor to pay the subcontractor for satisfactory performance under its subcontract within seven (7) days out of such amounts as are paid to Contractor by the County for such work performed under such contract; and
 - ii) an interest penalty clause which obligates Contractor to pay to the subcontractor an interest penalty on amounts due (or such other percentage as identified in County Code Section 10A-153) in the case of each payment not made in accordance with the payment clause included in the subcontract: (1) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and (2) computed at a rate of one and a half percent (1.5%) of the amount due per month for every month (or such other percentage as identified in County Code Section 10A-153).
 - iii) a clause in its subcontracts requiring the subcontractor to (1) include a payment clause and an interest penalty of one and a half percent (1.5%) of the amount due per month for every month (or such other percentage as identified in County Code Section 10A-153) in each of its subcontracts; and (2) shall require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

5. **AVAILABILITY OF FUNDS.** This Agreement shall be deemed executory only to the extent that appropriations are available for the purpose of this service. The County's continuing obligation under this Agreement, which envisions County funding through successive fiscal periods, shall be contingent upon actual appropriations for the following fiscal year. If the County is unable to secure appropriations for any fiscal year during the term of this Agreement, then the Contractor shall have the right to terminate this Agreement upon thirty (30) days prior written notice.
6. **TERM OF AGREEMENT.** This Agreement shall be effective as of the Effective Date and shall continue for a term of three (3) years from the date of contract execution. The contract term may be extended for two (2) additional one (1) year optional periods upon mutual agreement of the parties.
7. **TERMINATION FOR CONVENIENCE.** The performance of work under this Agreement may be terminated by the County upon thirty (30) days written notice, or such time as

mutually agreeable to the parties, in accordance with this clause in whole, or from time-to-time in part, whenever the County's Purchasing Agent shall determine that such termination is in the best interest of the County. In the event of such termination, Contractor shall be compensated for all services provided up to the date of termination. However, Contractor shall not be paid any damages or reimbursed for any anticipatory profits that have not been earned up to the date of termination.

8. **TERMINATION FOR DEFAULT.** If the Contractor fails to fulfill its obligations under this Agreement properly and on time or otherwise materially violates any provision of this Agreement, the County may terminate this Agreement by providing written notice to the Contractor. The written notice shall specify the acts or omissions relied on as cause for termination. The Contractor shall be given thirty (30) calendar days to correct any act or omission relied on as a cause for default under this Agreement. All finished services provided by the Contractor shall, at the County's option, become the County's property. The County shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor shall remain liable after termination and the County can affirmatively collect damages or deduct from monies due the Contractor on this or other County Agreements. Damages may include excess reprocurement costs. The parties shall comply with the transition plan provided under Section 32 herein regarding any termination for default under this Agreement.
9. **FORCE MAJEURE.** Neither party shall be deemed to be in default under the provisions of this Agreement for delay arising from causes beyond its reasonable control or the control of its agents, contractors or employees, including but not limited to severe weather beyond reasonable anticipation that impedes performance, or acts of God, regulations or restrictions imposed by any governmental agency or authority, fire, strikes, lockouts, labor disputes, or civil commotion, change in law, act of the General Assembly of Maryland or either party's council body, act by a court of competent jurisdiction, or administrative delay not due to the fault of either party (or its members and agents).
10. **GOVERNING LAW; SEVERABILITY.** This Agreement shall be governed by and construed in accordance with the laws of Prince George's County and the State of Maryland. In case any one or more of the provisions contained in the Contract Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of the Contract Documents which shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
11. **NON-HIRING OF COUNTY EMPLOYEES.** Neither party shall engage or otherwise employ any employee of the other party during the performance term of this Agreement without the written consent of the other party.
12. **INDEMNIFICATION.** Each party (the "Indemnifying Party") shall indemnify, defend and hold harmless the other party (the "Indemnitee") their agents, officials, and employees, from

any actual or alleged liability, damage, expense, cause of action, suit, claim or judgment arising from injury to person including death or personal property or otherwise that results from the negligence of the Indemnifying Party, its agents and/or employees, in connection with or arising out of the performance of this Agreement. The Indemnifying Party shall, at its own expense, appear, defend and pay all actual reasonable charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith, and if any judgment for the Indemnifying Party's negligence shall be rendered against the Indemnitee in any such action, the Indemnifying Party shall, at its own expense, satisfy and discharge same. In no event shall either party be responsible for the other party's negligence. The parties expressly understand and agree that any performance bond or insurance protection required by the Agreement or otherwise provided by a party, shall in no way limit the responsibility to indemnify, defend and hold harmless the Indemnitee as herein provided. Under no circumstances shall an Indemnifying Party be liable for any incidental, consequential, indirect, punitive, indirect or special damages arising out of or in connection with this Agreement, however caused and based on any theory of liability. Contractor's total liability under this Agreement shall not exceed Ten Million Dollars (\$10,000,000).

13. **SUCCESSORS AND ASSIGNS.** The terms and conditions contained in the Contract Documents shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.
14. **ASSIGNMENT OF CONTRACT.** It is mutually understood and agreed that the Contractor shall not assign, transfer, convey or otherwise dispose of its right, title or interest in this Agreement, or its power to execute any of the Contract Documents, to any other person, firm or corporation, without the previous written consent of the County's Purchasing Agent, but in no case shall such consent relieve the Contractor from the obligations, or change the terms of this Agreement.
15. **PROJECT COORDINATOR.** The County will designate a Project Coordinator who shall be the liaison between the County and the Contractor during the term of this Agreement and who shall be responsible for overseeing the successful and harmonious completion of this Agreement.
16. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing and either delivered by hand or by courier, or deposited in the United States mail, postage prepaid certified or registered return receipt requested and addressed as follows:

To County: Purchasing Agent
 Office of Central Services
 1400 McCormick Drive
 Suite 336
 Largo, Maryland 20774

With Copies to: County Attorney
 1301 McCormick Drive, Room 4100
 Largo, MD 20774

To Contractor: Conduent State and Local Solutions, Inc.
 12410 Milestone Center Drive
 Suite 500
 Germantown, MD 20876

17. **FURTHER ASSURANCES.** The parties agree that they shall at any time and from time to time prior to or after the execution of this Agreement, execute and deliver any and all additional writing, instruments and other documents and shall take such further action as shall be reasonably required or requested by the other party to effectuate the transactions contemplated by this Agreement.
18. **CAPTIONS.** The captions of this Agreement are for convenience and reference only, and in no way define or limit the interests, rights, or obligations of the parties hereunder.
19. **RECITALS.** The Recitals are expressly incorporated herein by reference.
20. **INTERPRETATION.** This Agreement shall be construed as a whole and in accordance with its fair meaning, and shall not be construed either for or against either party. Any exhibits or attachments annexed hereto shall be deemed an integral part of this Agreement with the same force and effect as if set forth in full herein. All references made and pronouns used herein shall be construed in the singular or plural, and in such gender as the sense and circumstances require. References to all section numbers, subsection numbers, exhibits or attachments shall refer to such section, subsection, exhibit and attachment in this Agreement unless otherwise expressly provided.
21. **CUMULATIVE RIGHTS; WAIVERS:** Each and every right granted to a party hereunder, or in any other document contemplated hereby or delivered under or executed concurrently herewith, or by law or equity, shall be cumulative and be exercised at any time, or from time to time. No failure on the part of any party to exercise, and no delay in exercising, any right shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right. The failure of any party at any time, from time to time, to require performance by any other party of any term, condition or provision of the Contract Documents shall in no way alter or otherwise affect the right of such party at a later time to enforce the same. No waiver by any party of any condition, or of the breach of any term, covenant or provision contained in the Contract Documents, whether by conduct or otherwise, at any time or from time to time, shall be deemed to be or construed as a further or continuing waiver of such condition or breach or as a waiver of any other condition or of any other or subsequent breach of the same of any other term, covenant or provision.
22. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single Agreement.

23. **FINAL AGREEMENT.** This Agreement contains the final, entire agreement between the parties hereto, and shall supersede all prior correspondence and agreements or understandings with respect thereto. This Agreement shall not be modified or changed orally, but only by an agreement in writing, signed by the authorizing official of the party against whom enforcement of any such change is sought. For purposes of this section, authorizing official of the County shall be either the County Executive, Chief Administrative Officer, or the Deputy Chief Administrative Officer who executes this Agreement.
24. **CERTIFICATION OF SIGNATORIES/AUTHORIZED PERSONS.** The signatories executing this Agreement on behalf of the County and the Contractor warrant and represent that they have the legal authority to do so, and furthermore agree that each shall, upon request of the other party, furnish legally sufficient evidence of such authority.
25. **OWNERSHIP OF DATA.** All speed violation and license plate recognition data collected by Contractor's equipment and citation data related to the Speed Enforcement Program shall remain the property of Prince George's County. This includes but is not limited to images. Motor vehicle records and personal information data obtained from the Maryland Motor Vehicle Administration and/or other State agencies are subject to additional Federal and State regulations.
26. **OWNERSHIP OF SYSTEM/EQUIPMENT.** All speed violation and license plate recognition equipment and Pre-Existing and Independently Developed IP (as defined below) provided by Contractor related to the Speed Enforcement Program shall remain the Property of Contractor and no title, license, intellectual property rights, or any other right of ownership or use is granted (expressly, by implication, or by estoppel) to the County.
27. **PRE-EXISTING AND INDEPENDENTLY DEVELOPED INTELLECTUAL PROPERTY.** All pre-existing and independently developed intellectual property, and any derivation thereof, including but not limited to designs, models, inventions, processes, methodologies, software, associated documentation, software upgrades, modifications and customizations, copyrightable material and other tangible and intangible materials authored, and combination thereof, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by Contractor and provided to County ("Pre-Existing and Independently Developed IP") will at all times remain the sole and exclusive property of Contractor and/or its vendors. In the event Contractor provides County with Pre-Existing and Independently Developed IP, County shall receive a limited license to use such Pre-Existing and Independently Developed IP, and shall be non-assignable, non-transferable, and non-exclusive license to use in the performance of this Agreement only for the duration of this Agreement. Nothing in this Section or elsewhere in this Agreement shall be construed as assigning, selling, conveying, or otherwise transferring any ownership rights or title in Contractor Pre-Existing and Independently Developed IP.

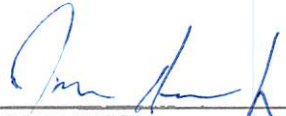
To the extent that any deliverables may incorporate or have embedded any pre-existing or independently developed Contractor content that is not defined as Contractor Pre-existing and Independently Developed IP in the paragraph above, Contractor grants County a non-exclusive, perpetual, irrevocable, transferable, fully paid-up, worldwide right to use distribute, transmit, display, and make and prepare derivative works from, and reproduce and publish the deliverables that are not property of the County and to allow its contractors and subcontractors to use, reproduce, distribute, display, and make derivative works of such deliverables. Contractor shall, and shall cause all of its subcontractors, employees, officers, directors, agents, affiliates and other persons within its control to, execute all documents and perform all acts that the County may reasonably request in order to evidence the license described in this section.

- 28. INSURANCE REQUIREMENTS.** In accordance with Section 3.5. of the RFP, the Contractor shall provide evidence of coverage in the amount indicated in the RFP and list Prince George's County Maryland as a certificate holder and as an additional insured during the term of the Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have signed, sealed and delivered these presents as of their own free act and deed as of the Effective Date first written above.

CONDUENT STATE AND LOCAL SOLUTIONS, INC.



WITNESS
Asst Secretary

BY: 


Print Name: Michael M. Davis
Title: Jr Vice President



PRINCE GEORGE'S COUNTY, MARYLAND




WITNESS

BY: 

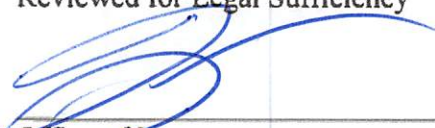
Print Name: MARK A. MASAW
Title: OCAO FOR PUBLIC SAFETY

Reviewed and Approved:



Henry P. Stawinski III
Chief of Police

Reviewed for Legal Sufficiency



Office of Law