PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice

Mr. David McPherson, Revenue & Tax Administrator
City of Oakland
150 Frank Ogawa Plaza
Oakland, CA 94612

July 3rd, 2014

RE: Lapse of Revenue Software Maintenance Support

Dear Mr. McPherson:

Seven years ago the City of Oakland selected *License Track™* software from Progressive Solutions, Inc. ("PSI") to help it manage the collections of its municipal taxes. Since that time PSI has provided quality maintainance support for that software and every year the City has, until last month, consistently renewed our annual software maintenance and support agreement. Selecting PSI software was a good decision, apparently, because now, in 2014, the City is in the enviable position of collecting nearly $200 million dollars in annual tax revenue. This is not only a significant increase from its previous revenue stream, but this success was accomplished during a serious downturn in the economy when other cities that don't use PSI software or support experienced reductions in their revenues. This issue primarily concerns a software support maintenance agreement and added mailing services. Should the city intend to rebid the entire software package, that is typically a very expensive, multiyear and labor intensive endeavor for all parties involved.

PSI wants to continue to support the City's collections. Given the myriad number of different accounts and the complexity of the City's revenue collections, that level of revenue could not be achieved without quality products, like *LicenseTrack™* and the support services offered by PSI. In order to continue to get that support, and thereby continue the City's revenue collections without interruption, PSI must, each year, be paid and our services agreement renewed or reinstated. Once there is a lapse there is a penalty (or "fee") for reinstatement, in addition to the annual service fees.

Unfortunately, on July 1st, 2014, the Software Maintenance Agreement ("Agreement") between the City of Oakland and Progressive Solutions lapsed due to non payment by the City. In this case the reinstatement fee is $200,000. Such lapse, and/or "late" penalties are not unique, either to PSI, the municipal software industry, or even to the City of Oakland. I have seen a similar penalty in a competitor's software maintenance agreement, i.e., the Active Networks agreement. The City of Oakland routinely duns late taxpayers with stiff penalties. Like the City, PSI too has bills that must be paid on time or we are subject to late fees.

The City has always been aware of this penalty for a lapse of this software maintenance agreement as described in paragraph 5b on page 10 and on page 2 of Exhibit 2 (Software Maintenance Agreement). PSI also reminds its clients as the

due date comes up for renewal. Consequently, until this year, the City's software support had NOT lapsed and was properly budgeted for and timely payment made every year.

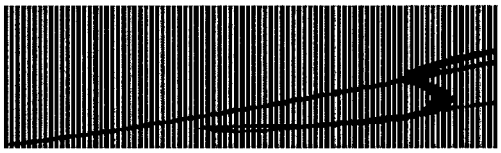
Yesterday, during my telephone conversation with you and Ms. O'Brien, I learned the City would require a competitive re-bid of our software/services sometime in the next few years. Given the city's software customization and successful implementation, I find it difficult to understand why the city would consider obtaining outside bids for services that pertain to a successful proprietary maintenance agreement. Also, meanwhile, the City is requesting to extend the due date for the payment to July 30th (*in violation of Oakland's Prompt Payment Ordinance*) and to reinstate our present, lapsed software maintenance agreement. I understand that additional time is necessary in order to allow the City to work out it's self-imposed payment blocks and other administrative procedures having to do with the new fiscal year. Implicit in that request is that PSI waive the $200,000 reinstatement fee and continue providing software and support until that time.

PSI simply cannot agree to such an extension of time without penalty, nor can PSI continue to provide support after the support agreement has lapsed.

However, as an accommodation, PSI is willing to continue providing support and will hold the $200,000 lapse/reinstatement fee in abeyance and waive it unless the City of Oakland elects to issue requests for proposals to replace the PSI software within three (3) years from the date of this amendment and guarantees timely payment of the subsequent year's support charges. If the city does issue a request for proposal, the 2014 reinstatement fee shall be due and payable as of the issuance date of the request for proposal.

I welcome your suggestions/comments and look forward to your prompt and courteous attention to this matter.

Sincerely,



Glenn R. Vodhanel, President
Progressive Solutions Inc.
CC: Mr. Celso Ortiz, City Attorney
Ms. Margaret O'Brien, Principal Revenue Analyst

Amendment No.1 to the Agreement
Between the City of Oakland
And
Progressive Solutions Inc.

This Amendment No. 1 dated July 1, 2014 amends the original agreement dated May 7th 2007 authorized by resolution 80045, by and between the CITY OF OAKLAND, **a municipal corporation (hereinafter "City"), and Progressive Solutions Inc. (hereinafter "Contractor") to extend time for performance.**

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The original agreement is amended as follows:

1. Time for Performance

The time for performance of the contract work is extended from **July 1, 2014** to **June 30, 2015.**

2. Scope of Services

Striking in its entirety and amending Support Services identified on page 72 of Exhibit A to the Agreement: Statement of Work to include, system maintenance and support services, hardware (new and replacement), training and payment card compliance, certificates, forms, letters and mailings, webhosting services and implementation of online business tax remittance program, as better described in Attachment A to the First Amendment, Scope of Work.

3. Compensation

Contractor will be paid for performance of the scope of services contemplated under this **First Amendment** in an amount not to exceed **Three Hundred Seventy-Three Thousand, Eight Hundred Twenty Dollars ($373,820)** for a total Agreement compensation amount not to exceed Nine Hundred Ninety Thousand, Eight Hundred Twenty Dollars ($990,820).

Payment for the annual maintenance period of July 1, 2014 to June 30, 2015 will be due and payable by July 30, 2014. It is mutually agreed that the $200,000 reinstatement fee shall be held in abeyance and waived unless the City of Oakland elects to issue requests for proposals to replace the PSI software within three (3) years from the date of this amendment and guarantees timely payment of the subsequent year's support charges. In such case the 2014 reinstatement fee shall be due and payable as of the issuance date of the request for proposal.

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4. Living Wage Adjustments

Effective July 1, 2014, the minimum compensation for Contractor's employees who perform services under or related to this amendment is the hourly wage rate of **Twelve dollars and Twenty-Seven cents ($12.27)** with health benefits or **Fourteen dollars and Ten cents ($14.10)** without health benefits.

5. Prompt Payment Ordinance

This amendment is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S., Passed January 15, 2008 and effective February 1, 2008), establishing a policy requiring payment within 20 business days after receipt of an invoice for purchase of goods and/or services.

6. **Arizona and Arizona-Based Businesses**

Contractor agrees that in accordance with Resolution No. 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify the Department of Contracting and Purchasing, Purchasing Division if its Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

7. **Dispute Disclosure**

Contractors are required to disclose pending disputes with the City of Oakland or Redevelopment Agency when they are involved in submitting bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

All other terms and conditions of the original agreement, except for those modified by this Amendment No. 1, shall remain unchanged and in full force and effect.

City of Oakland
A municipal corporation

_____
City Administrator's Office (Date)

_____
Department Head (Date)

Approved for form and legality:

_____
City Attorney's Office (Date)

Contractor
_____

_____
Signature (Date)

_____
Print Name

_____
Title

Resolution No. _____
Account No.: _____
Business License No. : _____

PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice

Mr. David McPherson, Revenue & Tax Administrator
City of Oakland
150 Frank Ogawa Plaza
Oakland, CA 94612

July 9th, 2014

RE: Lapse of Revenue Software Maintenance Support

Dear Mr. McPherson:

Seven years ago the City of Oakland selected *License Track™* software from Progressive Solutions, Inc. ("PSI") to help it manage the collections of its municipal taxes. Since that time PSI has provided quality maintainance support for that software and every year the City has, until last month, consistently renewed our annual software maintenance and support agreement. Selecting PSI software was a good decision, apparently, because now, in 2014, the City is in the enviable position of collecting nearly $200 million dollars in annual tax revenue. This is not only a significant increase from its previous revenue stream, but this success was accomplished during a serious downturn in the economy when other cities that don't use PSI software or support experienced reductions in their revenues. This issue primarily concerns a software support maintenance agreement and added mailing services. Should the city intend to rebid the entire software package, that is typically a very expensive, multiyear and labor intensive endeavor for all parties involved.

PSI desires to continue support for the City's revenue collections. Given the myriad number of different accounts and the complexity of the City's revenue collections, that level of revenue could not be achieved without quality products, like *LicenseTrack™* and the support services offered by PSI. In order to continue to get that support, and thereby continue the City's revenue collections without interruption, PSI must, each year, be paid and our services agreement renewed or reinstated.

Unfortunately, on July 1st, 2014, the Software Maintenance Agreement ("Agreement") between the City of Oakland and Progressive Solutions lapsed due to non payment by the City.

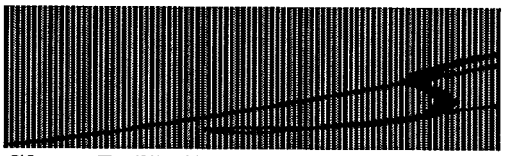
I understand that the City desires additional time in order for the City to work out it's self-imposed payment blocks and other administrative procedures having to do with the new fiscal year. However, PSI simply cannot continue to provide support after the support agreement has lapsed.

PSI is not willing to waive any provisions of our existing agreement (*and has included one sentence to that effect*). However, PSI is willing to accept all the city's modifications provided so far via the attached and signed amendment number one. One of the key provisions allows the city to tender payment no later than 7/30/2014 rather than 6/30/2014 while PSI continues to provide services.

Please instruct your staff that effective Friday, June 11th at 5pm PSI support services will cease to be available absent receipt by PSI of a signed amendment number one to PSI before then (*see attached*).

I welcome your suggestions/comments and look forward to your prompt and courteous attention to this matter.

Sincerely,



Glenn R. Vodhanel, President
Progressive Solutions Inc.
CC: Mr. Celso Ortiz, City Attorney
Ms. Margaret O'Brien, Principal Revenue Analyst

FAX

Date:	09/08/2014
Pages including cover sheet:	3

To:	+15102387128
Phone	
Fax Number	*+15102387128*

From:	glenn vodhanel
	National Bureau of Business
	PO BOX 811
	Brea
	CA 92822
Phone	*+1 (714) 671-1597*
Fax Number	*(866) 936-0963*

NOTE:

Notice of Default

PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice
(714) 255-9775 facsimile

Mr. David McPherson, Revenue Manager
City of Oakland
150 Frank Ogawa Plaza
Oakland, CA 94612

Sep 8th, 2014

cc: Mr. Celso D. Ortiz
Deputy City Attorney
1 Frank Ogawa Plaza, 6th Fl.
Oakland, CA 94612

cc: Mr. Henry Gardner(or current), City Administrator
City of Oakland
1 Frank Ogawa Plaza
Oakland, CA 94612

VIA CERTIFIED MAIL: 7012 2920 0000 6821 5739 also via FAX at: (510) 238- 7128

RE: **Notice of Default**-Agreement for License of Software, Purchase of Equipment, Information Technology Services and for Maintenance and Support Services dated 5/7/2007

Dear Mr. McPherson,

This **Notice of Default** is required by section 27 the above referenced agreement and sub paragraph a(1) which requires to respond within. The default was triggered by failure to tender payment mandated as a result of automatic renewal. (*See Attached Invoice.*) Per the above agreement, "City will have five (5) calendar days after receipt of Licensor's Notice of Default to dispute Licensor's Notice of Default if City believes it is not in breach of the Agreement, and ten (10) calendar days after receipt of Licensor's Notice of Default to provide a written plan to cure the default ("Cure Plan")". The amount due is the amount requested and invoiced of $104,816.58 plus the $200,000 reinstatement fee for a total of $304,816.58. Notice has been provided via certified letter and fax per section 40 of the above referenced agreement.

The licensed software went live June 6th 2008 and assisted in the generation of approximately $200 million in tax revenue ***each year***. On July 11th 2014, per section X(c) of our agreement PSI suspended maintenance support for *LicenseTrack*. PSI subsequently, at the NBBLO conference in San Diego, signed the city proposed amendment as is and tendered it to you. City then came back to PSI with another proposed amendment that contained impossible terms. PSI may also pursue other options as specified in the Default provisions of our agreement (*a copy is provided on the reverse side of this letter for your convenience*).

The PSI licensed software in operation at Oakland is NO LONGER SUPPORTED by PSI! AS PSI IS NO LONGER INVOLVED, PSI ACCEPTS NO RESPONSIBILITY FOR ANY RESULTS OF THE SOFTWARE.

The City of Oakland ultimately bears responsibility for ALL results (*i.e. 2015 issuance of approximately 70,000 invoices and collection of approximately $200 million*). The City of Oakland demanded the highest level of continuous support. There is no reason to believe that requirement has abated.

NO THIRD PARTIES HAVE BEEN LICENSED TO VIEW OR WORK WITH PSI'S TECHNOLOGY.

We look forward to a prompt mutually agreeable resolution of this Default. If you have any questions or would like additional information, please contact me at: (714) 671-1597.

Sincerely,

Glenn R. Vodhanel, President
Progressive Solutions Inc.

II. NATURE AND DURATION OF SUPPORT.

Licensor is in the business of providing software support services. Software support services are intended to facilitate smooth & efficient ongoing operations of the Licensed software. Licensee desires to obtain software support services for the Licensed software specified in section V. This Agreement provides for service only during normal business hours (8am to 5pm PST) and shall expire at 5:00 PM Pacific Standard Time on June 30, 2007 unless renewed as set forth below. Support outside of normal business hours is available for purchase. Requests for service for which the intended result is of negligible operational benefit are not available free of additional charge under this software support agreement. (i.e. Changing the name of a server (absent a hardware upgrade) which consequently results in the need to reinstall/verify the SQL data base software, the operating system, the Licensed software and to update every client machine which run the Licensed software.) Licensees that purchase after hours support will be provided with the appropriate contact information. Licensor reserves the right to prorate the software support fee and provide more or less than one year of coverage so that subsequent Software Maintenance Agreements expire on June 30th. Unless written notice of termination has been provided by Licensee to Licensor no later than 30 days prior to expiration of this support services agreement, this Agreement shall automatically renew each year thereafter for an additional year at the support rate in effect at that time. In the event Licensee drops coverage of any module/product and later requests to reinstate the same module/product, Licensee agrees to pay all support fees for the lapsed period(s). If at any time after software acceptance, the customer's right to receive Software Support or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise, and the Licensee wishes to receive Software Support from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Support:

1. All fees that would have been payable hereunder had the Software Maintenance agreement been in force during the time during which Software Maintenance rights had so lapsed, and
2. An additional fee of forty per cent (40%) of the license fees which would be payable if the software subject to such Software Maintenance were licensed anew at Licensor's then standard license fees on the date of re-instatement of Software Maintenance rights.
3. If Licensee has terminated Licensor for default, Licensee may reinstate the software maintenance agreement at the prevailing annual maintenance fee without additional fees as stated in numbers 1 and 2 above.

5. Nature and Duration of License. (Master)

(a) Licensor hereby grants and Licensee accepts a perpetual, non-exclusive, non-assignable and non-transferable license to use Licensor's database structure and corresponding software for the product(s) listed in Section IX. The Licensed software (and any upgrades provided by Licensor) shall be installed on the purchased HP server (delivered as Phase B of this project). Prospective users of the Licensed software will be setup to obtain and shall be required to obtain the Licensed software exclusively from the purchased HP server. All Licensed database structures are designed for and require Microsoft® SQL Server®. The Licensed software shall only function when the Licensed software and data are obtained from the HP server configuration specified and provided herein. Licenses for SQL software are not included in this agreement unless listed as 3 party deliverables in Section IX. **Only authorized Sub-agencies as specified in Section IX and Licensee are authorized to use the Licensed software, data structures & documentation on Licensee's premises for the purpose of supporting the internal business practices.** NO OTHER RIGHT OR USE IS PERMITTED UNDER THIS AGREEMENT.

(b) If at any time after software acceptance, the customer's right to receive Software Maintenance support or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise (except for Licensor's default) and City subsequently wishes to receive Software Maintenance Support from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Maintenance support according to the terms specified in section II of Exhibit C: Software Maintenance Agreement.

27. Default and Termination. (Master)

(a) Default by Licensee **In the event Licensee breaches a material obligation under this Agreement, Licensee must cure that default as is provided below for breaches by Licensor.** If Licensee does not cure said breach, then Licensor shall be entitled to terminate this Agreement and Licensee shall immediately discontinue use of database/structure, software and related electronic forms. In addition, Licensee shall provide Licensor with written confirmation that previously licensed components have been erased and copies are no longer on Licensee's computer or backup tapes. Licensor may also pursue any other remedy available at law or in equity, including injunctive relief.

(b) Default by Licensor. If Licensor fails to achieve Acceptance on all or part of the Licensed software components in accordance with this Agreement, fails to successfully cure any defects in the Licensed Software components in a reasonable time or otherwise breaches a material obligation under this Agreement, Licensor will be in default of this Agreement, unless City or a Force Majeure causes such failure.

(1) Opportunity to Cure. When City asserts a default, it will give Licensor a written and detailed notice of the default specifying the precise aspects of the default ("Notice of Default"). Licensor will have five (5) calendar days after receipt of City's Notice of Default to dispute City's Notice of Default if Licensor believes it is not in breach of the Agreement, and ten (10) calendar days after receipt of City's Notice of Default to provide a written plan to cure the default ("Cure Plan") to City, which time limits shall run concurrently until the Cure Plan is acceptable. Any dispute will be subject to the Dispute Resolution provisions herein (Section 28). If Licensor provides a Cure Plan, it will begin implementing the Cure Plan immediately after receipt of City's written approval of the Cure Plan. If Licensor fails to provide a Cure Plan or the City does not unreasonably reject Licensor's Cure Plan, then Licensor will be in Default.

(2) Licensor's Failure to Cure. In the event Licensor fails to cure its default as provided herein, City shall have the right to:

a. Continue licensing and requiring Licensor to maintain the Deliverables which have been either Conditionally or Finally Accepted and require Licensor to remove all other Deliverables and refund to City all monies it has received from City under the Agreement for all Deliverables for which Licensor was not able to cure Licensor's default; or

b. City may require Licensor to remove some of the Deliverables and to refund to City all monies it has received from City under the Agreement for the software that City does not accept

c. City may require Licensor to remove all of the Deliverables and to refund to City all monies it has received from City under the Agreement;

(3) The rights and remedies of City provided in this Section 27 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

FAX

Date:	09/08/2014
Pages including cover sheet:	*4*

To:	+15102387128
Phone	
Fax Number	*+15102387128*

From:	glenn vodhanel
	National Bureau of Business
	PO BOX 811
	Brea
	CA 92822
Phone	*+1 (714) 671-1597*
Fax Number	*(866) 936-0963*

NOTE:

Corrected Notice of Default

Send and receive faxes with RingCentral, www.ringcentral.com

RingCentral

PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice
(714) 255-9775 facsimile

Mr. David McPherson, Revenue Manager
City of Oakland
150 Frank Ogawa Plaza
Oakland, CA 94612

Sep 8th, 2014

cc: Mr. Celso D. Ortiz
Deputy City Attorney
1 Frank Ogawa Plaza, 6th Fl.
Oakland, CA 94612

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We look forward to a prompt mutually agreeable resolution of this Default. If you have any questions or would like additional information, please contact me at: (714) 671-1597.

Sincerely,

Glenn R. Vodhanel, President
Progressive Solutions Inc.

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1. All fees that would have been payable hereunder had the Software Maintenance agreement been in force during the time during which Software Maintenance rights had so lapsed, and
2. An additional fee of forty per cent (40%) of the license fees which would be payable if the software subject to such Software Maintenance were licensed anew at Licensor's then standard license fees on the date of re-instatement of Software Maintenance rights.
3. If Licensee has terminated Licensor for default, Licensee may reinstate the software maintenance agreement at the prevailing annual maintenance fee without additional fees as stated in numbers 1 and 2 above.

5. Nature and Duration of License. (Master)

(a) Licensor hereby grants and Licensee accepts a perpetual, non-exclusive, non-assignable and non-transferable license to use Licensor's database structure and corresponding software for the product(s) listed in Section IX. The Licensed software (and any upgrades provided by Licensor) shall be installed on the purchased HP server (delivered as Phase B of this project). Prospective users of the Licensed software will be setup to obtain and shall be required to obtain the Licensed software exclusively from the purchased HP server. All Licensed database structures are designed for and require Microsoft® SQL Server®. The Licensed software shall only function when the Licensed software and data are obtained from the HP server configuration specified and provided herein. Licenses for SQL software are not included in this agreement unless listed as 3 party deliverables in Section IX. **Only authorized Sub-agencies as specified in Section IX and Licensee are authorized to use the Licensed software, data structures & documentation on Licensee's premises for the purpose of supporting the internal business practices. NO OTHER RIGHT OR USE IS PERMITTED UNDER THIS AGREEMENT.**

(b) If at any time after software acceptance, the customer's right to receive Software Maintenance support or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise (except for Licensor's default) and City subsequently wishes to receive Software Maintenance Support from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Maintenance support according to the terms specified in section II of Exhibit C: Software Maintenance Agreement.

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(b) Default by Licensor. If Licensor fails to achieve Acceptance on all or part of the Licensed software components in accordance with this Agreement, fails to successfully cure any defects in the Licensed Software components in a reasonable time or otherwise breaches a material obligation under this Agreement, Licensor will be in default of this Agreement, unless City or a Force Majeure causes such failure.

(1) Opportunity to Cure. When City asserts a default, it will give Licensor a written and detailed notice of the default specifying the precise aspects of the default ("Notice of Default"). Licensor will have five (5) calendar days after receipt of City's Notice of Default to dispute City's Notice of Default if Licensor believes it is not in breach of the Agreement, and ten (10) calendar days after receipt of City's Notice of Default to provide a written plan to cure the default ("Cure Plan") to City, which time limits shall run concurrently until the Cure Plan is acceptable. Any dispute will be subject to the Dispute Resolution provisions herein (Section 28). If Licensor provides a Cure Plan, it will begin implementing the Cure Plan immediately after receipt of City's written approval of the Cure Plan. If Licensor fails to provide a Cure Plan or the City does not unreasonably reject Licensor's Cure Plan, then Licensor will be in Default.

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Progressive Solutions Inc.

PO BOX 0783
Brea, CA 92822
714/671-1597

Invoice

DATE	INVOICE #
5/30/2014	36721

BILL TO
CITY OF OAKLAND Attn: Accounts Payable 150 Frank H. Ogawa Plaza, Suite 5342 Oakland, CA 94612

P.O. NO.	TERMS	PROJECT
	Net 30	

QUANTITY	DESCRIPTION	RATE	AMOUNT
	Software Maintenance-2014-2015 (12 Months)	101,269.58	101,269.58
50	LicenseTrack Software Maintenance -50 User License (July 1, 2014 to June 30, 2015)		0.00
50	RevenueTrack Software Maintenance -50 User License (July 1, 2014 to June 30, 2015)		0.00
7	LicenseTrack Right to create permits Maintenance - 7 (July 1, 2014 to June 30, 2015)		0.00
4	LicenseTrack Interfaces Maintenance - 4 (July 1, 2014 to June 30, 2015)		0.00
4	RevenueTrack Interfaces Maintenance - 4 (July 1, 2014 to June 30, 2015)		0.00
50	Collections System (ACS) Maintenance (July 1, 2014 to June 30, 2015)		0.00
	Change Orders 4-6 Maintenance (July 1, 2014 to June 30, 2015)		0.00
3	Ca$hierCentral Software Maintenance - 3 Registers (July 1, 2014 to June 30, 2015)		0.00
	Document Scanner Software Module Maintenance (July 1, 2014 to June 30, 2015)	749.00	749.00
2	Software Maintenance-Field Unit Software (July 1, 2014 to June 30, 2015)	649.00	1,298.00
1	API Maintenance (July 1, 2014 to June 30, 2015)	1,500.00	1,500.00
	CA Sales Tax 9.00%	9.00%	0.00

We appreciate your business.

Total $104,816.58

Fax Call Report HP LaserJet **M3035 MFP Series**

Fax Header Information

city of oakland business
510-238-7128
2014-Sep-08 09:31 PM

Job	Date/Time	Type	Identification	Duration	Pgs	Result
6086	2014-Sep-08 09:29 PM	Send	92383600	1:11	0	No answer (0)

FAX

Date:	09/23/2014
Pages including cover sheet:	*24*

To:	Oakland Business
Phone	
Fax Number	*+15102387128*

From:	glenn vodhanel
	National Bureau of Business
	PO BOX 811
	Brea
	CA 92822
Phone	*+1 (714) 671-1597*
Fax Number	*(866) 936-0963*

NOTE:
Oakland Failure to Honor Agreement

Send and receive faxes with RingCentral, www.ringcentral.com

RingCentral

PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice
(714) 255-9775 facsimile

Ms. Barbara Parker, City Attorney
City of Oakland
150 Frank Ogawa Plaza, 6th Fl.
Oakland, CA 94612

Sep 23rd, 2014

cc: Mr. Henry Gardner(or current), City Administrator
City of Oakland
1 Frank Ogawa Plaza
Oakland, CA 94612

cc: Mr. David McPherson, Revenue Manager
City of Oakland
1 Frank Ogawa Plaza,
Oakland, CA 94612

RE: Notice of Claim arising from the **Sept 8th** 2014, **Notice of Default**-Agreement for License of Software, Purchase of Equipment, Information Technology Services and for Maintenance and Support Services dated 5/7/2007

VIA CERTIFIED MAIL: 7012 2920 0002 0508 1425

Dear Barbara,

Below are undisputable facts regarding the City's default

- The City of Oakland negotiated an automatically renewing contract with full approval of the then Finance Manager, City Attorney and Council. The negotiations required over a year. The only requirement I could find for renewal was that the city was required to request an invoice for services which they did (*See attached exhibits*).
- Every year the City of Oakland budgeted for our services and paid us.
- While Oakland now claims they had no contract with us, prior to this year the City of Oakland never made an allegation to PSI that the contract had lapsed. Further both parties abided by the terms of the original contract from 2011-2014. It has been even further acknowledged in writing that PSI was paid outside of the normal fiscal payment periods during this time period to avoid paying the contractually required reinstatement fee.
- In 2014 the City continued to use PSI support without payment and first proposed an extension to that same (*allegedly invalid*) contract that they now claim does not exist.
- There were no negotiations. Oakland staff merely indicated how they wanted the existing agreement to be changed and expected us to sign their proposed amendments. We even signed Oakland's proposed amendment but that was not good enough. Now when it becomes convenient City alleges that there is no contract between the City of Oakland and PSI since 2011.

If as the city alleges we have no agreement, then the City of Oakland has no right to continue use of our proprietary property and should cease such use immediately.

Please accept the attached City Claim Form as formal notification (*as required per Government Code Section 910 et seq.*) of our intent to further pursue our claim. If you have any questions or would like additional information, please contact me at: (714) 671-1597.

Sincerely,

Glenn R. Vodhanel, President
Progressive Solutions Inc.

INDEX OF EXHIBITS

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Exhibit D:	Email Invoice Instruction	Page 12
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CLAIM AGAINST THE CITY OF OAKLAND

Please return the completed form to the Office of the City Attorney, One Frank H. Ogawa Plaza, 6th Floor, Oakland, CA 94612. Additional sheets may be attached as necessary. Enclose a **postage paid envelope** if you require a filing receipt.

1) CLAIMANT'S NAME: Progressive Solutions Inc.
2) ADDRESS: 595 W. Lambert Rd. #203 City: Brea State: CA Zip: 92822
HOME #: DRIVER'S LICENSE:
WORK #: 714/671-1597 SOCIAL SECURITY#: EIN:33-0113562
CELL #: 714/609-9876 COVERED BY MEDICARE? ____ IF YES, MEDICARE #:
DATE OF BIRTH: 05/28/1985 OCCUPATION: Software Publisher
AUTO INSURANCE NAME AND POLICY # (if applicable)

3) IF AMOUNT CLAIMED IS LESS THAN $10,000, AMOUNT OF CLAIM: $
(Attach copies of expenses substantiating the basis of computation for the amount being claimed)

IF AMOUNT CLAIMED EXCEEDS $10,000, WOULD THE CLAIM BE A LIMITED CIVIL CASE (Less than $25,000)?
Yes ____ No ☐ Unsure ____

4) ADDRESS TO WHICH NOTICES ARE TO BE SENT, IF DIFFERENT FROM LINES 1 & 2:

NAME:

ADDRESS: City: State: Zip:

PHONE#

5) DATE OF INCIDENT: 9/4/2014 TIME OF INCIDENT: 6:36pm

SPECIFIC LOCATION OF INCIDENT* (Address): Notified of Breach by David McPherson via email

6) DESCRIBE THE INCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES: City via its city attorney obtained a perpetual license by agreeing to specific terms. City failed to adhere to those terms and misled Vendor into continuing work under the mistaken belief that City would pay for the subsequent term per the automatic renewal clause.

7) DESCRIBE ALL DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT:
City is using the PSI software without the payment agreed to compensate Licensor for use of their software City has failed to remit the requested renewal invoice amount plus $200,000 payment as agreed in writing. Plus fraudulent representations to obtain use of the PSI software $1,000,000

8) NAME(S) OF PUBLIC EMPLOYEE(S) CAUSING THE DAMAGES YOU ARE CLAIMING: David McPherson
9) WERE PARAMEDICS CALLED? ____
10) IF YOU WENT TO A DOCTOR, LIST HIS NAME, ADDRESS & TELEPHONE NUMBER:

Date of 1st Visit: Is there a police report on file?

X ____ X ____
Signature of Claimant or Representative Date

****Complete the diagram on the back of this form showing the location of the incident****
Any person who, with the intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.
Claims must be filed within 6 months of the incident. *See* Government Code §§ 900 et seq.* (Revised 10/26/10)

224649

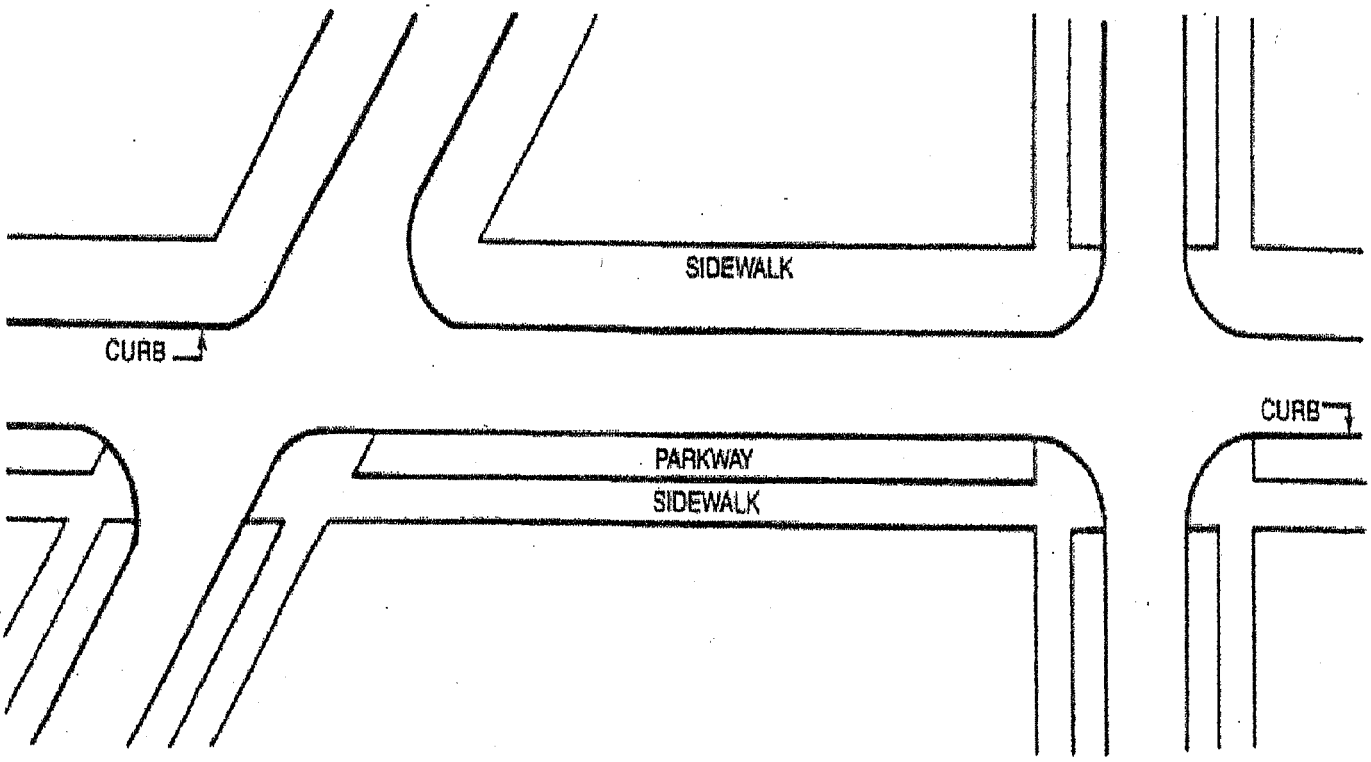
PLEASE READ CAREFULLY

If claim is for injury and you are still under doctor's care, indicate that on the form and submit medical bills to date with status of your condition. If property damage is involved, submit two estimates of repairs or paid invoices to substantiate amount claimed. If the accident involved a vehicle, give the following information:

LICENSE NO.:_____ YEAR/MAKE OF THE VEHICLE:_____

For all auto accident claims, place on the following diagram the names of streets, including North, East, South and West; indicate the place of the accident by an "X" and by showing house numbers or distances to street corners. If a City vehicle was involved, designate by letter "A" the location of the city vehicle when you first saw it, and by "B" the location of yourself or your vehicle at the time;

If your claim involves some other type of incident, use the diagram below to indicate the location where the incident occurred, showing addresses, landmarks or a photograph if necessary depicting the exact site. Failure to complete the diagram or provide a photo of the site may result in delays in the acceptance of your claim as sufficient according to CA Government Code §§ 900 et seq.



NARRATIVE

CITY OF OAKLAND REFUSES TO HONOR OUR MUTUAL AGREEMENT.

It took over a year to negotiate the agreement with Oakland that was signed 5/17/2007. Every year since June of 2008, the maintenance agreement automatically renewed. Every year prior to July 2014 (*except this year*), Oakland tendered timely payment and **PSI assisted staff to successfully bill and pursue approximately $200 million in annual collections until July 11, 2014.** At the July NBBLO Conference in San Diego, PSI signed the city's original amendment and tendered it to David McPherson. City subsequently proffered unilateral renegotiation of the original agreement that contained impossible terms. **Oakland failed to tender timely payment.** PSI suspended maintenance services at 5pm on 7/11/2014 and has yet to receive formal notice of termination. **The licensed PSI software in operation at Oakland is NO LONGER SUPPORTED by PSI! As PSI is no longer involved, PSI accepts NO responsibility for any results. The City of Oakland is ultimately responsible for all results (*i.e. 2015 issuance of approximately 70,000 invoices and collection of approximately $200 million*). NO THIRD PARTIES HAVE BEEN LICENSED TO VIEW OR WORK WITH PSI'S TECHNOLOGY.**

CHRONOLOGY

1. City of Oakland and PSI on May 17th of 2007, executed a **set of agreements** where a perpetual license had been agreed upon by PSI in exchange for inclusion of language found in another Oakland executed agreement. (*See Exhibit A; 152 pages previously provided to Margaret Obrien*). The language specified below was exchanged for the standard **non** perpetual license as a concession to accommodate the city's request for a perpetual license:
   "If at any time after software acceptance, the customer's right to receive Software Maintenance support or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise, and the Licensee wishes to receive Software Maintenance Support from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Maintenance support:
   a) all fees that would have been payable hereunder had the Software Maintenance agreement been in force during the time during which Software Maintenance rights had so lapsed, and
   b) an additional fee of forty (40) per cent of the license fees which would be payable if the software subject to such Software Maintenance were licensed anew at Licensor's then standard license fees on the date of re-instatement of Software Maintenance rights."
2. Included in the May 2007 agreement was an automatic renewal clause that stated:
   "Software Maintenance Agreements expire on June 30th. Unless written notice of termination has been provided by Licensee to Licensor no later than 30 days prior to expiration of this support services agreement, this Agreement shall automatically renew each year thereafter for an additional year at the support rate in effect at that time."
3. On April 9th, 2014 at 10:54am, PSI received an email requesting a scope of work/amendment to the agreement executed 5/17/2017. (*See Exhibit B*)
4. On April 9th, 2014 at 6:05pm, PSI responded with a proposed amendment. (*See Exhibit C*)
5. Also included in the May 2007 agreement was:
   "(d) Upon City's prior approval in writing, Licensor shall bill City for any consultant or support services that are in addition to those already included in either the License Fees set forth herein or in the Maintenance Agreement fees at the rates set forth herein until June 30, 2010 or thereafter at the rates in effect at the time of service."
6. City on 5/28/2014 **first** requested an invoice in writing for 2014-2015 support services. (*See Exhibit D*)
7. On June 1st 2014, the automatic renewal provision extended the agreement to 5pm 6/30/2015.
8. On July 1st, 2014, PSI first received a City originated email proposing their amendment to the agreement executed 5/17/2017. (*See Exhibit E*)
9. On July 9th 2014, PSI informed Oakland that without payment, services would discontinue on 7/11/14. (*See Exhibit F*)
10. PSI suspended services at 5pm on 7/11/07 in accord with the Suspension of Services Clause below:
    (e) Suspension of Obligations: If either party should default in the performance or observance of any of its obligations hereunder, then in addition to all other rights & remedies available to the non-defaulting party, the non-defaulting party may suspend performance & observance of any or all its obligations under this Agreement, without liability, until the other party's default is remedied, but this section shall not permit Licensee to suspend its obligation to make payments for Software Maintenance and other Services.
11. On Sept 5th 2014 the City of Oakland informed PSI via email of their termination of further discussion for PSI contract renewal. (*See Exhibit G*)
12. On Sept 8th, PSI transmitted via certified mail & fax a "**Notice of Default**" (*See Exhibit H*)
13. On Sept 12th City mailed their response to our "**Notice of Default**" (*See Exhibit I*).

Exhibit B

Glenn R. Vodhanel

From: O'Brien, Margaret <mobrien@oaklandnet.com>
Sent: Wednesday, April 09, 2014 10:53 AM
To: Glenn R. Vodhanel
Subject: Fwd: Contract Amendment

Margaret O'Brien
Principal Revenue Analyst
Finance Department, Revenue Management Bureau
City of Oakland
Sent from my iPad

Begin forwarded message:

> **From:** "O'Brien, Margaret" <mobrien@oaklandnet.com>
> **Date:** April 8, 2014 at 11:23:23 AM PDT
> **To:** <glenn@progressivesolutions.com>
> **Cc:** "McPherson, David" <DMcPherson@oaklandnet.com>
> **Subject: FW: Contract Amendment**
>
> Hi Glenn,
>
> I haven't heard from you regarding my email of March 31. In order to ensure that PSI is paid for its services in a timely fashion I need to make certain contractual as well as spending authority are in place. This requires an Amendment to your contract. Please provide to me a proposed line-item SOW with associated costing, inclusive of all subcontracted items such as print and mailing.
>
> My understanding is that the only contract that exists between PSI and the City was executed on 5/17/07 and that there are no executed Amendments to the Contract.
>
> Best regards,
> Margaret O'Brien
> Principal Revenue Analyst
> Finance Department- Revenue Management Bureau
> 510-238-7480

From: O'Brien, Margaret
Sent: Monday, March 31, 2014 1:21 PM
To: 'glenn@progressivesolutions.com'
Subject: Contract Amendment

Hi Glenn,

I need to write an Amendment to PSI's contract that encompasses ALL of the services (regardless of subcontracting) that PSI performs for the City and their associated costs. Essentially, I need to amend BOTH the existing scope of work AND the total annual contract value. Please provide to me a proposed line-itemed SOW (inclusive of subcontracted items such as printing and mailing) with associated costing.

Thanks!

Best regards,

Margaret O'Brien
Principal Revenue Analyst
Finance Department- Revenue Management Bureau
510-238-7480

Exhibit B

Progressive Solutions Inc.

PO BOX 0783
Brea, CA 92822
714/671-1597

Invoice

DATE	INVOICE #
5/30/2014	36721

BILL TO
CITY OF OAKLAND Attn: Accounts Payable 150 Frank H. Ogawa Plaza, Suite 5342 Oakland, CA 94612

P.O. NO.	TERMS	PROJECT
	Net 30	

QUANTITY	DESCRIPTION	RATE	AMOUNT
	Software Maintenance-2014-2015 (12 Months)	101,269.58	101,269.58
50	LicenseTrack Software Maintenance -50 User License (July 1, 2014 to June 30, 2015)		0.00
50	RevenueTrack Software Maintenance -50 User License (July 1, 2014 to June 30, 2015)		0.00
7	LicenseTrack Right to create permits Maintenance - 7 (July 1, 2014 to June 30, 2015)		0.00
4	LicenseTrack Interfaces Maintenance - 4 (July 1, 2014 to June 30, 2015)		0.00
4	RevenueTrack Interfaces Maintenance - 4 (July 1, 2014 to June 30, 2015)		0.00
50	Collections System (ACS) Maintenance (July 1, 2014 to June 30, 2015)		0.00
	Change Orders 4-6 Maintenance (July 1, 2014 to June 30, 2015)		0.00
3	Ca$hierCentral Software Maintenance - 3 Registers (July 1, 2014 to June 30, 2015)		0.00
	Document Scanner Software Module Maintenance (July 1, 2014 to June 30, 2015)	749.00	749.00
2	Software Maintenance-Field Unit Software (July 1, 2014 to June 30, 2015)	649.00	1,298.00
1	API Maintenance (July 1, 2014 to June 30, 2015)	1,500.00	1,500.00
	CA Sales Tax 9.00%	9.00%	0.00

We appreciate your business.

Total $104,816.58

Exhibit C

Progressive Solutions, Inc., a California corporation herein after referred to as "PSI" and the City of Oakland, a municipal corporation herein after referred to as "Client", mutually agree to modify the LICENSE OF SOFTWARE, PURCHASE OF EQUIPMENT, INFORMATION TECHNOLOGY, MAINTENANCE AND SUPPORT SERVICES Agreement dated **5/17/2007** by:

ADDING the products and services identified below to page 72 of Exhibit A: Statement of Work:

ADDITIONAL LICENSED SOFTWARE:

Web Renewals, Applications and Business Lookups (*25 concurrent user license-not enforced*)	$149,950
QuickServe™ Kiosks (*Hardware & Software-3 Units*)	$49,000

REPLACING the Support Services identified on page 72 of Exhibit A: Statement of Work with:

ANNUAL SUPPORT SERVICES:

Mail Services (*Design, Printing, Inserting, Stuffing notices, affixing postage and delivery to USPS for Annual Renewals and Tax Certificates*) per quote	Not to Exceed $75,000
Software Maintenance (*Includes upgrades*) • *CollectionsTrack*™ (ACS) • *LicenseTrack*™ • *LicenseTrack*™ (7 Permits) • *PaymentCentral*™ (3 Registers) • *QuickServe*™ (8 Interfaces) • *RevenueTrack*™ • *Change Orders 4-6* • Document Scanner Integration • Field Unit Integration (2 Units) • Application Programming Interface • *QuickServe*™ Kiosks	$99,500 $1,000 $1,275 $6,000 $5,000
Web Software Maintenance (*Includes upgrades*) • *LicenseTrack*™ Renewals Module[1] • *LicenseTrack*™ Applications Module • *LicenseTrack*™ Business Lookups Module	$30,000
Web Hosting of Above Web Software (PSI staff to respond to customer calls and emails initiated from PSI offered web services; *Customer email address required) Includes Initial Setup and Annual SSL fee. (A $5,500 savings)*	$42,000
TOTAL ANNUAL SUPPORT SERVICES	$259,775

HARDWARE PERIPHERALS:

Document scanners, barcode readers, barcode fonts, etc. (*Estimated*)	$6.995

OPTIONAL SUPPORT SERVICES:

Hardware Maintenance Kiosk Troubleshooting & Repair Document Scanner Troubleshooting (*Time and Materials-parts/replacement units not included*)	 $4,900 $5,000
Lockbox Modifications(to accommodate new bank vendor)	$9,650

[1] This support rate assumes using the existing Authorize.net gateway integration with Chase Bank.

Exhibit C

SSAE 16 Audit	TBD
Training/User Conference (*Estimated*)	$9,000

Client understands that invoices for turnkey web hosting and related cloud services offered by *Progressive Solutions Inc.* are generated annually in advance of services.

PSI makes system reliability our highest priority. As a result, our system has maintained a 99.5% uptime since the launching of our first customer site. To ensure maximum uptime, we maintain two servers that are constantly synchronized. In the event that the main active server fails, our hosting service is configured to transparently switch over to the fallback server, without customers ever noticing. The primary and the fallback servers each directly connect to many of the world's Tier 1 backbones ensuring redundant, fast access to the Internet. Our DNS servers are configured to switch servers at a moment's notice should a major network disruption occur.

In addition to these safeguards, a series of automated tools continuously monitors the active virtual servers for availability. System performance is as important as reliability. To ensure all client applications provide fast customer service, our servers are continuously monitored for performance and application warnings. Should such an event occur, PSI staff is promptly notified.

To protect your data against accidental loss, PSI performs full and incremental snapshots and backups throughout the day to a separate RAID array and server. Security to the PSI cloud (*and your applications*) is protected via firewall, operating system, database, and application functionality. Our management team's experience is derived from over 30 years of creating government applications. As some PSI customer sites collect hundreds of millions of dollars annually, vigilant security must remain a top priority.

All servers operate from secure facilities, each of which includes:

- Keycard required for physical access
- Backup power generators
- Redundant fiber optic connectivity
- Fire suppression systems
- Staffing 24/7 by certified systems administrators and network engineers

This amendment shall extend our original agreement for 3 years starting 7/1/14 and ending 6/30/17.

PSI and Client via the signature below hereby mutually acknowledge and approve this Amendment 1 for hardware, software & services.

Exhibit C

PROGRESSIVE SOLUTIONS, INC.
P O BOX 783
BREA CA 92822

Accepted By:

_____
Authorized Representative

_____
Date

Attest By: _____

CITY OF OAKLAND
1 FRANK OGAWA PLAZA
OAKLAND, CA 94612

Accepted By:

_____
Authorized Representative

_____
Date

Exhibit D

Glenn R. Vodhanel

From: Chu, Hartini <HChu@oaklandnet.com>
Sent: Wednesday, May 28, 2014 10:50 AM
To: Shawn Cobarrubias; Glenn R. Vodhanel
Cc: Progressive Solution - Steve; Chris Retzinger ; McPherson, David
Subject: RE: Annual maintenance July 1, 2014 - June 30, 2015

Shawn & Glen,

Please change the invoice date to July 1st, 2014, we will process the payment as soon as the Council approves the contract extension in June.

Thanks!
Hartini Chu

From: Shawn Cobarrubias [mailto:shawn@progressivesolutions.com]
Sent: Friday, May 23, 2014 1:48 PM
To: McPherson, David
Cc: Chu, Hartini; Progressive Solution - Steve; Chris Retzinger
Subject: Annual maintenance July 1, 2014 - June 30, 2015

Hi Mr. McPherson,
I hope this finds you doing well.

Attached are the maintenance renewal document and invoice.

Please let us know if we can be of further assistance.

Thank you,

Shawn Cobarrubias, Progressive Solutions®
Celebrating 35+ years of providing Municipal Software Solutions
P O Box 783
Brea, CA 92822-0783
714.671.1597 x 101

We're Turning Green! Thank you for helping Progressive Solutions® in our quest to be environmentally responsible.

This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Glenn R. Vodhanel

From: Chu, Hartini <HChu@oaklandnet.com>
Sent: Wednesday, August 27, 2014 1:33 PM
To: Glenn R. Vodhanel
Subject: License Track Annual Maintenence Invoice

Hello Glen,

Please send License Track Annual Maintenance Invoice, thanks!

Hartini

Exhibit E

Glenn R. Vodhanel

From: Azimi, Shahla <SAzimi@oaklandnet.com>
Sent: Tuesday, July 01, 2014 2:07 PM
To: Glenn R. Vodhanel
Cc: McPherson, David; O'Brien, Margaret
Subject: FW: First Amendment PSI.docx
Attachments: First Amendment PSI.DOCX; RFP Packet Forms.pdf

Importance: High

Hi Glenn – I sent the email below with the above attachments on June 26. Could you please confirm the receipt of my email upon receiving this email.

Thank you,
Shahla

From: Azimi, Shahla
Sent: Thursday, June 26, 2014 1:23 PM
To: 'glenn@progressivesolutions.com'
Subject: RE: First Amendment PSI.docx
Importance: High

Good afternoon Glenn – Attached is the Amendment No. 1 to the Agreement which needs to be signed under the Contractor name and complete other necessary information on this form. In addition, attached are other required schedules that need to be completed as well. Please complete these forms and also provide us with a copy of your a current Oakland Business Tax certificate, a copy of Insurance Certificate and W-9. Please print 3 sets of the above form/schedules and sign each of the form/schedule and the three (3) set of originals to my attention at the address below.

Please let me know if you have any questions.

Thank you,

Shahla Azimi
Revenue Analyst
Finance Department – Revenue Management Bureau
150 Frank H. Ogawa Plaza # 5342
Oakland, CA 94612
P: (510) 238-2972
F: (510) 238-6431

From: O'Brien, Margaret
Sent: Monday, June 23, 2014 12:47 PM
To: Azimi, Shahla
Cc: McPherson, David; 'glenn@progressivesolutions.com'
Subject: First Amendment PSI.docx

Exhibit E

Shahla,

Attached is the First Amendment to PSI and the revised SOW. Please move this through proper channels. Celso Ortiz is the CA on the case. Thanks!

I am cc-ing Glenn so he can review it while it is moving through the process. Thanks!

Best regards,
Margaret O'Brien
Principal Revenue Analyst
Finance Department- Revenue Management Bureau
510-238-7480

Exhibit F

PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice

Mr. David McPherson, Revenue & Tax Administrator
City of Oakland
150 Frank Ogawa Plaza
Oakland, CA 94612

July 9th, 2014

RE: Lapse of Revenue Software Maintenance Support

Dear Mr. McPherson:

Seven years ago the City of Oakland selected *License Track™* software from Progressive Solutions, Inc. ("PSI") to help it manage the collections of its municipal taxes. Since that time PSI has provided quality maintainance support for that software and every year the City has, until last month, consistently renewed our annual software maintenance and support agreement. Selecting PSI software was a good decision, apparently, because now, in 2014, the City is in the enviable position of collecting nearly $200 million dollars in annual tax revenue. This is not only a significant increase from its previous revenue stream, but this success was accomplished during a serious downturn in the economy when other cities that don't use PSI software or support experienced reductions in their revenues. This issue primarily concerns a software support maintenance agreement and added mailing services. Should the city intend to rebid the entire software package, that is typically a very expensive, multiyear and labor intensive endeavor for all parties involved.

PSI desires to continue support for the City's revenue collections. Given the myriad number of different accounts and the complexity of the City's revenue collections, that level of revenue could not be achieved without quality products, like *LicenseTrack™* and the support services offered by PSI. In order to continue to get that support, and thereby continue the City's revenue collections without interruption, PSI must, each year, be paid and our services agreement renewed or reinstated.

Unfortunately, on July 1st, 2014, the Software Maintenance Agreement ("Agreement") between the City of Oakland and Progressive Solutions lapsed due to non payment by the City.

I understand that the City desires additional time in order for the City to work out it's self-imposed payment blocks and other administrative procedures having to do with the new fiscal year. However, PSI simply cannot continue to provide support after the support agreement has lapsed.

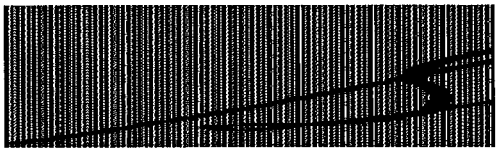
PSI is not willing to waive any provisions of our existing agreement (*and has included one sentence to that effect*). However, PSI is willing to accept all the city's modifications provided so far via the attached and signed amendment number one. One of the key provisions allows the city to tender payment no later than 7/30/2014 rather than 6/30/2014 while PSI continues to provide services.

Exhibit F

Please instruct your staff that effective Friday, June 11th at 5pm PSI support services will cease to be available absent receipt by PSI of a signed amendment number one to PSI before then (*see attached*).

I welcome your suggestions/comments and look forward to your prompt and courteous attention to this matter.

Sincerely,



Glenn R. Vodhanel, President
Progressive Solutions Inc.
CC: Mr. Celso Ortiz, City Attorney
Ms. Margaret O'Brien, Principal Revenue Analyst

Exhibit G

Glenn R. Vodhanel

From: McPherson, David <DMcPherson@oaklandnet.com>
Sent: Thursday, September 04, 2014 6:36 PM
To: Glenn R. Vodhanel
Cc: Salem-Boyd, Kathleen; Hom, Donna; O'Brien, Margaret
Subject: Response to Proposed Amendment

Dear Glenn,

The City has conducted several meetings in the last few days with various stakeholders to discuss PSI's decision to not except the conditions of the new agreement which you deemed unacceptable. In doing so we have made a decision to determinate further discussion for renewing the contract with PSI and will be moving forward to initiate a RFQ in the near future. We would like to thank you for doing business with the City of Oakland and wish you the best of luck in the future.

From: O'Brien, Margaret
Sent: Tuesday, September 02, 2014 5:25 PM
To: Glenn R. Vodhanel
Cc: McPherson, David; Salem-Boyd, Kathleen
Subject: RE: Response to Proposed Amendment

Hi Glenn,

That is unfortunate. Your consultant is welcome to contact either David or me regarding this matter. If he is local, we can arrange an onsite meeting, which might successfully move things along to an acceptable resolution.

Best regards,
Margaret O'Brien
Principal Revenue Analyst
Finance Department- Revenue Management Bureau
510-238-7480

From: Glenn R. Vodhanel [mailto:glennv@progressivesolutions.com]
Sent: Tuesday, September 02, 2014 5:18 PM
To: O'Brien, Margaret
Cc: McPherson, David
Subject: Response to Proposed Amendment

Hi Margaret,
The amendment you sent us was unacceptable.
As I am rather busy, I have retained a consultant who possesses knowledge about the existing agreement and the City of Oakland to serve as the primary contact for this matter.
Please let me know who at Oakland he should contact.

Respectfully Submitted,

Glenn Vodhanel, Progressive Solutions, Inc
Celebrating over 35 years providing Automation and Efficiency Solutions
714/671-1597

Exhibit H

PROGRESSIVE SOLUTIONS, INC.

PO BOX 783
Brea, California 92822
(714) 671-1597 voice
(714) 255-9775 facsimile

Mr. David McPherson, Revenue Manager
City of Oakland
150 Frank Ogawa Plaza
Oakland, CA 94612

Sep 8th, 2014

cc: Mr. Celso D. Ortiz
Deputy City Attorney
1 Frank Ogawa Plaza, 6th Fl.
Oakland, CA 94612

cc: Mr. Henry Gardner(or current), City Administrator
City of Oakland
1 Frank Ogawa Plaza
Oakland, CA 94612

VIA CERTIFIED MAIL: 7012 2920 0000 6821 5739 also via FAX at: (510) 238- 7128

RE: **Notice of Default**-Agreement for License of Software, Purchase of Equipment, Information Technology Services and for Maintenance and Support Services dated 5/7/2007

Dear Mr. McPherson,

This **Notice of Default** is required by section 27 the above referenced agreement and sub paragraph a(1). The default was triggered by failure to tender payment mandated as a result of automatic renewal. (*See Attached Invoice.*) Per the above agreement, "City will have five (5) calendar days after receipt of Licensor's Notice of Default to dispute Licensor's Notice of Default if City believes it is not in breach of the Agreement, and ten (10) calendar days after receipt of Licensor's Notice of Default to provide a written plan to cure the default ("Cure Plan")". The amount due is the amount requested and invoiced of $104,816.58 plus the $200,000 reinstatement fee for a total of $304,816.58. Notice has been provided via certified letter and fax per section 40 of the above referenced agreement.

The licensed software went live June 6th 2008 and assisted in the generation of approximately $200 million in tax revenue ***each year***. On July 11th 2014, per section X(c) of our agreement PSI suspended maintenance support for *LicenseTrack*. PSI subsequently, at the NBBLO conference in San Diego, signed the city proposed amendment as is and tendered it to you. City then came back to PSI with another proposed amendment that contained impossible terms. PSI may also pursue other options as specified in the Default provisions of our agreement (*a copy is provided on the reverse side of this letter for your convenience*).

The PSI licensed software in operation at Oakland is NO LONGER SUPPORTED by PSI! AS PSI IS NO LONGER INVOLVED, PSI ACCEPTS NO RESPONSIBILITY FOR ANY RESULTS OF THE SOFTWARE.

The City of Oakland ultimately bears responsibility for ALL results (*i.e. 2015 issuance of approximately 70,000 invoices and collection of approximately $200 million*). The City of Oakland demanded the highest level of continuous support. There is no reason to believe that requirement has abated.

NO THIRD PARTIES HAVE BEEN LICENSED TO VIEW OR WORK WITH PSI'S TECHNOLOGY.

We look forward to a prompt mutually agreeable resolution of this Default. If you have any questions or would like additional information, please contact me at: (714) 671-1597.

Sincerely,

Glenn R. Vodhanel, President
Progressive Solutions Inc.

Exhibit H

II. NATURE AND DURATION OF SUPPORT.

Licensor is in the business of providing software support services. Software support services are intended to facilitate smooth & efficient ongoing operations of the Licensed software. Licensee desires to obtain software support services for the Licensed software specified in section V. This Agreement provides for service only during normal business hours (8am to 5pm PST) and shall expire at 5:00 PM Pacific Standard Time on June 30, 2007 unless renewed as set forth below. Support outside of normal business hours is available for purchase. Requests for service for which the intended result is of negligible operational benefit are not available free of additional charge under this software support agreement. (i.e. Changing the name of a server (absent a hardware upgrade) which consequently results in the need to reinstall/verify the SQL data base software, the operating system, the Licensed software and to update every client machine which run the Licensed software.) Licensees that purchase after hours support will be provided with the appropriate contact information. Licensor reserves the right to prorate the software support fee and provide more or less than one year of coverage so that subsequent Software Maintenance Agreements expire on June 30th. Unless written notice of termination has been provided by Licensee to Licensor no later than 30 days prior to expiration of this support services agreement, this Agreement shall automatically renew each year thereafter for an additional year at the support rate in effect at that time. In the event Licensee drops coverage of any module/product and later requests to reinstate the same module/product, Licensee agrees to pay all support fees for the lapsed period(s). If at any time after software acceptance, the customer's right to receive Software Support or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise, and the Licensee wishes to receive Software Support from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Support:

1. All fees that would have been payable hereunder had the Software Maintenance agreement been in force during the time during which Software Maintenance rights had so lapsed, and
2. An additional fee of forty per cent (40%) of the license fees which would be payable if the software subject to such Software Maintenance were licensed anew at Licensor's then standard license fees on the date of re-instatement of Software Maintenance rights.
3. If Licensee has terminated Licensor for default, Licensee may reinstate the software maintenance agreement at the prevailing annual maintenance fee without additional fees as stated in numbers 1 and 2 above.

5. Nature and Duration of License. (Master)

(a) Licensor hereby grants and Licensee accepts a perpetual, non-exclusive, non-assignable and non-transferable license to use Licensor's database structure and corresponding software for the product(s) listed in Section IX. The Licensed software (and any upgrades provided by Licensor) shall be installed on the purchased HP server (delivered as Phase B of this project). Prospective users of the Licensed software will be setup to obtain and shall be required to obtain the Licensed software exclusively from the purchased HP server. All Licensed database structures are designed for and require Microsoft® SQL Server®. The Licensed software shall only function when the Licensed software and data are obtained from the HP server configuration specified and provided herein. Licenses for SQL software are not included in this agreement unless listed as 3 party deliverables in Section IX. **Only authorized Sub-agencies as specified in Section IX and Licensee are authorized to use the Licensed software, data structures & documentation on Licensee's premises for the purpose of supporting the internal business practices. NO OTHER RIGHT OR USE IS PERMITTED UNDER THIS AGREEMENT.**

(b) If at any time after software acceptance, the customer's right to receive Software Maintenance support or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise (except for Licensor's default) and City subsequently wishes to receive Software Maintenance Support from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Maintenance support according to the terms specified in section II of Exhibit C: Software Maintenance Agreement.

27. Default and Termination. (Master)

(a) Default by Licensee **In the event Licensee breaches a material obligation under this Agreement, Licensee must cure that default as is provided below for breaches by Licensor.** If Licensee does not cure said breach, then Licensor shall be entitled to terminate this Agreement and Licensee shall immediately discontinue use of database/structure, software and related electronic forms. In addition, Licensee shall provide Licensor with written confirmation that previously licensed components have been erased and copies are no longer on Licensee's computer or backup tapes. Licensor may also pursue any other remedy available at law or in equity, including injunctive relief.

(b) Default by Licensor. If Licensor fails to achieve Acceptance on all or part of the Licensed software components in accordance with this Agreement, fails to successfully cure any defects in the Licensed Software components in a reasonable time or otherwise breaches a material obligation under this Agreement, Licensor will be in default of this Agreement, unless City or a Force Majeure causes such failure.

(1) Opportunity to Cure. When City asserts a default, it will give Licensor a written and detailed notice of the default specifying the precise aspects of the default ("Notice of Default"). Licensor will have five (5) calendar days after receipt of City's Notice of Default to dispute City's Notice of Default if Licensor believes it is not in breach of the Agreement, and ten (10) calendar days after receipt of City's Notice of Default to provide a written plan to cure the default ("Cure Plan") to City, which time limits shall run concurrently until the Cure Plan is acceptable. Any dispute will be subject to the Dispute Resolution provisions herein (Section 28). If Licensor provides a Cure Plan, it will begin implementing the Cure Plan immediately after receipt of City's written approval of the Cure Plan. If Licensor fails to provide a Cure Plan or the City does not unreasonably reject Licensor's Cure Plan, then Licensor will be in Default.

(2) Licensor's Failure to Cure. In the event Licensor fails to cure its default as provided herein, City shall have the right to:

a. Continue licensing and requiring Licensor to maintain the Deliverables which have been either Conditionally or Finally Accepted and require Licensor to remove all other Deliverables and refund to City all monies it has received from City under the Agreement for all Deliverables for which Licensor was not able to cure Licensor's default; or

b. City may require Licensor to remove some of the Deliverables and to refund to City all monies it has received from City under the Agreement for the software that City does not accept

c. City may require Licensor to remove all of the Deliverables and to refund to City all monies it has received from City under the Agreement;

(3) The rights and remedies of City provided in this Section 27 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement

Exhibit H

Progressive Solutions Inc.

PO BOX 0783
Brea, CA 92822
714/671-1597

Invoice

DATE	INVOICE #
5/30/2014	36721

BILL TO
CITY OF OAKLAND Attn: Accounts Payable 150 Frank H. Ogawa Plaza, Suite 5342 Oakland, CA 94612

P.O. NO.	TERMS	PROJECT
	Net 30	

QUANTITY	DESCRIPTION	RATE	AMOUNT
	Software Maintenance-2014-2015 (12 Months)	101,269.58	101,269.58
50	LicenseTrack Software Maintenance -50 User License (July 1, 2014 to June 30, 2015)		0.00
50	RevenueTrack Software Maintenance -50 User License (July 1, 2014 to June 30, 2015)		0.00
7	LicenseTrack Right to create permits Maintenance - 7 (July 1, 2014 to June 30, 2015)		0.00
4	LicenseTrack Interfaces Maintenance - 4 (July 1, 2014 to June 30, 2015)		0.00
4	RevenueTrack Interfaces Maintenance - 4 (July 1, 2014 to June 30, 2015)		0.00
50	Collections System (ACS) Maintenance (July 1, 2014 to June 30, 2015)		0.00
	Change Orders 4-6 Maintenance (July 1, 2014 to June 30, 2015)		0.00
3	Ca$hierCentral Software Maintenance - 3 Registers (July 1, 2014 to June 30, 2015)		0.00
	Document Scanner Software Module Maintenance (July 1, 2014 to June 30, 2015)	749.00	749.00
2	Software Maintenance-Field Unit Software (July 1, 2014 to June 30, 2015)	649.00	1,298.00
1	API Maintenance (July 1, 2014 to June 30, 2015)	1,500.00	1,500.00
	CA Sales Tax 9.00%	9.00%	0.00

We appreciate your business.

Total $104,816.58

Exhibit I

CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara Parker
City Attorney
Kathleen Salem-Boyd
Senior Deputy City Attorney

(510) 238-3601
FAX: (510) 238-6500
TDD: (510) 839-6451
(510) 238-3034

September 12, 2014

Glenn R. Vodhanel
Progressive Solutions, Inc.
P.O. Box 783
Brea, CA 92822

Re: Progressive Solutions, Inc. "Notice of Default"

Dear Mr. Vodhanel:

Your letter to Oakland Revenue Manager David McPherson dated September 8, 2014, has been referred to me. I am writing in response to your contention that the City of Oakland ("the City") has defaulted on obligations relating to the agreement with Progressive Solutions, Inc. ("PSI") dated May 5, 2007. You claim the Agreement was automatically renewed when the City failed to provide notice of termination to PSI 30-days prior to June 30, 2014.

At the outset, please note that any contract that a city or other government agency enters without legal authority is "' "wholly void," ultra vires, and unenforceable.' " (*G.L. Mezzetta, Inc. v. City of American Canyon* (2000) 78 Cal.App.4th 1087, 1092) " '[O]ne who makes a contract with a municipal corporation is bound to take notice of limitations on its power to contract and also of the power of the particular officer or agency to make the contract.' " (Id. at 1094)

On July 18, 2006, the City Council authorized entry into a contract with PSI "for an automated local tax system and maintenance and support services for a period of three (3) years for an amount not to exceed six hundred seventeen thousand dollars ($217,000)". (Resolution No. 80045) Pursuant to Council's authorization, the Agreement for License of Software, Purchase of Equipment, Information Technology Services and for Maintenance and Support Services between the City and PSI was executed March 7, 2007. The City Administrator sought the Council's authority to extend the service portion of the contract with PSI. On October 4, 2011, the City Council authorized entry into a new software maintenance and support services contract with PSI for a term of "three years commencing July 1, 2011 through June 30, 2014" with in an amount not to exceed $100,000 per year "with two optional annual extensions". (Resolution No. 83574) Following Council's October 4, 2011 grant of authority to contract, the City and PSI did not execute a new written agreement.