

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

02-0952
"54484
OA# 4600007214

CONTRACT FOR EMS AMBULANCE FEE COLLECTION SERVICES

I. PARTIES

A. Address

THIS CONTRACT FOR EMS AMBULANCE FEE COLLECTION SERVICES ("Contract") is made on the Countersignature Date by and between the **CITY OF HOUSTON, TEXAS** ("City"), a municipal corporation and home-rule body, the City Council and **ACS STATE AND LOCAL SOLUTIONS** ("Contractor"), a corporation doing business in the State of Texas.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other party, are as follows:

City

Director of Finance
& Administration
City of Houston
P.O Box 1562
Houston, TX 77251

Contractor

ACS State and Local Solutions, Inc.
1200 K Street, N.W.
Washington, D.C. 20005

B. Index

The City and the Contractor hereby agree to the terms and conditions of this Contract.

This Contract consists of the following sections:

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C. Parts Incorporated

All of the above described sections and documents are hereby incorporated into this Contract by this reference for all purposes.

D. Controlling Parts

If a conflict among the sections and exhibits arises, the sections control over the exhibits

E. Signatures

IN WITNESS HEREOF, the City and the Contractor have made and executed this Contract in multiple copies, each of which is an original.

ATTEST/SEAL (if a corporation):
WITNESS (if not a corporation):

ACS STATE AND LOCAL SOLUTIONS

By: Richard J. Russin
Name: Richard J. Russin
Title: Asst. Corporate Secretary

By: JAS M
Name:
Title:

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS
Signed by:

Ann Russell
City Secretary

Lee P. Brown
Mayor

APPROVED:

On B. S.
Director, Finance and Administration

Robin Swells
City Purchasing Agent

APPROVED:

COUNTERSIGNED BY:

Chris Comery
Chief, HFD

Shirley N. Garcia
City Controller

APPROVED AS TO FORM:

DATE COUNTERSIGNED:

Mayra Ramirez
Assistant City Attorney
L.D. File No. 034020012300

10/31/02

II. DEFINITIONS

As used in this Contract, the following terms shall have meanings set out below:

"Adjustments to Transport Fees" is defined in Exhibit "A", Section D.3

"Billable Accounts" is defined in Exhibit "A", Section D.1.b.

"City" is defined in the preamble of this Contract and includes its successors and assigns.

"Contract" means the agreement between the Contractor and City

"Contract Term" is defined in Article V.

"Contractor's Office" is defined in Exhibit "A", Scope of Services.

"Countersignature Date" means that date shown as the date countersigned by the City Controller on the signature page of this Contract.

"Database" is defined in Exhibit "A", Scope of Services.

"Data Center" is defined in Exhibit "A", Scope of Services.

"Director" means the Director of the Department of Finance and Administration, or such person as he or she shall designate.

"EMS Patient" is defined in Exhibit "A", Scope of Services.

"Fire Department" means the City of Houston Fire Department represented by the City Fire Chief or such person as he or she shall designate.

"Performance Requirements" means the performance measures detailed in Exhibit "C".

"Proposal" means the Proposal submitted by ACS State and Local Solutions to the Finance & Administration Department, Materials Management Division, for Billing and Collection of Emergency Ambulance Services fees, dated _____

"Transport Fees" is defined in Exhibit "A", Scope of Services.

"Transport Month" means the month in which a Transport occurs.

"Tape" is defined in Exhibit "A", Scope of Services.

"Unbillable Accounts" is defined in Exhibit "A", Section D.2.b.

"Uncollectible Accounts" is defined in Exhibit "A", Section E.3.k.

III. DUTIES OF CONTRACTOR

A. Scope of Services

For and in consideration of the payments specified in this Contract, Contractor shall provide all labor, material, and supervision necessary to perform services as fully described in the Scope of Services attached hereto as Exhibit "A".

B. Schedule of Performance

Contractor's services shall commence upon the date specified in a written Notice to Proceed from the Director.

C. Contractor's Duty to Pay

Contractor shall make timely payments to all persons and entities supplying labor, materials or equipment for the execution of this Contract. Contractor agrees to protect, defend, and indemnify the City from any claims or liability arising out of Contractor's failure to make such payments.

D. Release

CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

E. Indemnification

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION ATTORNEY'S FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS, WHETHER CONTRACTOR IS IMMUNE TO LIABILITY OR NOT FOR HAVING PROVIDED WORKERS COMPENSATION COVERAGE TO ANY INJURED EMPLOYEE(S).
- (2) THE CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO

\$1,000,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

F. Subcontractor's Indemnity

CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

G. Insurance

Contractor shall maintain in effect certain insurance coverage, which is described as follows:

- (1) Risks and Limits of Liability: Contractor shall maintain the following coverages and limits of liability:

<u>(Coverage)</u>	<u>(Limit of Liability)</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily injury by accident \$ 1,000,000 (each accident)
Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence and \$ 2, 000, 000 general aggregate
Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Non-Ownership and Hired Auto Coverage)	\$1,000,000 combined single limit
Professional Liability Coverage	\$1,000,000 per claim \$2,000,000 aggregate. (The policy shall include a one year extended reporting period following the contract expiration date.)

Defense costs are excluded from the face amount of the policy.
Aggregate Limits are per 12-month policy period
unless otherwise indicated.

- (2) Form of Policies. The Director may approve the form of the insurance policies, but nothing the Director does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Director's actions or inactions do not waive the City's rights under this Agreement.
- (3) Issuers of Policies. The issuer of any policy (1) shall have a Certificate of Authority to transact business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best rating of at least Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide.
- (4) Insured Parties. Each policy, except those for Workers' Compensation, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.
- (5) Deductibles. Contractor shall be responsible for and pay any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.
- (6) Cancellation. Each policy must state that it may not be canceled, materially modified, or nonrenewed unless the insurance company gives the Director 30 days' advance written notice. Contractor shall give written notice to the Director within five days of the date on which total claims by any party against Contractor reduce the aggregate amount of coverage

below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.

- (7) Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.
- (8) Endorsement of Primary Insurance. Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.
- (9) Liability for Premium. Contractor shall pay all insurance premiums, and the City shall not be obliged to pay any premiums.
- (10) Subcontractors. Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Director.
- (11) Proof of Insurance.
 - (a) On the Effective Date and at any time during the Term of this Agreement, Contractor shall furnish the Director with standard Certificates of Insurance, along with a letter from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Director, Contractor shall make available at Contractor's local insurance broker's office for the Director to review copies of applicable

portions of the insurance policy in Houston, Texas within 60 days

(b) Contractor shall continuously and without interruption, maintain in force the required insurance coverages specified in this Section. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may

- (1) immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or
- (2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement

The City shall never waive or be estopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

(12) Other Insurance. If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

H. Warranties

Contractor's performance shall conform to the professional standards prevailing in Harris County, Texas with respect to the scope, quality, due diligence, and care of the services and products Contractor provides under this Agreement.

I. Confidentiality

The Contractor shall keep all materials to be prepared hereunder and all City data it receives in strictest confidence. The Contractor shall not divulge such information except as approved in writing by the Director or as otherwise required by law.

J. Licenses and Permits

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including

all professional licenses required by any statute, ordinance, rule, or regulation. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against his or her license.

K. Compliance with Laws

Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances.

L. Compliance with Equal Employment Opportunity Ordinance

Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 12% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration to be conducted in Houston, Texas, if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "I". If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

M. Drug Abuse Detection and Deterrence

- (a) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse

Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

- (b) Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- 1 a copy of its drug-free workplace policy.
 - 2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "F", together with a written designation of all safety impact positions and,
 - 3 if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "G".

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "G". Contractor shall submit the Drug Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

- (c) Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

- (d) Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

IV. DUTIES OF THE CITY

A. Payment Terms

Subject to all terms and conditions of this Contract, the City agrees to pay for the services rendered by the Contractor pursuant to Exhibit "B". Any and all fees paid to Contractor under this Contract shall be paid solely from the funds collected by Contractor in accordance with this Contract. The Contractor acknowledges and agrees that the City's liability for payment of such fees shall be limited thereby. No funds are or will be appropriated or allocated for the Contractor's performance hereunder. The City's duties to pay money to the Contractor for any purpose under this Contract are limited in their entirety by the provisions of this Section IV. A.

B. Method of Payment

Contractor will be paid on the basis of invoices submitted by the Contractor and approved by the Director showing the services performed and the fee for such services, as provided in Exhibit "B". The City will make payment to the Contractor within thirty (30) days of the receipt by the Director of such invoices. If any items in any invoices submitted by the Contractor are disputed by the City for any reason, including lack of supporting documentation, the City shall temporarily delete the disputed item and pay the remaining amount of the invoice. The City will promptly notify the Contractor of the dispute and request clarification and/or remedial action. After any dispute shall have been settled, the Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only, as determined by the Director.

C. Performance Requirements

Contractor shall be responsible for meeting the requirements set forth in Subsection I titled "Billing and Collections" of Exhibit A, "Scope of Services". Contractor's compliance with the Performance Requirements detailed in Exhibit "C" shall be the measure of whether it has met the requirements set out in the first sentence of the section.

D. Liquidated Damages

Time is of the essence of this Agreement. If Contractor fails to file claims, or fails to file claims within the deadlines set by third party payers, the City will suffer harm, although the actual damages from that harm are difficult to estimate. Therefore, if Contractor fails to file claims or does not meet the deadlines, Contractor shall pay to the City the amounts stipulated in Exhibit "C" as liquidated damages. The amounts listed for each event of delay or failure to file as detailed in Exhibit "C" are a reasonable forecast of just compensation for the harm to the City. Contractor shall pay the amount stipulated for each event of delay beyond the third payer deadline or failure to file a claim during the Term of this Agreement.

V. TERM AND TERMINATION

A. Termination Date

This Contract shall become effective on the date of countersignature by the City Controller, and shall remain in effect for five (5) years immediately thereafter, unless sooner terminated as provided for in this Contract.

B. Notice to Proceed

Contractor shall begin performance under this Contract upon receipt of a written notice to proceed from the Director.

C. Renewals - Automatic

Upon expiration of the initial term, this Contract shall be automatically renewed for three successive one-year terms upon the same terms and conditions unless the Director gives Contractor written notice of non-renewal at least thirty days before expiration of the then-current term.

D. Termination for Convenience

Upon expiration of the Contract Cancellation Moratorium Period, the Director may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.

On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section IV (B) unless the fees exceed the allocated funds remaining under this Agreement. The Contractor shall be entitled to fees as defined in this agreement for a period of 90 days after the termination for convenience becomes effective, on Billable Accounts that the Contractor has previously noticed or billed.

TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN

THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

E. Termination for Cause

Either party may terminate its performance under this Agreement if the other party defaults and fails to cure the default after receiving notice of it. Default occurs if a party fails to perform one or more of its material duties under this Agreement. If a default occurs, the injured party shall deliver a written notice to the defaulting party describing the default and the proposed termination date. The date must be at least 30 days after the defaulting party's receipt of the notice. The injured party, at its sole option, may extend the proposed termination date to a later date. If the defaulting party cures the default before the proposed termination date, the proposed termination is ineffective. If the defaulting party does not cure the default before the proposed termination date, the injured party may terminate its performance under this Agreement on the termination date. The Director shall act on behalf of the City to notify the Contractor of a default and to effect termination.

In case of default by the Contractor for not meeting the requirements of this Agreement, the City may procure the articles or services from other sources and hold the Contractor responsible for any excess procurement cost occasioned or incurred thereby. In no event, however, shall either the City or Contractor be liable for incidental, consequential or special damages under this Agreement.

F. Limitation of Liability for Default

The Contractor's total liability for default under this Agreement shall not exceed the 125% annual value (Gross Collections) of this Agreement. The Limitation of Liability for default as used under this Agreement shall not apply to any liability arising out of events that are covered separately through indemnification or insurance as defined elsewhere in this Agreement.

G. Contract Cancellation Moratorium

The City agrees that it will not cancel or terminate this Agreement in relation to the technical solution during the first eighteen months of the contract term (Contract Cancellation Moratorium Period) for any reason other than for cause. This minimum eighteen- month moratorium has been agreed to for the purpose of allowing the Contractor time to recover its investment in the technical solution, which is scheduled to be amortized over the life of the contract

H. City's Buy-Out Option

After the eighteen- month cancellation moratorium, the City may initiate the buy-out option of the equipment in accordance with the Buy-Out Detail Pricing Matrix attached to and made a part of this Contract as Exhibit "D". In the event that the City elects to exercise this option, it is understood that the purchase must be for the entire list of equipment as quoted in the Buy-Out detail, depreciated according to the Depreciation Schedule attached as Exhibit." J." Contractor shall then transfer Title to the equipment and assign all related software licenses and existing original equipment and software warranties to the City according to the Depreciation Schedule. The buy-out price for the last year of the schedule is \$1.00.

VII. MISCELLANEOUS

A. Independent Contractor

Contractor is an independent contractor and shall perform the services provided for in this Agreement in that capacity. The City has no control or supervisory powers over the manner or method of Contractor's performance under this Agreement. All personnel Contractor uses or provides are its employees or subcontractors and not the City's employees, agents, or subcontractors for any purpose whatsoever. Contractor is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes and all workers' compensation benefits coverage.

B. Force Majeure

(i). Timely performance by both parties is essential to this Agreement. However, neither party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.

(ii). This relief is not applicable unless the affected party does the following:

(a) uses due diligence to remove the Force Majeure as quickly as possible;

(b) provides the other party with prompt written notice of the cause and its anticipated effect; and

(c) provides the other party with written notice describing the actual delay or non-performance incurred within 7 days after the Force Majeure ceases.

(iii) The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default of this Agreement by the City.

(iv) If the Force Majeure continues for more than fifteen (15) days, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.

(v) Contractor is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Contractor shall employ only fully trained and qualified personnel during a strike.

C. Severability

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

D. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding the Agreement.

E. Written Amendment

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

F. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

Venue for any litigation relating to this Agreement is Harris County, Texas.

G. Notice

All notices required or permitted by this Agreement must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the

preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending party

H. Captions

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

I. Non-Waiver

If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

J. Inspections and Audits

City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 3 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

In no event shall the Contractor be required to disclose any information related to its cost or profits or of its subcontractors.

K. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or state law or legislation.

L. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

M. Survival

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

N. Publicity

Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

O. Parties in Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

P. Successors and Assigns

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in §9.406 of the

Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

Q. Remedies Cumulative

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

EXHIBIT "A"

SCOPE OF SERVICES

Exhibit "A", Scope of Services consists of two (2) sub-sections, (I) Billing and Collections and (II) Technology .

I. BILLING AND COLLECTIONS

Contractor shall provide billing and collection services for ambulance services fees ("Transport Fees") charged by the City to an emergency medical service patient ("EMS Patient") who was transported by a Houston Fire Department (the "Fire Department") ambulance to a receiving hospital ("Transport"). Transport Fees charged to hospitals that transport EMS Patients by Fire Department ambulance to a receiving hospital shall be included in the definition of Transport under this Contract. Contractor shall provide the following services to the City:

A. General

1. Contractor shall furnish all services, materials, equipment, office space and personnel necessary to complete the services described herein.
2. Contractor shall maintain a client service manager in Houston with appropriate staffing levels to 1) Verify patient billing information with the hospital the patient was transported to; 2) Research Accurint database or mutually agreed upon database or records to locate and verify patient name and address; 3) Utilize as mutually agreed to, the ACS National Collection Center to research and initiate normal debt collection processes. A Business Process Outsource center shall operate outside the City. Contractor shall notify City in writing of any change in the location of Contractor's Office
3. Contractor shall retrieve media from the Fire Department containing records of each and every Transport and transfer such data to Contractor's computer system ("Data Center") and transfer the data into a Transport master database file ("Database"). Contractor's start date for each Transport Month shall match that of the Fire Department, which is after 12:00 midnight on the first day of each month. Contractor's database shall directly receive all patient care and billing data via CDPD transmission. Contractor shall reconcile the number of transports recorded by the City with that listed in the Contractor's database. However, Contractor shall provide occasional

transport manual data entry, whenever the new computer equipment fails to capture such data.

4. The Database, (which the City shall own) shall be a perpetual record of all Transports by account number. The account number shall consist of the calendar date on which the Transport occurred and a daily sequential transport number shall be used to track billing and collection information on each Transport.
5. Contractor shall, on a monthly basis, provide reports on billing, collection and Contractor's performance as specified herein or as requested from time to time by the Director and mutually agreed to. If a report cannot be mutually agreed to, then the Director may request a cost and time estimate quotation from the Contractor to produce the requested report. Such cost quotation shall not exceed \$125 per hour. If the Director authorizes the Contractor to produce the requested report at the quoted price, then the Contractor shall produce the report and bill the City in the normal monthly billing process upon completion of the report.
6. Contractor shall establish fully auditable billing, collection and accounts receivable systems in accordance with generally accepted accounting principles which shall be accessible to the City or its designated agents at all times.
7. Contractor shall establish HIPAA compliant security systems to protect all information provided or computed in regards to Transports and all billing, collection and accounts receivables generated or derived there from.
8. All data provided to Contractor, or derived there from, the Database and all reports generated hereunder are and shall remain the property of the City.

B. BILLING SERVICES

1. Contractor shall mail notices and bill Transport Fees to each EMS Patient and to transporting hospitals in accordance with City ordinances governing Transports.
2. Contractor shall provide a monthly reconciliation of total Transports to total Billable Accounts (including a report of the ongoing status of any unbilled Transport Fees). This reconciliation shall be based on data provided by the City retrieved from its CAD/RMS system. Such reconciliation shall be done on a numerical basis as well as dollar value basis, for billed and unbilled Transport Fees. The City shall

provide manually prepared data for these reports.

3. Contractor shall respond to and resolve all EMS Patient inquiries and complaints regarding the billing and collection of Transport Fees in a timely and satisfactory manner. Contractor shall provide a local or toll free number for citizens to call for customer service inquiries related to billing. Contractor shall maintain a record of all such inquiries and complaints. Contractor shall refer all complaints involving quality of care provided during transports to the Fire Department's Emergency Medical Service to the person designated by the Director.
4. Contractor shall receive and process for payment all insurance, Medicare and Medicaid claim information submitted by EMS Patients.
5. Contractor shall contact the hospital the patient was transported to for obtaining insurance and/or updated billing information at two stages of the billing process: 1) Within 10 business days after the transport date for all accounts without Medicare, Medicaid or Private Insurance billing information and 2) Within 120 days after the transport date for all remaining unpaid accounts with a second request for updated insurance and/or billing information. In order to increase the number of billable accounts, contractor shall develop a close business relationship with all area hospitals to which patients are transported to by the Houston Fire Department.
6. Contractor shall deposit, at least once each day, into a City bank account as instructed by the Director, the gross receipts from Transport Fees. Contractor shall retain a bonded carrier to deliver deposits to the bank. Said carrier shall maintain a minimum bonding capacity of \$500,000 per daily pickup.

COLLECTION SERVICES

I General

7. Contractor shall provide collection services on all accounts in accordance with procedures and time schedules established in this Contract.
8. Contractor shall develop and implement guidelines for a write-off policy for EMS Patients unable to pay Transport Fees. Such guidelines shall be developed in conjunction with the Director. The guidelines so developed shall conform to all applicable Federal and State laws and the City's policy of sensitivity toward EMS Patients. The guidelines shall be implemented only upon approval by the Director. Contractor shall not use Director-approved write-off guidelines to calculate the Net Collection Rate, but shall use the

guidelines to determine accounts that will no longer be pursued for collection.

9. Contractor shall mail at least nine recurring (other than special notices to be mailed during Sweeps as required under Section II, Special Collections) collection notices to each unpaid account unless the unpaid account has adequate billing information to bill Medicare, Medicaid or Private Insurer or until the account is fully paid. Contractor shall submit notice materials and collection notices mail plan proposal to Director for approval. Director may authorize changes to mail plan in use with 30 days written notice to Contractor so long as the total number of notices to unpaid accounts sent under the direct mail plan in use has not yet exceeded nine. If the Director instructs Contractor to send more than nine regular notices (other than the special notices during the Sweep period) then Contractor may invoice City for postage, printing, envelopes, set-up charges and any associated programming/computer charges incurred in sending out the additional notices. Contractor shall pay for all follow-up notices sent as part of its collection efforts including reminder notices to payment plan payers. Contractor shall send follow-up notices in addition to the nine required notices to be sent as per this Section.
10. Contractor shall pursue Medicare, Medicaid, private insurers and third party billing companies aggressively by exhausting all appeals, re-billing accounts and initiating suits through the City's legal department.

II Special Collections

1. Twice a year Contractor shall initiate special follow-up notices to unpaid accounts that already received at least 9 mail notices or exceed one year in age from the transport date. These special notices are referred to as "SWEEPS".
2. Accounts included in the SWEEPS shall not exceed three (3) years in age. The City, at its discretion, may initiate additional SWEEPS at its own cost in any given fiscal year and choose to include any account, regardless of age.
3. SWEEPS conducted at the City's direction involving accounts beyond three (3) years of age from the transport date shall be solely at the City's expense. However, Contractor's contingency fee shall be reduced to five percent (5%) for all City-initiated SWEEPS that include accounts beyond three (3) years in age. For City-initiated SWEEPS, the City shall pay for postage, printing, envelopes, set-up charges and

any associated programming /computer costs for creating the mailing lists.

D. ACCOUNTS

1. Billable Accounts

- a. Contractor shall calculate a Transport Fee for each Transport for reporting and billing purposes.
- b. Contractor shall bill an EMS Patient or transporting hospital for each Transport, unless such Transport is an unbillable account as provided in 2 below ("Unbillable Accounts.")
- c. Contractor shall perform all billing services in accordance with the standards set in Exhibit C, Performance Requirements.
- d. The co-pay portion of approved Insurance and Medicare claims as well as Insurance and Medicare denials and rejections will be billed to the patient or to the patient's appropriate other insurance.

2. Unbillable Accounts

The following unbillable account categories shall be used to calculate the net collection rate.

In addition, all contractual write-offs for Medicare and Medicaid shall be used to calculate the net collection rate.

- a. The following Transports are exempt from billing (Unbillable Accounts):
 - i. Transports expressly exempted in this Contract or otherwise agreed to in writing by the Fire Department as being exempt from billing;
 - ii. Transports missing only name and/or address and for which the Fire Department can verify that no name and/or address exists (including wrong names and addresses that cannot be verified – commonly referred to as "Nixies"). Notwithstanding the foregoing, Contractor shall make every attempt to obtain such information through its usual and customary procedures, including, but not limited to, methods specifically mentioned in the Contract.

- iii. Transports of EMS Patients who are subsequently adjudged by a Court of competent jurisdiction to be bankrupt;
 - iv. Transports of EMS Patients who die and it has been determined by a court of competent jurisdiction that the EMS Patient has no assets;
 - v. Transports billed to Medicare and/or Medicaid and for which further collection efforts are barred by federal or other applicable law or Medicare and/or Medicaid provisions require certain billed amounts to be written off.
- b. All capitated agreements with insurance companies that offer discounted fast payment procedures must be approved by Director.
 - c. No other Transports are unbillable, except as otherwise approved by the Director in writing. Any reference in the Contract to "write-offs" shall mean Unbillable Accounts and shall be limited to the types of accounts defined above.

3. Adjustments to Transport Fees shall be

- a. overpayment of a Transport Fee.
- b. refund of all or part of a Transport Fee or unidentified amount received which cannot be posted to an EMS Patient's account.
- c. amount posted to an EMS Patient's account, which was paid by a check that was not honored by the bank.
- d. Contractor's posting errors.

E. REPORTS

The following reports shall be available upon Director's request:

- 1. Contractor shall provide the Director, on a monthly basis and in the form prescribed, the reports required under the terms of this Contract.

2. The Director may request additional reports or modifications to such reports from time to time, and Contractor shall provide such additional reports and/or modified reports to Director in the form, method and time frame requested by the Director. Upon implementation of the Data Warehouse System, the City shall have access to all data collected in a relational Database and shall be able to generate adhoc reports at will.

3. Contractor shall prepare:

a. one or more reports to reconcile the Transport records contained in the data transferred to the Database. Such report(s) shall provide the following information:

(Note: Data from City's CAD/RMS System are required in addition to manually prepared data from the City database).

i. Number of Transports on Tape.

ii. Transport Fees for all Transports regardless of whether a Transport is a Billable Account or an Unbillable Account.

iii. Unbilled Accounts and reason for not billing Transport Fees.

b. one or more reports on billing activity, shall include the following information:

i. Number of Transports on Tape.

ii. Transport Fees for all Billed Transports.

iii. Transport Fees for all Unbillable Accounts.

iv. Net Amount Billed.

v. Net Amount Collected

vi. Percentage of Net Amount Collected compared to Net Amount Billed

vii. Source of payment of Transport Fees, i.e., whether Transport Fees were paid by EMS Patient, Medicare, Medicaid, or insurance.

viii. Any adjustment to such payment of Transport Fees.

- c. A report of Unbilled Accounts, listed by date of Transport and identifying the reason the Transport Fees were not billed, as provided in Section D.2. above.
- d. One or more reports to reconcile amounts billed, payments received, daily deposits and Contractor's monthly invoice for services provided to the City under this Contract. Such reports shall include the following information:
 - i. Net Amount Billed
 - ii. Net Amount Collected
 - iii. Source of payment of Transport Fees, i.e., whether Transport Fees were paid by EMS Patient, Medicare, Medicaid, Insurance.
- e. A report listing payments received for Transport Fees, and date of deposit of each such payment by date of Transport.
- f. A report of aged accounts receivable, listed by source of payment, i.e., EMS Patient, Medicare, Medicaid, or insurance.
- g. A report of Medicare and Medicaid billing, and payment activity, which shall include the following information:
 - 1. Total Transport Fees billed to Medicaid.
 - 2. Total Transport Fees billed to Medicare.
 - 3. Total Transfer Fees billed to Medicaid, which were rejected for payment.
 - 4. Total Transport Fees billed to Medicare, which were rejected for payment.
 - 5. Total Transport Fees billed and Paid by Medicaid.
 - 6. Total Transport Fees billed and Paid by Medicare.

7. Total Transport Fees billed to Medicaid, which are barred, in whole or in part, by statute.

8. Total Transport Fees billed to Medicare, which are barred, in whole or in part, by statute.

This report shall provide total amounts for the Transport Month and cumulative total amounts from date of Notice to Proceed to ending date of report.

h. A report reconciling payment activities, shall include the following information:

1. Net amount collected.
2. Payments deposited which have not been posted to an EMS Patient's account.
3. Previously unidentified payments, which have been deposited and posted to a particular EMS Patient's account.
4. Other adjustments allowed by the Director.

i. A monthly report listing all refunds of payments for Transport Fees giving the following information:

1. Date refund was issued.
2. Account number to which such refund was charged.
3. Amount of refund.
4. Reason for refund.

j. A monthly report of all checks not honored for payment by a bank, including the following information:

1. Account number to which such payment was posted.
2. EMS Patient name.

3. Check amount.
 4. Date(s) check was deposited.
 5. Date(s) check was returned by bank.
- k. If requested by the Director, a report by account number, of all accounts considered uncollectible by Contractor and including the following information:
1. EMS Patient.
 2. Date of Transport.
 3. Transport Fee Billed.
 4. Transport Fee unpaid.
 5. Reason for Being Classified as Uncollectible: Contractor shall make every reasonable effort to collect each Transport Fee for each account. Contractor shall make additional attempts to collect such inactive accounts upon request of the Director. An account is uncollectible if one or more of the following conditions exist:
 - i. Contractor has failed to locate EMS Patient (Nixie).
 - ii. Balance of Transport Fee remaining unpaid is too small to justify additional collection efforts.
 - iii. EMS Patient has no assets from which Transport Fees can be paid.
 - iv. City exempts EMS Patient from payment.
 - v. City is statutorily barred from collecting payment of Transport Fees.
- l. A monthly listing of daily deposit amounts and bank adjustments to deposit amount.
- m. If requested by the Director, a report of Transports for which

there was no name and/or address provided on the Tape, listed by EMS technician or paramedic.

1. Contractor shall provide any and all reports and data on which such reports were based on a floppy disk formatted to be compatible with City computer equipment and Lotus spreadsheet software.
 2. All reports shall contain information for one Transport Month and shall be prepared for each Transport Month during the term of this Contract unless otherwise provided herein.
- n. Contractor shall provide the City, as and when requested, with all billing and collection data for Medicare/Medicaid paid accounts, which are subsequently disputed by Medicare/Medicaid auditors as overpayments, to enable the City to respond to the auditors' demands for refunds.
- o. Other reports as mutually agreed by the parties.

Handwritten signature and date: 10-28-02

II TECHNOLOGY

(a) Software, Hardware, and Wireless Interface

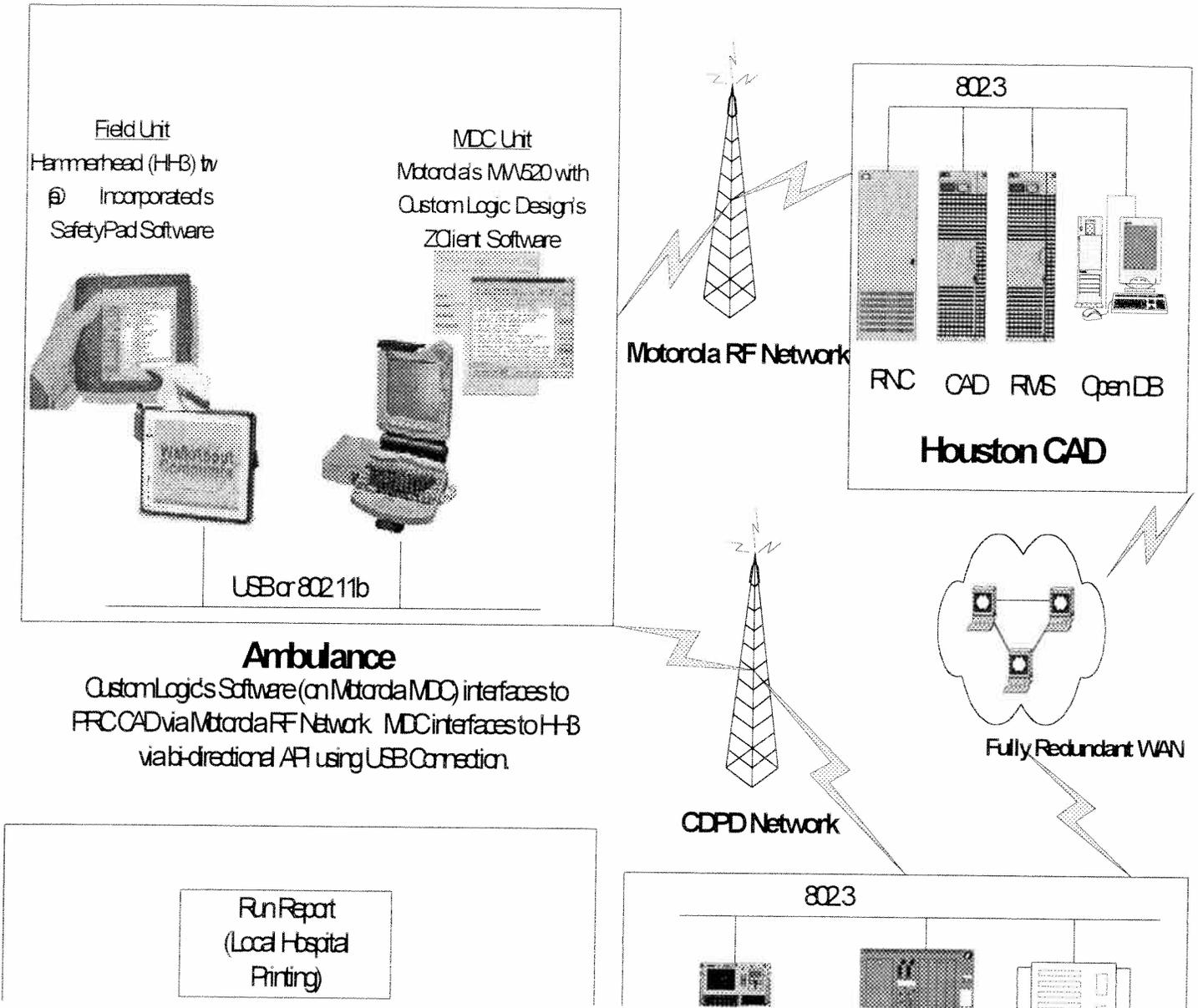
Contractor shall provide the City with its EMS Billing and Hand-Held Solution that includes the following four system components: (1) Mobile Computers in the ambulances (Hammerhead's HH3 units), (2) a Custom Logic/Motorola Interface to the City's CAD, (3) Local Printing at Houston area hospitals, and (4) Contractor's back-end Billing and Ad-Hoc/Data Warehouse.

Four System Components	Description
Mobile Computers in the Ambulances	Contractor shall provide 101 Walkabout Hammerhead HH3 computers and additional WHH3 computers for each EMS Unit added during the contract term, at cost. These devices shall be configured with Open Inc.'s SafetyPAD data collection software. Additionally, Contractor shall upgrade 96 MW520 mobile computer terminals. Further, the City must provide Motorola MW520 mobile computer terminals for the reserve fleet to support a USB interface with the HH3 Hammerhead computers supplied by Contractor. Contractor shall provide the network connectivity to the MW520s via the USB port. Contractor shall also upgrade the MW520 mobile computer terminals for the reserve fleet.
Custom Logic/Motorola Interface to CAD	Contractor shall provide an application from Custom Logic Design that interfaces with the City's PRC CAD that supports outbound/inbound MDT status messaging and transmits

	completed Patient Care Reports (PCR's) via the City's RD-LAP Motorola Network.
Local Printing at Area Hospitals	Contractor shall provide 40 Printers (HP2200DN units) to be placed at Houston Area Hospitals (desktop docking stations and/or infra-red capabilities required) and 101 mobile field printers for each WHH3 computer installation. Contractor shall provide additional printers as new EMS apparatus are added to the fleet (Canon BJC-85 units). Contractor shall support all hardware, software, and supplies it provides to the City under the terms of this Contract.
ACS' Back-End Processing	Contractor shall provide the City with its existing Billing and Ad-hoc/Data Warehouse system.

The system diagram, on the following page, represents these system components graphically.

Houston EMS System Diagram



The system configuration, represented in the above diagram, shall comprise the following.

Contractor shall provide all of the following hardware, software, wireless network connectivity, as well as related licenses and documentation to the City (Technology), and upon the City's exercise of its Buy-Out option, Contractor shall transfer title to the Technology and assign all warranties as set out in Article VI, Section H of the Contract and in the Depreciation Schedule

Hardware

- 101** Hammerhead HH3 computers with Windows 2000 Pro OS
- 126** Hammerhead Vehicle Docks (including reserve apparatus)
- 126** Hammerhead Vehicle Dock Installations (including reserve apparatus)
- 40** HP2200DN Printers for Area Hospital Printing of PCR Data (docking stations or infra-red)
- 101** Canon BJC-85 Printers for Mobile/Back-Up Printing of PCR Data

Any additional equipment over and above that itemized in Exhibit D that is required by the City during the term of the contract, e.g. to support additions to the fleet, will be at the City's cost. The Contractor will provide an itemized invoice detailing the various components that are required and the prices charged will be those reflected in Exhibit D. Any changes, reductions or increases, in price from Contractor's suppliers will be passed on to the city. Contractor shall maintain, and support any and all additional equipment and software as required under the terms of this Contract.

The parties understand that the City is responsible for procuring, installing, and maintaining dedicated MDT devices, the Motorola MW520 units, in its ambulance fleet. The success of Contractor's technical solution depends upon the City's completing this task. Contractor warrants the functionality of the enhanced MDT software provided by Custom Logic Design and resident on the MW520 device. Contractor shall also provide maintenance services for the software. Notwithstanding the foregoing, Contractor expressly excludes maintenance responsibility of the MW520 from its contractual obligations. No penalties, holdback payments, etc. may be assessed against Contractor for hardware failure(s) of City-owned MW520 devices.

Contractor understands that the City intends to Equip **9** Supervisor and **6** Physician vehicles. If City equips these vehicles, Contractor shall work with the City at additional costs to define and implement an appropriate solution for these units. Compaq iPAQ devices should be sufficient equipment for these positions. However, Contractor shall procure Compaq iPAQs_ and the necessary software to allow individuals to enter a minimal record. The parties shall decide at what stage of the

project to implement a solution for the additional vehicles.

Mobile Software

Quantity Mobile Software Component

- 101 **User Licenses for Custom Logic Design's ZClient Application:**
Contractor shall provide user licenses for a modified Custom Logic ZClient application that interfaces with the City's PRC CAD. The City must purchase the base license for ZClient32 and ZMap from Custom Logic Design as part of the City's Emergency Alerting System (EAS) Project. The City's purchase of these base licenses is a pre-requisite to Contractor's contract offering. Contractor shall provide the modified Zclient application capable of supporting outbound/inbound MDT status messaging and the transmission of completed encrypted Patient Care Reports (PCR's) via the City's RD-LAP Motorola Network. Contractor shall provide, at cost, additional licenses as new EMS apparatus are added to the fleet.
- 101 **User Licenses for OPEN Incorporated's SafetyPAD® Mobile Application:**
Contractor shall provide user licenses for Open's SafetyPAD mobile software. Contractor shall provide, at cost, additional licenses as new EMS apparatus are added to the fleet.
- 2 **User Licenses for OPEN Incorporated's SafetyPAD® Base Application:**
Contractor shall provide user licenses for Open's SafetyPAD base software. The City must host an instance of the software at a location of its choice. Contractor shall host an additional instance of the application at Contractor's Data Center in Tarrytown, NY. All networking and maintenance responsibilities, associated with the City-hosted instance of SafetyPAD Base, shall be the responsibility of the City.
- 101 **User Licenses for OPEN Incorporated's iDelivery Application:**
Contractor shall provide user licenses for Open's iDelivery mobile software. Contractor shall provide, at cost, additional licenses as new EMS apparatus are added to the fleet.

Wireless Network Connectivity

Contractor shall transmit completed PCR's via binary transfer over the City's wireless RD-LAP data communications network. Specifically, Contractor shall modify the ZClient32 application running on the MW520 workstation to conform to the City's specification for binary file transfer. Contractor shall encrypt all data within the Zclient application using its encryption routine.

Contractor shall transmit an additional set of completed PCR's via a public data carrier selected by Contractor. Contractor may select a public CDPD network provider such as Verizon. Contractor shall send completed PCR's via the public network directly from a modem controlled by the HH3 device, running SafetyPAD mobile. Contractor shall provide the two methods of wireless data transfers detailed above to create a diverse routing system.

The City shall be responsible for the City's wireless RD-LAP network and its message switch. The City, at its expense, must modify the message switch, upon receiving an incoming binary file, in order to receive files in a specified directory. The City must also ensure that the local Open Inc Server has access to this directory structure in order for the data transfer to function. The Open Inc Server will check this directory for files and, upon finding one, process it. Once processed, the file will be loaded into a local database that can be accessed by the PRC RMS System. The City shall be responsible for modifying and maintaining the PRC RMS System in order for the system to subsequently extract new records and incorporate them into the City's RMS database.

The diagram on the following page presents this configuration.

Contractor shall provide:

- One Windows 2000 Server capable of receiving PCR Data
- Modified ZClient Software capable of routing PCR Data to the above Database Server
- Modified Open Software capable of routing PCR Data to the above Database Server

The City must provide the following for the successful transmission of PCR data via the City's RD-LAP network:

- Maintain: (i.) the Motorola MW520 devices, (ii.) Custom Logic base ZClient32 product, (iii.) the city's RD-LAP network, (iv.) RNC3000, (v.) Mobile Data Message Switch, (vi.) network communication to the OPEN local EMS Report Repository via the HPD Communications Backbone and the HFD Network Backbone, and (vii.) PRC CAD and/or RMS ETL processing.
- A Functioning Motorola MW520, including Custom Logic's base Zclient32 software, with RD-LAP modem in each ambulance to receive a HH3 is a pre-requisite to Contractor's installing the Walkabout HH3 in the given vehicle.
- Specifications for the binary file transfer.
- Specifications for wireless message encryption in order to encrypt other traffic, when required.
- Binary file support by creating a file repository for the PCR Data.

- Support and Maintenance of the Windows 2000 Server and Software associated with the local instance of Open Inc.'s SafetyPAD Base.
- Support and timely assistance to test and verify proper system operation prior to cutover.
- Technical Development support to create the means to reconcile delivery of patient reports and to verify that reports received via CDPD and via RD-LAP are consistent.

The City must, at a minimum, develop the PRC system to successfully implement the project by providing the following:

- CAD dispatch reconciliation
 - (ii) billing data extracts related to any ambulance transports that are manually data entered into the PRC CAD/RMS system.

Hosted ACS Software

Contractor shall provide the City with its existing billing system, ABACOS, which shall be hosted at Contractor's Data Center in Tarrytown, NY. Contractor considers the billing software proprietary, the billing software shall remain the property of Contractor and shall not be; however, Contractor shall provide to the City a license to use ABACOS during the term of this Contract at no additional cost.. Contractor shall also provide the City with access to its Ad-Hoc/Data Warehouse Solution via the Oracle Discoverer tool set. Contractor also considers the Ad-Hoc/Data Warehouse Solution proprietary and thus the Ad-Hoc/Data Warehouse Solution and the billing software components shall not be transferred to the City under the Technology Refresh Transfer provision.

Contractor shall provide the Software components detailed above only if City transmits completed Patient Care Report Data to Contractor's Data Center via a Public Data Carrier.

Maintenance

Contractor shall maintain the Technology outlined above at no additional cost to the City. Contractor shall maintain a spare inventory equal to 5% of the utilized HH3 units to facilitate an immediate "swap out" capability. The City requires a minimum 5% of utilized HH3's as reserve equipment on site at all times. (i.e.: Contractor shall maintain a 5% spare inventory on site exclusive of any units offsite for repairs). Further, Contractor shall locate the reserve equipment at HFD offices for HFD personnel to distribute as necessary on a 24/7 basis. City shall return faulty units to Contractor at a designated central depot where Contractor shall exchange the faulty units for functioning units. Contractor shall collect the faulty unit, repair the units and return the repaired units to the spare inventory, within 5 business days. City shall contact Contractor's local support person by telephone to report software problems occurring during normal office hours. If Contractor cannot find an immediate remedy

to rectify the problem, then City shall return the unit to the central depot in exchange for a functioning unit. Contractor shall collect the unit from the central depot and return the repaired unit to the depot in 2 business days.

Equipment Operational Disclaimer

Contractor shall not be responsible for equipment that is damaged through City's negligence or misuse. City must bear all costs associated with such repairs, including shipping and handling, subject to the City's appropriated funds to pay such charges..

Functional Software Description

The following document describes the functional software features, business rules, of Contractor's Mobile Data Collection EMS Solution. Contractor shall provide the City with the following mobile software components to complement Contractor's EMS Billing Services:

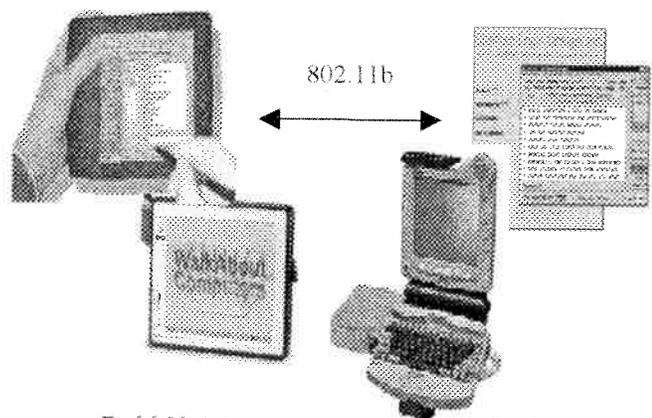
- An Enhanced Custom Logic Design MDT Application
- OPEN Incorporated's **SafetyPAD**[®] EMS Data Collection Application
- OPEN Incorporated's *iDelivery*[®] Application

An Enhanced Custom Logic Design ZClient32 MDT Application

Contractor has teamed with Custom Logic Design, Inc. to provide the City with an enhanced MDT Application that can interface with OPEN's EMS software, running on the Hammerhead HH3. Contractor shall modify Custom Logic's existing Zclient32 application to create an UDP/IP interface to the OPEN's software as part of the City's EMS Billing and Hand-held Computer solution. Contractor shall implement an IP based communications interface in order to allow for communications between the Hammerhead unit and the communications workstation running the ZClient32 application. Contractor provided interface will support UDP based messaging. The interface between the ZClient32 application and Open's application will be bi-directional.

ZClient32 to Open Inc.— Contractor shall process each CAD Dispatched message received by the ZClient32 as normal. Contractor shall also place each dispatch message in an outbound OPEN message queue. Contractor shall ensure that the ZClient32 will also support a

Each Ambulance Will Be Equipped with 2 Mobile Computers Seamlessly Integrated Together using a Wireless 802.11b.



Field Unit
Hammerhead (HH3)
with
Open Incorporated's
SafetyPAD Software

MDC Unit
Motorola's MW520
with Custom Logic
Design's ZClient
Software

special Contractor message type, which shall be passed to the OPEN application. Contractor shall ensure that the ZClient32 will then deliver these messages to the OPEN application. Contractor shall provide for the OPEN application to remove messages from the outbound message queue, once it actually receives the message. Contractor shall also ensure that if the OPEN application does not ACK the message, ZClient32 will retry the message until delivered or until the ZClient32 application is shutdown.

Open Inc to ZClient32—Contractor shall provide the OPEN application which can pass a message to the ZClient32 that will be passed on to the message switch via the RD-Lap network. Contractor shall ensure that the application works in such a way that each message sent to the ZClient32 application will in turn be forwarded to the VRM modem and on to the message switch. Contractor shall ensure that Message ACK shall be implemented, if required, via the Contractor's interface to the message switch.

Contractor shall ensure that the enhanced Zclient32 version with the functions described above will provide the City with seamless connectivity with the computers equipped in the ambulances.

OPEN Incorporated's SafetyPAD[®] EMS Data Collection Application

Contractor shall provide the City with the SafetyPAD[®] software which is an electronic EMS patient care reporting and information management system comprised of two unique components, SafetyPAD[®] mobile (mobile) and SafetyPAD[®] base (base). Mobile and base are 32-bit Windows applications that each offers configurable graphical user interface. Both are compiled, component-based, and object-oriented programs. SafetyPAD[®] uses a MSSQL database.

Mobile

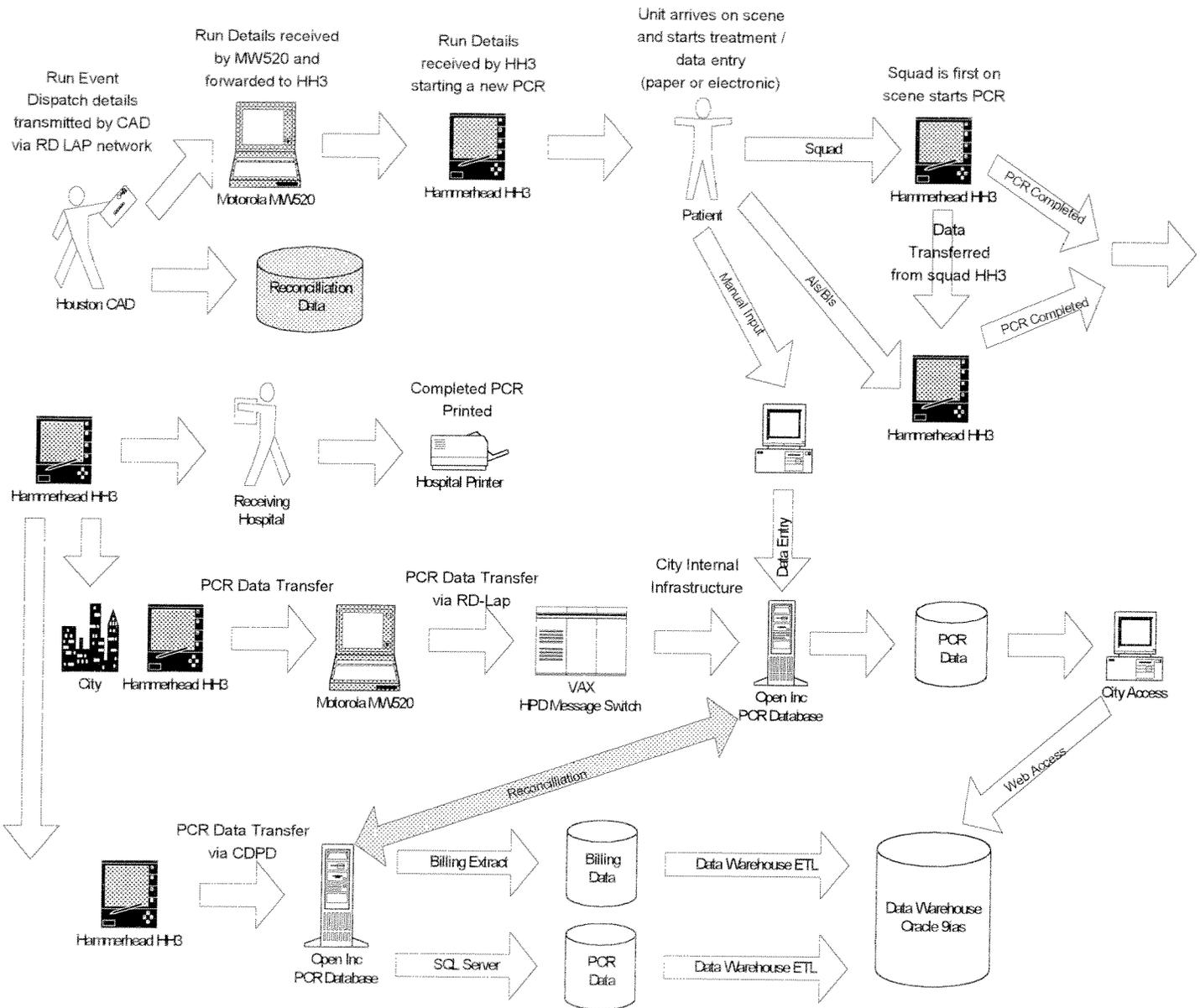
SafetyPAD[®] mobile allows responders to collect, reference, and communicate call and patient information on mobile computers throughout the course of an EMS call at a patient's side in real-time. It operates under Windows 9x pen-based computers and shall be compatible with Windows 2000 professional software. Users are exposed to a configurable, graphical, pen centric user interface allowing them to enter and reference information.

Base

SafetyPAD[®] base manages, analyzes, and distributes information evolving from each patient encounter. It gathers information from mobile through a number of connectivity options, has the capability to share data between the appropriate entities (CAD, billing, QA/QI, operations, etc.), and analyzes its content through web-based querying tools. Its database management architecture is predominantly data driven to offer unlimited analysis and customization capabilities through a web-based interface. Base operates on Windows NT or 2000 Server computer operating with IIS.

Contractor shall provide the following EMS Solution which uses the process illustrated in the diagram below:

Houston EMS Workflow



(b) Magnetic Card Reading Equipment:

In addition to the technology implementation defined in the Contract, at the cost of the City, Contractor shall successfully install and integrate during Phase 1, the following equipment and software modification in every ambulance unit (subject to the total liability limit set out below) based on the following cost schedule:

<u>Description</u>	<u>Unit Price</u>
Magnetic Card Reader Device	\$150 (per unit)
Powered Hubs (12v to 5v)	\$100 (per unit)
Software Modification	\$30,000 (inclusive of all units)
Implementation costs	\$22,500 (inclusive of all units)

The City's total liability due to this single provision shall not exceed \$250,000. Any changes, reductions or increases, in price from Contractor's suppliers will be passed on to the City. Upon successful implementation and acceptance by the City, Contractor shall invoice the City for all costs as defined herein per Section IV of the Contract. All payments to Contractor for this equipment will be made only from Net Collections.

Contractor shall maintain and support all equipment and software as required under the terms of this Contract at Contractor's actual cost, which shall not exceed \$25,000 per year.

jm
10-28-02
RP

Houston EMS Project (3 Project Phase Approach)

OPEN Software and Hammerhead Equipment Installation

Definition Stage for Phase I

Houston EMS Project (3 Project Phase Approach) shall be implemented beginning with the Notice to Proceed date. All dates will be adjusted accordingly, but the number of days to implement/install each listed item/phase shall remain the same.

<i>Phase I: OPEN Software and Hammerhead Equipment Installation</i>	140 days
Definition Stage for Phase I	20 days
Open Inc. Software Requirements	5 days
Safety PAD Base	5 days
Safety PAD Mobile	5 days
Define Interim Data Input Procedures for Patient Care Reports	2 days
Define CDPD Transport Approach for Completed Patient Care Reports	5 days
Define Hammerhead Hardware Requirements	2 days
Define Hardware Installation Requirements	3 days
Landline Networking Interface Definition	5 days
Network Interface with Houston ACS Office	5 days
Network Interface with ACS Data Center	5 days
Network Interface with City of Houston	5 days
Define Testing Requirement	5 days
Specific Performance Measures	5 days
System Acceptance Testing	5 days
Hardware Acceptance Testing	5 days
Communication Interface Acceptance Testing	5 days
Functional Acceptance Testing	5 days
Final Acceptance Testing	5 days
Live Operation Testing	5 days
Define Training Requirement	5 days
Application Development Stage for Phase I	40 days
Safety PAD Base	40 days
Safety PAD Mobile	40 days
CDPD Transport of Completed Patient Care Reports	40 days
Testing Stage for Phase I	20 days
Specific Performance Measures	5 days
System Acceptance Testing	5 days
Hardware Acceptance Testing	5 days
Communication Interface Acceptance Testing	5 days
Functional Acceptance Testing	5 days
Final Acceptance Testing	5 days
Live Operation Testing	5 days
Implementation Stage for Phase I	60 days
Houston Pilot Project, install 6 units for pilot test	30 days
Hardware Installation	60 days
Training	60 days
<i>Phase II: Wireless Interface to PRC CAD</i>	85 days
City Completes PRC CAD Installation	1 day
City Purchases and Installs MW520 Units	1 day
City Completes Emergency Alerting System Contract with Custom Logic Design	1 day
Definition Stage for Phase II	15 days
Define Custom Logic Software Modifications	15 days

Define CAD Interface Requirements	5 days
Status Messaging	5 days
Message Structure	5 days
Define Motorola Network Requirements (RD-LAP)	5 days
Define Interface between MW520 and HH3	5 days
Define iDelivery Requirements	5 days
Define Testing Requirement	5 days
Specific Performance Measures	5 days
System Acceptance Testing	5 days
Hardware Acceptance Testing	5 days
Communication Interface Acceptance Testing (RD-LAP)	5 days
Functional Acceptance Testing	5 days
Final Acceptance Testing	5 days
Live Operation Testing	5 days
Define Training Requirement	5 days
Application Development Stage for Phase II	40 days
CAD Interface	40 days
Status Messaging	40 days
Software Interface between MW520 and HH3	40 days
Testing Stage for Phase II	20 days
Specific Performance Measures	5 days
System Acceptance Testing	5 days
Hardware Acceptance Testing	5 days
Communication Interface Acceptance Testing	5 days
Functional Acceptance Testing	5 days
Final Acceptance Testing	5 days
Live Operation Testing	5 days
Implementation Stage for Phase II	10 days
Hardware Installation	0 days
Training	10 days
25 days	
<i>Phase III: System Interface to City RMS</i>	
City Completes RMS Installation	0 days
Definition Stage for Phase III	10 days
City RMS Data Requirement	10 days
City Provides ACS with Required Data Format	5 days
RMS/Local SafetyPAD Server Interface	5 days
Define Testing Requirement	5 days
Specific Performance Measures	5 days
System Acceptance Testing	5 days
Hardware Acceptance Testing	5 days
Communication Interface Acceptance Testing	5 days
Functional Acceptance Testing	5 days
Final Acceptance Testing	5 days
Live Operation Testing	5 days
Define Training Requirement	5 days
Application Development Stage for Phase III	10 days
ACS Application Interface Support	10 days
Testing Stage for Phase III	5 days
Specific Performance Measures	5 days
System Acceptance Testing	5 days
Hardware Acceptance Testing	5 days
Communication Interface Acceptance Testing	5 days
Functional Acceptance Testing	5 days
Final Acceptance Testing	5 days
Live Operation Testing	5 days

Implementation Stage for Phase III 5 days
Begin Operational Centralization Effort 0 days

Exhibit "B"

Payment of Fees

I. General

Subject to all terms and conditions of this Contract, City agrees to pay Contractor for its performance under this Contract in accordance with this Exhibit "B" and Article IV, Section A and B of the Contract.

- A. The Contractor shall be paid a flat contingency fee of 14% based on gross revenue collections each month through the last month of the Cancellation Moratorium Period. Thereafter, at the completion of each City fiscal year, the Contractor's fee will be adjusted up or down (Annual Adjustment) based on the Net Collection Rate as defined below.

Net Collection Rate = The dollar amount of Gross Revenue less Adjustments for Insufficient Checks and Refunds divided by the dollar amount of Gross Billings less the unallowable portion for Medicare and Medicaid accounts and Unbillable Accounts as defined in Exhibit A D.2

The Annual Adjustment for each fiscal year will be calculated using the following definitions.

Gross Revenue: Annual cash collections during the fiscal year regardless of the date of service on which the transport occurred and posted to customer's account in the receivable billing system.

- B. The Annual Adjustment will be calculated according to the following schedule:

Net Collection Rate – Actual Rate Rounded Up or Down to The Nearest Percentage	Contractor Fee Percentage of Gross Revenue
Less than 40%	14%
41%	14.50%
42%	15.00%
43%	15.50%
44%	16.00%
45%	16.50%
46%	17.00%
47%	17.50%
48%	18.00%
49%	18.50%
50%	19.00%
More than 50%	20.00%

For example, if the Net Collection Rate for a particular fiscal year were 42%, the flat contingency fee for that fiscal year would be fifteen percent. Since the Contractor has

already been paid a flat contingency fee of fourteen percent for all gross revenues, the Contractor would be paid an additional one percent on all collections within that fiscal year.

II. Payment Holdback/Technology Implementation Incentive

20% percent of the Contractor's contingency fee will be withheld by the City during the Technology Implementation Phases. The 20% holdback shall be paid to Contractor upon completion of each new phase of the implementation project in proportional amounts as each new phase is accepted by the City.

III. Payment for Card Reading Equipment and Maintenance

Upon acceptance of all of the Card Reading Equipment set out in Exhibit "A" II (b) by the City, Contractor shall invoice the City for all costs of the Equipment as set out in Exhibit "A" and the City shall pay the invoice out of Net Collections in addition to any percentage fees owed for the month in which the invoice is received.

Contractor shall invoice the City on a semi-annual basis for Card Reader Equipment maintenance, which shall be payable only from Net Collections.

JM
10.28.02
[Signature]

EXHIBIT "C"

PERFORMANCE REQUIREMENTS

Contractor shall meet the objectives set out in sub-section I, of Exhibit "A" entitled, "Billing and Collections". Contractor's performance in meeting Contract objectives shall be measured as detailed in this Exhibit "C" and failure to meet such objectives shall be assessed as "Liquidated Damages" (subsection "E" of Article IV, Duties of the City") in the amounts detailed below.

Performance Requirements:

1. Contractor shall process and submit for payment all claims to Medicare, Medicaid, private healthcare insurers, or self-pay category within thirty (30) business days from receipt of transport data from City.

Failure to File Claims – Liquidated Damages Assessed for such failures.

If Contractor fails to file or submit a claim for payment due to lack of diligence, mistake or error, liquidated damages of twenty-five dollars (\$25.00) shall be assessed against the Contractor for each such failure.

2. Contractor shall submit all reimbursement claims within the deadlines set by each third party payer (Medicare, Medicaid and private healthcare insurers).

Failure to Meet Claims Filing Deadlines - Liquidated Damages Assessed for such failures:

If Contractor fails to meet a third party payer's deadline for submission of claims, liquidated damages of two hundred dollars (\$200.00) shall be assessed against the Contractor for each such failure.

Contractor shall file claims within the deadlines detailed below for various third party payers:

Medicare: October 1st of any given year to December 31 of the preceding year (15 months)

Medicaid: Ninety-five (95) days from the date of service.

Healthcare Insurers: one-hundred eighty (180) days from the date of service.

3. The Contractor shall submit all self-pay reimbursement claims within ninety (90) days of receipt of transport data from the City.

Failure to File Self-Pay Claims – Liquidated Damages Assessed for such failures:

In the event that the Contractor fails to submit a request for payment to the individual within the 90 day time period, a penalty of fifty dollars (\$50.00) shall be assessed against the Contractor for each event.

EXHIBIT D

BUY-OUT DETAIL PRICING MATRIX

EXHIBIT D

PRICE MATRIX FOR TRANSFER OF TECHNOLOGY REFRESH EQUIPMENT

Number of Wireless WANS 0
 Months of Contract 50
 Number of HH3 Units 101
 Number of IPAQ Hand-Helds 0

Houston EMS Solution Hardware

Server Hardware

	Quantity	Unit Price	Ambulance Related	Hospital Related	Software/Hardware	Total
Compaq ProLiant CL380 Intel Pentium 1GHz/133 Rack Model	2	\$ 31,561.20			\$ 63,122.40	\$ 63,122.40
Compaq ProLiant CL380 Intel Pentium 1GHz/133 Rack Model	1	\$ 31,561.20			\$ 31,561.20	\$ 31,561.20
HP 360/720GB oDLT 8000 SCSI Tower	1	\$ 9,652.80			\$ 9,652.80	\$ 9,652.80

Workstations

E-1600 XL (Gateway)	0	\$ 1,248.00			\$	
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Printers

HP 4100N	50	\$ 1,858.80		\$ 92,940.00	\$	\$ 92,940.00
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Network Hardware

Catalyst 24 port 10/100 Switch Enterprise Edition	2	\$ 1,508.40		\$ 3,016.80	\$	\$ 3,016.80
Cisco 2620 with 56Kb DSU/CSU	2	\$ 5,817.60		\$ 11,635.20	\$	\$ 11,635.20
US Robotics 56 KBPS Modem	2	\$ 300.00		\$ 600.00	\$	\$ 600.00

Hammer Head 3-Colorpen (Mfg Walkabout)

Computer	101	\$ 4,972.80	\$ 502,252.80			\$ 502,252.80
Display	101	\$ 324.00	\$ 32,724.00			\$ 32,724.00
RAM	101	\$ 409.20	\$ 41,329.20			\$ 41,329.20
Case	101	\$ 75.60	\$ 7,635.60			\$ 7,635.60
Pen	101	\$ 74.40	\$ 7,514.40			\$ 7,514.40
Power	101	\$ 68.40	\$ 6,908.40			\$ 6,908.40
Docking (Desk Docking Station)	3	\$ 438.00	\$ 1,314.00			\$ 1,314.00
Docking (Vehicle)	101	\$ 579.60	\$ 58,539.60			\$ 58,539.60
Network Card	101	\$ 286.80	\$ 28,966.80			\$ 28,966.80
PC/MCIA Door	101	\$ 234.00	\$ 23,634.00			\$ 23,634.00
Power Misc. Parts	101	\$ 290.40	\$ 29,330.40			\$ 29,330.40
Power Misc. Parts	202	\$ 112.80	\$ 22,785.60			\$ 22,785.60
Power Misc. Parts	101	\$ 528.00	\$ 53,328.00			\$ 53,328.00
128MB Compact Flash w/PC-card type II adapter	101	\$ 300.00	\$ 30,300.00			\$ 30,300.00
Sierra Wireless - Air Card 300 CDPD Modem	101	\$ 598.80	\$ 60,478.80			\$ 60,478.80
L&E Mobile Installation	101	\$ 1,344.00	\$ 135,744.00			\$ 135,744.00

Compaq Palm Pilot Devices

Compaq IPAQ	0	\$ 1,080.00	\$ 0.00			\$ 0.00
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Field Printers

Canon BJC-85 Printer	101	\$ 360.00	\$ 36,360.00			\$ 36,360.00
25 Foot USB cable	101	\$ 24.00	\$ 2,424.00			\$ 2,424.00

44 First Responders

Number of Wireless WANS 0
 Months of Contract 60
 Number of HH3 Units 101
 Number of IPAQ Hand-Helds 0

Houston EMS Solution

	Quantity	Unit Price	Ambulance Related	Hospital Related	Software/Hardware	Total
IR Parallel	0	\$ 132.00	\$0.00			\$0.00
Vehicle Mounting Bracket	101	\$ 240.00	\$24,240.00			\$24,240.00
LP patient cable	101	\$ 72.00	\$7,272.00			\$7,272.00
Digital Cameras						
Camera	0	\$ 480.00	\$0.00			\$0.00
Open Modules	0	\$ 240.00	\$0.00			\$0.00

Third Party Software

Off-The-Shelf Software						
Windows 2000 Server Edition	1	\$ 529.20			\$ 529.20	\$ 529.20
ArcServe 2000 Workgroup Edition	1	\$ 492.00			\$ 492.00	\$ 492.00
ArcServe 2000 Open File Agent	1	\$ 558.00			\$ 558.00	\$ 558.00
Custom Logic Design						

Application Development

Application Development - RD LAP Network	1	\$ 29,160.00	\$ 29,160.00			\$ 29,160.00	Integration of HH to MW520
Anticipated Consulting Fees	30	\$ 1,440.00	\$ 43,200.00			\$ 43,200.00	Integration of HH to MW520

OPEN inc.

Safety PAD Base & Wireless Manager

Application Development	1	\$ 869,920.80			\$ 869,920.80	\$ 869,920.80	SEE BACK UP
Anticipated Consulting Fees	1	\$ 74,388.00			\$ 74,388.00	\$ 74,388.00	SEE BACK UP

Motorola AirMobile Installations

SUB-TOTAL HARDWARE & SOFTWARE			\$ 1,220,481.60	\$ 108,192.00	\$ 1,050,224.40	\$ 2,378,898.00	
SALES TAX 8.25%			\$ 100,689.73	\$ 8,925.84	\$ 86,643.51	\$ 196,259.09	
TOTAL HARDWARE & SOFTWARE			\$ 1,321,171.33	\$ 117,117.84	\$ 1,136,867.91	\$ 2,575,157.09	

ACS Labor

Project Manager (Man Months)	6	\$ 36,000.00			\$ 216,000.00	\$ 216,000.00	
Programmers (Man Months)	12	\$ 21,600.00			\$ 60,000.00	\$ 259,200.00	
Programmers Data Transfer (Man Months)	12	\$ 21,600.00			\$ 60,000.00	\$ 60,000.00	
Data Warehouse Development	4	\$ 36,000.00			\$ 144,000.00	\$ 144,000.00	
Training	6	\$ 14,400.00			\$ 86,400.00	\$ 86,400.00	
Cabling (6 Cable Runs per Hospital)	0	\$ 360.00			\$ -	\$ -	
Engineering Design Support	1	\$ 72,000.00		\$ 72,000.00	\$ -	\$ 72,000.00	
Pay by Web (Man Months)	1	\$ 93,600.00			\$ 93,600.00	\$ 93,600.00	

Misc. Travel and Related Expenses

TOTAL LABOR	1	\$ 94,000.00			\$ 94,000.00	\$ 94,000.00	
			\$ 60,000.00	\$ 192,000.00	\$ 694,000.00	\$ 1,025,200.00	

TOTAL PRODUCT COSTS

	\$ 1,381,171.33	\$ 309,117.84	\$ 1,830,867.91	\$ 3,600,357.09
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Hospital wireless local area network

Number of Wireless WANS 0
 Months of Contract 60
 Number of HH3 Units 101
 Number of IPAQ Hand-Helds 0

Houston EMS Solution

	Quantity	Unit Price	Ambulance Related	Hospital Related	Software/Hardware	Total
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EXHIBIT "E"

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "F"
DRUG POLICY COMPLIANCE AGREEMENT

I, _____ as an owner or officer
of _____

(Name) (Print/Type) (Title)

_____ (Construction Project Manager)
(Name of Company)

have authority to bind Construction Project Manager with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Construction Project Manager is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Construction Project Manager that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Construction Project Managers (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Construction Project Manager that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

Date

Construction Project Manager Name

EXHIBIT "G"

DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of
 (Name) (Print/Type) (Title)
 _____ (Construction Project Manager)
 (Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20_____.

_____ A written Drug Free Workplace Policy has been implemented and employees notified.
 Initials The policy meets the criteria established by the Mayor's Amended Policy on Drug
 Detection and Deterrence (Mayor's Policy).

_____ Written drug testing procedures have been implemented in conformity with the
 Initials Mayor's Drug Detection and Deterrence Procedures for Construction Project
 Managers, Executive Order No. 1-31. Employees have been notified of such
 procedures.

_____ Collection/testing has been conducted in compliance with federal Health and Human
 Initials Services (HHS) guidelines.

_____ Appropriate safety impact positions have been designated for employee positions
 Initials performing on the City of Houston contract. The number of employees in safety
 impact positions during this reporting period is _____.

_____ From _____ to _____ the following test has occurred
 Initials (Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

_____ Any employee who tested positive was immediately removed from the City worksite
 Initials consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ I affirm that falsification or failure to submit this declaration timely in accordance
 Initials with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "H"

CONSTRUCTION PROJECT MANAGER'S CERTIFICATION
OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT

.....
(Name)

.....
(Title)

as an owner or officer of (Construction Project Manager)
(Name of Company)

have authority to bind the Construction Project Manager with respect to its bid, and hereby certify that Construction Project Manager has no employee safety impact positions, as defined in ' 5.18 of Executive Order No. 1-31, that will be involved

in performing

.....
(Project)

Construction Project Manager agrees and covenants that it shall immediately notify the City of Houston Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

.....
(Date)

.....
(Typed or Printed Name)

.....
(Sign)

.....
(Title)

**EXHIBIT "I" -
MWBE SUBCONTRACT TERMS**

Construction Project Manager shall insure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "**THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT**" and contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director").
2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for inspection for at least 4 years after the end of its performance under this subcontract. Nothing in this provision shall change the time for bringing a cause of action nor the applicable statute of limitations.
3. Within 5 business days of execution of this subcontract, Construction Project Manager (prime Construction Project Manager) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.
4. Any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration shall be conducted according to the following procedures:
 - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
 - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.
 - c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
 - d. If the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.
 - e. All arbitrations shall be conducted in Houston, Texas unless the parties agree to another location in writing.

Exhibit "J"

Depreciation Schedule

Exhibit J - Depreciation and Buyout Schedule

Buyout provision becomes effective at beginning of Month 19

Month of Contract	Beginning Month Cost	Less Depreciation	Month End Cost
1	\$ 3,600,357.09	\$ (60,005.95)	\$ 3,540,351.14
2	\$ 3,540,351.14	\$ (60,005.95)	\$ 3,480,345.19
3	\$ 3,480,345.19	\$ (60,005.95)	\$ 3,420,339.24
4	\$ 3,420,339.24	\$ (60,005.95)	\$ 3,360,333.29
5	\$ 3,360,333.29	\$ (60,005.95)	\$ 3,300,327.34
6	\$ 3,300,327.34	\$ (60,005.95)	\$ 3,240,321.39
7	\$ 3,240,321.39	\$ (60,005.95)	\$ 3,180,315.44
8	\$ 3,180,315.44	\$ (60,005.95)	\$ 3,120,309.49
9	\$ 3,120,309.49	\$ (60,005.95)	\$ 3,060,303.54
10	\$ 3,060,303.54	\$ (60,005.95)	\$ 3,000,297.59
11	\$ 3,000,297.59	\$ (60,005.95)	\$ 2,940,291.64
12	\$ 2,940,291.64	\$ (60,005.95)	\$ 2,880,285.69
13	\$ 2,880,285.69	\$ (60,005.95)	\$ 2,820,279.74
14	\$ 2,820,279.74	\$ (60,005.95)	\$ 2,760,273.79
15	\$ 2,760,273.79	\$ (60,005.95)	\$ 2,700,267.84
16	\$ 2,700,267.84	\$ (60,005.95)	\$ 2,640,261.89
17	\$ 2,640,261.89	\$ (60,005.95)	\$ 2,580,255.94
18	\$ 2,580,255.94	\$ (60,005.95)	\$ 2,520,249.99
19	\$ 2,520,249.99	\$ (60,005.95)	\$ 2,460,244.04
20	\$ 2,460,244.04	\$ (60,005.95)	\$ 2,400,238.09
21	\$ 2,400,238.09	\$ (60,005.95)	\$ 2,340,232.14
22	\$ 2,340,232.14	\$ (60,005.95)	\$ 2,280,226.19
23	\$ 2,280,226.19	\$ (60,005.95)	\$ 2,220,220.24
24	\$ 2,220,220.24	\$ (60,005.95)	\$ 2,160,214.29
25	\$ 2,160,214.29	\$ (60,005.95)	\$ 2,100,208.34
26	\$ 2,100,208.34	\$ (60,005.95)	\$ 2,040,202.39
27	\$ 2,040,202.39	\$ (60,005.95)	\$ 1,980,196.44
28	\$ 1,980,196.44	\$ (60,005.95)	\$ 1,920,190.49
29	\$ 1,920,190.49	\$ (60,005.95)	\$ 1,860,184.54
30	\$ 1,860,184.54	\$ (60,005.95)	\$ 1,800,178.59
31	\$ 1,800,178.59	\$ (60,005.95)	\$ 1,740,172.64
32	\$ 1,740,172.64	\$ (60,005.95)	\$ 1,680,166.69
33	\$ 1,680,166.69	\$ (60,005.95)	\$ 1,620,160.74
34	\$ 1,620,160.74	\$ (60,005.95)	\$ 1,560,154.79
35	\$ 1,560,154.79	\$ (60,005.95)	\$ 1,500,148.84
36	\$ 1,500,148.84	\$ (60,005.95)	\$ 1,440,142.89
37	\$ 1,440,142.89	\$ (60,005.95)	\$ 1,380,136.94
38	\$ 1,380,136.94	\$ (60,005.95)	\$ 1,320,130.99
39	\$ 1,320,130.99	\$ (60,005.95)	\$ 1,260,125.04
40	\$ 1,260,125.04	\$ (60,005.95)	\$ 1,200,119.09
41	\$ 1,200,119.09	\$ (60,005.95)	\$ 1,140,113.14
42	\$ 1,140,113.14	\$ (60,005.95)	\$ 1,080,107.19
43	\$ 1,080,107.19	\$ (60,005.95)	\$ 1,020,101.24
44	\$ 1,020,101.24	\$ (60,005.95)	\$ 960,095.29
45	\$ 960,095.29	\$ (60,005.95)	\$ 900,089.34
46	\$ 900,089.34	\$ (60,005.95)	\$ 840,083.39
47	\$ 840,083.39	\$ (60,005.95)	\$ 780,077.44
48	\$ 780,077.44	\$ (60,005.95)	\$ 720,071.49

49	\$	720,071.49	\$	(60,005.95)	\$	660,065.54
50	\$	660,065.54	\$	(60,005.95)	\$	600,059.59
51	\$	600,059.59	\$	(60,005.95)	\$	540,053.64
52	\$	540,053.64	\$	(60,005.95)	\$	480,047.69
53	\$	480,047.69	\$	(60,005.95)	\$	420,041.74
54	\$	420,041.74	\$	(60,005.95)	\$	360,035.79
55	\$	360,035.79	\$	(60,005.95)	\$	300,029.84
56	\$	300,029.84	\$	(60,005.95)	\$	240,023.89
57	\$	240,023.89	\$	(60,005.95)	\$	180,017.94
58	\$	180,017.94	\$	(60,005.95)	\$	120,011.99
59	\$	120,011.99	\$	(60,005.95)	\$	60,006.04
60	\$	60,006.04	\$	(60,005.04)	\$	1.00
Month 60 and Thereafter				\$		1.00