

TABLE OF CONTENTS

Page No.

I. PARTIES.....	1
A. Address.....	1
B. Table of Contents.....	1
C. Parts Incorporated.....	4
D. Controlling Parts.....	4
E. Signatures.....	5
II. DEFINITIONS.....	6
III. DUTIES OF CONTRACTOR.....	8
A. Scope of Services.....	8
B. Basic Services.....	8
C. Collection Services.....	8
D. Special Services.....	10
E. Downtime Credit.....	10
F. False Alarm Reduction Undertaking.....	11
G. Coordinate Performance.....	12
H. Reports.....	12
I. Prompt Payment of Subcontractors.....	12
J. Personnel of the Contractor.....	12
K. RELEASE.....	12
L. INDEMNIFICATION.....	13
M. INDEMNIFICATION - PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT).....	14
N. SUBCONTRACTOR'S INDEMNIFICATION.....	15
O. INDEMNIFICATION PROCEDURES.....	15
P. Insurance.....	16
Q. Representations and Warranties.....	20
R. Confidentiality of City Information.....	20
S. Confidentiality - Mutual Nondisclosure.....	21
T. Use of Work Products.....	24
U. Licenses and Permits.....	24
V. Compliance with Laws.....	24
W. Compliance with Equal Opportunity Ordinance.....	24
X. MWBE Compliance.....	24
Y. Drug Abuse Detection and Deterrence.....	25
Z. Letter of Credit.....	26
AA. Local Office.....	27
BB. Software Modifications.....	27
CC. Advertisement.....	27
DD. Ownership of Information.....	28
EE. Hardware and Software.....	28

FF.	Contractor's Performance.....	30
GG.	Pay or Play	30
IV.	DUTIES OF CITY.....	30
A.	Payment Terms	30
B.	Taxes	32
C.	Limit of Appropriation.....	32
D.	City's Responsibilities.....	34
E.	Title	34
V.	TERM AND TERMINATION	35
A.	Agreement Term	35
B.	Renewals	35
C.	Termination for Convenience by City.....	35
D.	Termination for Cause by City.....	36
E.	Termination for Cause by Contractor	37
F.	Termination by Contractor in the Event of Permit Fee Reduction by City Ordinance	38
VI.	MISCELLANEOUS.....	38
A.	Independent Contractor.....	38
B.	Force Majeure	38
C.	Severability	40
D.	Entire Agreement.....	40
E.	Written Amendment.....	41
F.	Applicable Laws.....	41
G.	Notices	41
H.	Captions	41
I.	Non-Waiver	42
J.	Inspections and Audits	42
K.	Enforcement	42
L.	Ambiguities.....	42
M.	Survival.....	43
N.	Parties In Interest	43
O.	Successors and Assigns.....	43
P.	Business Structure and Assignments	43
Q.	Remedies Cumulative	44
R.	Contractor Debt	44

EXHIBITS

- A. Scope of Services
- B. Fee Schedule
- C. Equal Employment Opportunity Compliance

- D. MWBE Subcontract Terms
- E. Drug Policy Compliance Agreement
- F. Certification of No Safety Impact Positions
- G. Drug Policy Compliance Declaration
- H. Letter of Credit

C. Parts Incorporated

The above-described sections and exhibits are incorporated into this Agreement.

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 Agreement in multiple copies, each of which is an original.

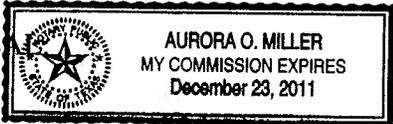
WITNESS:

By: Aurora O. Miller
Name: Aurora Miller
Title: Respect Management Assistant

(Contractor)
PMAM CORPORATION

By: [Signature]
Name: _____
Title: **Pankaj Kumar
Chief Executive Officer**

ATTEST/SE



[Signature]
City Secretary

CITY OF HOUSTON, TEXAS
Signed by:

Bill White
Mayor anayda Ulelata

APPROVED:

[Signature]
Director, Department of Administration
& Regulatory Affairs

COUNTERSIGNED BY:

[Signature]
City Controller Madeline P. Appel

APPROVED:

[Signature]
Calvin D. Wells, Deputy Director
City Purchasing Agent

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
L.D. File No. 0370900040001

DATE COUNTERSIGNED:

5-14-09

II. DEFINITIONS

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

"Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.

"Basic Services" means the services to be provided by Contractor under this Agreement as described in Exhibit "A."

"Business Day" means any calendar day except Saturday, Sunday and full-day holidays for City employees (as designated by City Council).

"CAD" means the City of Houston Police Department computer aided dispatch system.

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

"City Project Administrator" means such person as is designated from time to time by the Director to administer this Agreement on behalf of the City.

"Confidential Information" means customer names, alarm histories, current financial and or response status of account, type(s) of alarm system(s) and any other information contained in alarm system records that is protected by federal, state, and local statute, including information that should not be divulged under. §1702.085 of the Texas Occupation Code.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Contractor Project Manager" means a person designated by Contractor who at all times shall represent Contractor before the City on all matters relating to this Agreement. The Contractor Project Manager shall continue in such capacity unless and until he or she is removed at the request of the City, or is no longer employed by Contractor.

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

"Director" means the means the Director of Department of Administration & Regulatory Affairs, or such person as he or she shall designate.

"Documentation" means the user manuals and training materials, including screen displays, whether presented in print, video, or electronic format, that are provided by Contractor hereunder.

"Effective Date" means the Countersignature Date on this Agreement.

"FAMS" means False Alarm Management Solution, an alarm administrative system created by Contractor to provide services under this Agreement as described in the attached Exhibit "A", in accordance with the City burglar alarm ordinance.

"Hardware" means the FAMS computer equipment used in the performance of this Agreement.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

"Past Due Account(s)" means any account(s), except those exempted as set forth herein, associated with the City's enforcement of the burglar alarm ordinance that has been sent a notice of payment and has not been paid within sixty (60) days of the date of the notice. Notices for past due accounts are issued for unpaid accounts with false alarm charges.

"Site(s)" means locations where Hardware and/or telecommunications lines are installed for purpose of this Agreement.

"Software" means the FAMS application software used in the performance of this Agreement.

"Special Services" means those services set forth in Article III, Section D, to be performed by Contractor when requested by the Director and if sufficient funds are allocated for such services.

"System" means the FAMS Hardware, Software and Documentation.

III. DUTIES OF CONTRACTOR

A. Scope of Services

The Contractor's performance under this Agreement is divided into three categories of Services:

1. Basic Services as set forth in Section III (B) below;
2. Collection Services as set forth in Section III (C) below; and
3. Special Services as set forth in Section III (D) below.

B. Basic Services

For and in consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, and supervision necessary to perform the Basic Services as set out in the Scope of Services in Exhibit "A."

C. Collection Services

For and in consideration of the payments specified in this Agreement, Contractor shall provide all labor, supervision and equipment to perform services necessary for the collection of burglar alarm permits fees, renewals, fines and penalties, and Past Due Accounts, as set out under City ordinance. General collection tasks and work products of the Contractor shall include:

1. No less frequently than once a month, the Contractor shall collect for the City Past Due Accounts referred by the City Project Administrator for collection. The

Director reserves the right to assign only certain Past Due Accounts to the Contractor,

withdraw Past Due Accounts previously assigned, or re-assign certain Past Due Accounts returned by the Contractor as uncollectible for collection. The accounts that the Director may not assign include accounts under litigation, accounts with partial payment agreements prior to 60 days delinquent, accounts undergoing ongoing enforcement, and other specific accounts as designated by the Project Administrator.

2. The Contractor shall implement thorough procedures, as detailed in Exhibit "A", for collection of burglar alarm permits, renewals, fines, penalties, and Past Due Accounts placed with the Contractor by the City, in order to achieve maximum recovery from each Past Due Account. The dignity and rights of the debtor are to be respected by the Contractor at all times. Modifications of these procedures shall require the approval of the Project Administrator.

3. The City, with the cooperation of Contractor, shall open and establish a City Bank Depository lock box in the name of the City ("Lock Box") for the purposes of receiving, depositing, and processing all payments for collection in accordance with the terms of this Agreement. Any and all payments and collections as set forth in Section III (C)(2) and others in this Agreement shall all be deposited directly into the Lock Box. Permit holders and all others owing any sums to the City as described in this Agreement shall send all payments directly to the Lock Box. Any payments received by the City or Contractor shall also be deposited in the Lock Box. The Lock Box shall operate for all purposes as the clearing account for the City; however, Contractor shall have the ability to gain access to the Lock Box for the performance of its services under this Agreement upon written authorization from the Director.

4. The Contractor shall maintain financial accountability of the collection services in accordance with generally accepted accounting practices and its own procedures.

5. The Contractor shall maintain high professional standards in all communications with the public on behalf of the City.

6. The Contractor may provide feedback, consultation and advice in recordkeeping for the assigned accounts as it deems appropriate for increased efficiency in collections.

7. Contractor shall comply with all federal, state and local regulations pertaining to debt collection, if applicable.

D. Special Services

The Contractor shall perform Special Services when they are reasonably requested by the Director in writing and if City Council allocates sufficient funds to pay for these Special Services. Special Services mean any work which is determined by the City to be reasonably necessary for this Agreement, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement.

E. Downtime Credit

1. "Downtime" means that period of time during System availability when the FAMS System is not available to any users for reason of failure of CPU and communications and does not include downtime due to maintenance and file updating as approved by the City Project Administrator. For any incident of Downtime between the hours of 6:00 am to 9:00 pm Central Standard Time during normal Business Days, Contractor shall pay the City \$1,000.00 per hour of Downtime for a maximum Downtime fee of \$50,000.00 per year for each year of the Agreement.

2. Except for Force Majeure, if the FAMS System is not up 99.999% of the time as stated in Exhibit "A", Contractor will have thirty (30) days from the day the City notifies Contractor, in writing, of a problem to remedy the situation. If the remedy is not

satisfactory to the Director, in its reasonable judgment, it may be considered a default of this Agreement.

F. False Alarm Reduction Undertaking

The City is, currently and historically, experiencing 88% of false alarm calls coming to the Houston Emergency Center ("HEC") which require the intervention and investigation by the Houston Police Department for each call. False alarm reduction undertaking efforts by Contractor is essential to the administration of City burglar alarms, therefore Contractor agrees to undertake efforts to reduce false burglar alarm calls by 15% within 18 months from the Effective Date of this Agreement ("18 months"). If, after 18 months, Contractor fails to reduce the false burglar alarm calls to 73% or below of the total burglar alarm calls coming each month to the HEC according to HEC's monthly report regarding burglar alarm calls, then Contractor agrees to pay the City a one time payment of Seventy Five Thousand Dollars (\$75,000.00) at the end of 18 months. Contractor agrees to pay the above amount within thirty (30) days of receipt of notification of failure to reduce false burglar alarm calls from the City, as stated in this section. Upon execution of this Agreement, the City agrees to provide Contractor with the number of false burglar alarm calls during the twelve (12) month period immediately preceding the Effective Date. The amount to be paid by Contractor to the City for failure to reduce false burglar alarm calls pursuant to the terms of this paragraph shall constitute liquidated damages for such failure, shall be the sole and exclusive remedy of the City against Contractor for such failure, and assuming timely payment of the fee set forth herein, same shall not otherwise constitute a default under any of the terms or conditions of this Agreement.

G. Coordinate Performance

Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

H. Reports

Contractor shall submit all reports and progress updates required by the Director in accordance with Exhibit "A."

I. Prompt Payment of Subcontractors

Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment for the performance of this Agreement. In the event of a dispute between Contractor and its subcontractors, City will withhold the amount in dispute until the dispute is resolved, **CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS.** Contractor shall submit disputes relating to payment of MWBE subcontractors to arbitration in the same manner as any other disputes under the MWBE subcontract.

J. Personnel of the Contractor

Contractor shall replace any of its personnel or subcontractors whose work product is deemed unsatisfactory by the Director.

K. 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 STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

L. 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, ATTORNEYS' 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;**
- (2) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND**

- (3) THE CITY'S AND 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 \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

M. INDEMNIFICATION-PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD.

WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTOR SHALL REFUND THE PURCHASE PRICE.

N. **SUBCONTRACTOR'S INDEMNIFICATION**

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.

O. **Indemnification Procedures**

(1) **Notice of Claims.** If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 30 days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 30 day period, it does not

waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(b) Continued Participation. If Contractor elects to defend the claim, the City may, at City's expense, retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

P. 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 \$100,000 (each accident) Bodily Injury by Disease \$100,000 (policy limit) Bodily Injury by Disease \$100,000 (each employee)
Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury and Property Damage, Combined Limits of \$500,000 each Occurrence and \$1,000,000 aggregate
Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Owned, Non-Owned and Hired Auto Coverage)	\$1,000,000 combined single limit per occurrence
Crime Bond (covering Dishonesty, Disappearance and Destruction of property assets by Employees of Contractors), with the City of Houston named as "Loss Payee" as their interest may appear; with Form C, "inside and outside coverage" attached, covering theft of Contractor's and City's property or assets.	\$1,000,000 combined single limit per occurrence

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 insurance business in Texas or (2) shall be an eligible non-

admitted insurer in the State of Texas and have a Best's rating of at least B+ and a 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 and Employer's 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. If any policy is canceled, materially modified, or nonrenewed, Contractor must give 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, 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 obligated 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) Prior to execution of this Agreement, Contractor shall furnish the Director with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Director, Contractor shall furnish the City with certified copies of Contractor's actual insurance policies.
- (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.

Q. Representations and Warranties

Contractor represents and warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained, qualified, skilled and properly licensed persons having substantial experience performing the work required under this Agreement.

R. Confidentiality of City Information

At all times, the Contractor will recognize the City's sole and exclusive ownership of all documents and information provided by the City or generated by Contractor based on information provided by the City relating to its services under this Agreement and the sole and exclusive right and jurisdiction of the City to control the use of this information.

(a) The Contractor agrees that neither it, or its employees, subcontractors, agents, or parent company shall disclose Confidential Information, to any person or to anyone except as necessary to perform the services under this Agreement, without the expressed written permission of the City or unless required to do so by law.

(b) The Contractor shall further agree that in the event that any documents containing Confidential Information should be improperly used or be removed in any way from the possession or control of the Contractor or its Subcontractors by anyone except the Director or authorized representatives, the Contractor shall immediately notify the City orally and in writing, and shall join with the Director at his request in taking such reasonable steps as the City may deem advisable to enjoin the misuse and regain possession of such Confidential Information, or

steps otherwise necessary for the protection of the City's rights and the confidentiality of the information.

(c) The Contractor agrees to return any and all data furnished and information derived hereunder promptly upon a request by the Director or his authorized designee.

(d) The Contractor shall provide the design and implementation of a security system which will protect both the physical documents and the Confidential Information contained therein from the time of Contractor's receipt until the delivery to the City. Security shall include, without, limitation, fire protection, protection against smoke and water damage, alarm systems, locked files or other devices reasonable expected to prevent loss or unauthorized removal of documents and/or manually held data; passwords, access logs, badges, or other methods reasonably expected to prevent loss or unauthorized access to electronically or mechanically held data; limited terminal access, access to input documents and output documents, and design provisions to limit use of client or applicant name.

S. Confidentiality - Mutual Nondisclosure

1. In order for Contractor (and its subcontractors) or City personnel to perform the obligations under this Agreement, it may become necessary for either party to receive or have access to specifications, designs, plans, drawings, software, data prototypes, or other technical or business information of the other party that either existed before performance of work or was subsequently developed independent of the parties performance of contract obligations ("Background Information"), which is considered proprietary or confidential by the other party. In addition, information developed in connection with the performance of this Agreement ("Delivered Information"), which is provided under this Agreement is proprietary and confidential. All Background Information and all Delivered Information are collectively referred

to in this Section as "Information." Contractor must clearly label confidential or proprietary Information before disclosing it to the City.

2. The party to whom Information is disclosed shall:

- (a) hold the Information in confidence and protect it in accordance with the security regulations by which it protects its own proprietary or confidential information;
- (b) restrict disclosure of the Information solely to those employees, agents and representatives with a need to know; and
- (c) advise those employees, agents and representatives of their obligations with respect to the Information.

3. The party to whom Information is disclosed shall have no obligation to preserve the proprietary nature of any Information that:

- (a) was previously known to it free and clear of any obligation to keep it confidential;
- (b) except as otherwise provided under this Agreement, is disclosed to third parties by the disclosing party without restriction;
- (c) is or becomes publicly available by other than unauthorized disclosure;
- (d) is independently developed by it; or
- (e) is disclosed in response to requests made under the Texas Public Information Act or a court order. However, the party ordered to disclose the Information shall (i) give the disclosing party of the Information or Software prompt written notice of all such requests, and (ii) cooperate with the disclosing party's efforts to obtain a protective order protecting the Information or Software from disclosure.

4. Neither party shall be liable for the inadvertent or accidental disclosure of Information, if the disclosure occurs despite the exercise of a reasonable degree of care, which is

at least as great as the care the party normally takes to preserve its own proprietary information of a similar nature.

5. All Information owned by Contractor or its suppliers and furnished to the City under this Agreement is the property of Contractor or the supplier, and unless otherwise expressly provided in the applicable Order, the City, its agents and representatives shall:

- (a) use Information only to install, operate, or maintain the product(s) for which originally furnished or to perform an audit conducted by City employees or a third party to assess Contractor's performance under the Agreement and the effectiveness of systems, software, and equipment provided by Contractor;
- (b) use Information only for the City's internal business purposes;
- (c) not reproduce or copy Information except as authorized under this Agreement unless the parties otherwise agree in writing;
- (d) not use the Information to develop other software;
- (e) return or destroy the Information and any copies when no longer needed or permitted for use with the product for which initially furnished; and
- (f) not remove Information from the United States.

6. Upon request, the receiving party shall return to the furnishing party all Background Information received in tangible form that is not part of the Delivered Information.

7. THE PARTIES ACKNOWLEDGE THAT, AS A GOVERNMENTAL ENTITY, THE CITY IS SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT (THE "ACT"), AND THAT ALL OBLIGATIONS SET OUT ABOVE ARE SUBJECT TO THE REQUIREMENTS OF THE ACT.

T. Use of Work Products

(1) The City may use all notes, plans, computations, databases, tabulations, exhibits, photographs, reports, underlying data and other work products (collectively, the "Documents") that Contractor prepares or obtains under this Agreement.

(2) Contractor warrants that it owns the copyright to the Documents.

(3) Contractor shall deliver the original Documents to the Director on request. Within fifteen (15) working days after this Agreement terminates, Contractor shall deliver to the Director the original Documents, and all other files and materials Contractor produces or gathers during its performance under this Agreement.

U. Licenses and Permits

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation.

V. Compliance with Laws

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

W. Compliance with Equal Opportunity Ordinance

Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in Exhibit "C."

X. MWBE Compliance

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 11% of the value of this Agreement to MWBE subcontractors. 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 if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "D."

Y. Drug Abuse Detection and Deterrence

(1) 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.

(2) Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "E." together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F."

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 Policy 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.

(3) 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.

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

Z. Letter of Credit

To guarantee the promises of Contractor and/or the inability of Contractor to perform under this Agreement, Contractor shall provide to the City an unconditional and irrevocable Letter of Credit from a bank chartered for business in the United States that is reasonably acceptable to the City in the form similar to the attached Exhibit "H", for a term of 18 months from the date of issuance thereof. The Letter of Credit shall be callable at the sole discretion of the Director provided that the Director has notified the Contractor in writing of a default under the terms of this Agreement and Contractor has failed to cure such default within thirty (30) days after the receipt of written notice from the City or such longer cure period as permitted under the terms of this Agreement.

The Letter of Credit shall be in the amount of **One Million Dollars (\$1,000,000.00)**.

The Letter of Credit as referenced in this Section shall constitute liquidated damages for a default by Contractor under this Agreement. The Parties acknowledge and agree that specific damage amounts would be extremely difficult to ascertain, and accordingly, should the Letter of Credit be presented and its amount be drawn under the Letter of Credit, then same shall constitute the sole and exclusive remedy of the City against Contractor for any and all defaults

under this Agreement. At such time as the Letter of Credit has been presented and should the full amount of \$1,000,000.00 be drawn thereunder, then this Agreement shall be deemed immediately terminated for all purposes. Notwithstanding the above, the City is entitled to actual damages resulting from Contractor's default minus any proceeds from the Letter of Credit received by the City.

AA. Local Office

Contractor shall maintain an office within the city limits of Houston, Texas throughout the term of this Agreement.

BB. Software Modifications

If during the term of this Agreement Contractor makes any enhancements or modifications to the Software (regardless of Hardware platform) that are released to Contractor's general customer base, Contractor shall give the City the option to have Contractor install, at no additional charge, such enhancements or modifications on the Hardware (or other mutually agreeable hardware) for all associated training and retro-fitting, if necessary, of any ARA-specific requirements. In such event, City shall have the option to purchase a perpetual license to the newly-installed Software.

CC. Advertisement

The Contractor agrees that neither it, its subcontractor(s), its parent company, nor any subsidiary shall disclose that it performs for the City the alarm tracking and billing services functions in any form of advertisement, sales literature, or sales presentation for the purpose of portraying that the Contractor performance is better than competition; portraying competitors in a negative light; increasing the number of alarm billing customers or burglar alarm services offered by the above mentioned entities without the prior written approval of the Director and such approval shall not be unreasonably withheld. The Contractor may use the City as a

reference to other governmental entities to promote sale alarm tracking and alarm billing services. Failure to comply with this section shall be an event of default, but the parties expressly agree that in the event of Contractor's breach of this section only the City shall not pursue the Contractor's Letter of Credit.

DD. Ownership of Information

All Confidential Information acquired by the Contractor from the City or from others at the expense of or through the participation of the City in the performance of the services under this Agreement shall be and remain the property of the City. The Contractor must return all such Confidential Information to the City promptly at the request of the Director on magnetic tape or in the medium in which it was received.

In the event of termination or cancellation of this Agreement, Contractor shall provide to the City all data, records and Documentation related to all burglar alarm permits within five (5) Business Days from the date of termination or cancellation.

EE. Hardware and Software

1. Under this Agreement, Contractor shall obtain and own, free from the interest of any third party, all equipment, Hardware, Software and associated Documentation that Contractor requires in order to perform the services set out in this Agreement. Upon the termination or cancellation of this Agreement presented only under the terms of sections V.D herein, Contractor shall transfer full ownership of a copy of the source codes, System specifications, configuration parameters, user and System Documentation, along with a transferable license for any non-owned Software items and associated Documentation to the City. After the City assumes full ownership and receipt of the necessary source codes, System specifications, configuration parameters, user and System Documentation and a transferable license for any non-owned Software item, the City (or a third party designated by the City) shall

have the full and complete right to use, at the City's sole cost and expense, operate, maintain, modify, or upgrade, solely for its own benefit, such Software in order to perform the services under this Agreement.

2. If Contractor cannot obtain ownership of the Software items that Contractor requires in order to perform the services set out in this Agreement from the owner of that Software (a "non-owned Software item"), then Contractor shall obtain a perpetual, transferable license to use the non-owned Software item and associated documentation from the owner of that item. Upon the termination or cancellation of this Agreement, Contractor shall transfer its licenses to use all non-owned Software items and associated Documentation to the City. All licenses for non-owned Software items that Contractor provides to the City under this Agreement will grant the City (or a third party designated by the City) with the full and complete rights to use, operate, maintain, modify, or upgrade such non-owned Software items in order to perform the services set out in this Agreement.

3. During this Agreement, Contractor and the Director may agree to modify, replace, change, or upgrade any or all of the Hardware and Software that the Contractor uses in order to perform the services set out in this Agreement when the Director and Contractor determine that a modification, replacement, or change will benefit the City and Contractor under this Agreement at Contractor's expense. However, upon the termination or cancellation of this Agreement, Contractor shall be required, in accordance with the provisions of paragraphs 1 and 2 of this section, to provide the City with either (i) ownership of or (ii) a perpetual license to use the Software items and associated Documentation that Contractor is utilizing at the time of such termination or cancellation to perform the services set out in this Agreement.

4. All Software Contractor provides to the City shall be accompanied by either a license to use such Software or shall contain the current source code and all Documentation necessary to modify that source code.

FF. Contractor's Performance

Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards.

GG. Pay or Play

The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

IV. DUTIES OF CITY

A. Payment Terms

Subject to all terms and conditions of this Agreement, the City agrees to pay fees to Contractor and Contractor agrees to accept payment in the manner described in Exhibit "B", for services rendered by Contractor and for postage and forms in accordance with the terms and conditions of this Agreement; however, fees for Contractor's services and for postage and forms shall only be payable from certain Allocated Funds, as provided below. Payment to Contractor

for services it provides under this Agreement shall be paid monthly on the basis of itemized invoices submitted by Contractor and approved by the Director.

(1) Basic Services and Collection Services

The Contractor shall submit to the City Project Administrator an itemized monthly invoice showing the calculation of the fees due based on 1) the actual revenue amounts collected for the preceding month, 2) the cumulative revenue amount collected to date, and 3) the applicable fee percentages attributed to Contractor in accordance with the Fee Schedule described in Exhibit "B." Payment to Contractor shall be made by the City within thirty (30) days after receipt and approval of such an invoice from Contractor.

Any fees due the Contractor for services performed under this Agreement shall be paid solely from the funds collected by the Contractor pursuant to this Agreement. The Contractor acknowledges and agrees that the City's liability for any payments for services (except for postage and forms) shall be limited by this Section. No other funds are or will be appropriated for the purpose of paying Contractor for its services under this Agreement (except for postage, envelopes, stationary and forms).

(2) Postage and forms

Subject to the allocation of funds, City shall fund the postage account to be utilized by Contractor for mailing notices and correspondence associated with the services provided by Contractor under this Agreement in accordance with procedures to be mutually agreed upon by the Director and Contractor. The City may provide all the forms/letterheads, envelopes and stationary needed by Contractor for mailing notices and correspondences associated with the services provided by Contractor under this Agreement. Alternatively, subject to prior approval by the City Project Administrator, Contractor may have the mutually agreed upon forms/envelopes/stationery/notices printed at its own expense and City shall reimburse the

amount of such printing to Contractor. Contractor shall submit to the City Project Administrator an itemized invoice with supporting documentation and City shall pay Contractor within thirty (30) days after receipt and approval of such invoice by the City. Contractor shall give the City credit for any forms that are rendered useless due to spoilage, error, or processing problems and for any postage lost due to gross error by the Contractor.

(3) Special Services

If the City requests any Special Services, the Contractor must provide to the City Project Administrator, a written estimate of the fees it will charge to provide such services. Upon written approval of the City Project Administrator and written notice to Contractor of allocation of City funds therefore, Contractor shall proceed with the Special Services. According to the estimate, Contractor shall request payment for Special Services by submitting an invoice to the City in the month following the performance of the corresponding services. Invoices shall include an itemization justifying the fees charged for each task and shall be approved by the Director.

B. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

C. Limit of Appropriation

(1) The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and

Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum

of \$0.00 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

(3) The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

By the signature below, the City Controller certifies that, upon the request of the responsible director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

\$ _____

(4) The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

See also Section IV.A.(1), last sentence of last paragraph.

D. City's Responsibilities

1. City shall cooperate with and assist Contractor by, among other things, making available, as reasonably requested by Contractor, management decisions, personnel, information, approvals, and acceptances so that Contractor can carry out its obligations under this Agreement.

2. City shall designate a City Project Administrator to facilitate effective communication and to achieve order and accountability in the performance of City's obligations herein. The City Project Administrator shall have the power and authority to make management decisions relating to City's obligations herein and shall provide, at the request of Contractor and in a timely manner, such management decisions. City may change its designated City Project Administrator from time to time.

6. City shall perform those other obligations set out for the City in Exhibit "A."

E. Title

If (i) a petition in bankruptcy or insolvency is filed by or against Contractor, or (ii) if Contractor ceases business operations generally, or (iii) if Contractor transfers all or substantially all of its assets or obligations to a third party, or (iv) at or before termination or expiration of this Agreement, then Contractor or its authorized escrow agent, upon the occurrence of any of the foregoing eventualities, shall promptly provide to the City one copy of the then-current version of the source code for the application Software and all associated Documentation. Such source code shall be in a form suitable for reproduction and use by computer and photocopy equipment, and shall consist of a full source language statement of the program or programs comprising the Application Software.

V. TERM AND TERMINATION

A. Agreement Term

This Agreement is effective on the Countersignature Date and remains in effect for five (5) calendar years ("Initial Term"), unless sooner terminated under this Agreement.

B. Renewals

If the Director, at his or her sole discretion, makes a written request for renewal to Contractor at least 30 days before expiration of the then-current term and if sufficient funds are allocated, then, upon expiration of the Initial Term, this Agreement is renewed for two (2) successive one-year terms upon the same terms and conditions.

C. Termination for Convenience by City

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 and all reimbursements, if any, to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section IV.A, unless the fees exceed the allocated funds remaining under this Agreement. Additionally, the Letter of Credit shall be promptly returned to Contractor upon reconciliation of all payments between the Parties to the satisfaction of the Director.

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.

D. Termination for Cause by City

If Contractor defaults under this Agreement, the Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies which exist now or in the future. Default by Contractor occurs if:

- (1) Contractor fails to perform any of its duties under this Agreement; provided, however, that Contractor shall not be deemed to be in default under this section unless and until Contractor has failed to cure such default within thirty (30) days after receipt of written notice from the City outlining the specific terms of said default;
- (2) Contractor becomes insolvent;
- (3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
- (4) a receiver or trustee is appointed for Contractor.

If a default occurs, the Director shall deliver a written notice to Contractor describing the default and the termination date. The Director, at his or her sole option, may extend the termination date to a later date. If Contractor cures the default to the Director's satisfaction

before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City.

To effect final termination, the Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement. The Letter of Credit shall be callable by the Director as provided by Section III.Z., and the City is entitled to receive the proceeds from the Letter of Credit upon reconciliation of all payments between the Parties to the satisfaction of the Director.

E. Termination for Cause by Contractor

Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default within ninety (90) days after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the termination date, which must be at least 90 days after the Director receives notice. Contractor, at its sole option, may extend such termination date to a later date. If the City cures the default before said termination date, then the termination is ineffective. If the City does not cure the default before said termination date, then Contractor may terminate its performance under this Agreement on the termination date, and the Letter of Credit shall promptly be returned to Contractor upon reconciliation of all payments between the Parties to the satisfaction of the Director.

F. Termination by Contractor in the Event of Permit Fee Reduction By City Ordinance

Contractor's fee schedule and pricing for any and all services provided to the City under this Agreement, as set out in the attached Exhibit B, have been set, established and agreed to between the Parties based upon the current provisions of applicable city ordinances relating to city permits, including burglar alarm permits. Should the City change said ordinances during the term of this Agreement which provide for a reduction in the permit fees, and/or related fines and charges, then the Contractor reserves the express right to reenter into good faith negotiations with the City to modify the fee schedule and pricing accordingly, and shall give the City written notice of its desire to so renegotiate. However, if the Parties are unable to reach an agreement mutually acceptable to both Parties within thirty (30) days following the above-mentioned notice, then Contractor reserves the right to terminate the Agreement. This termination shall not be deemed to be a default by Contractor under this Agreement. Contractor shall be paid all fees and expenses due and owed to Contractor as of the date of said termination, and the Letter of Credit shall be immediately returned to Contractor, upon reconciliation of all payments between the Parties to the satisfaction of the Director.

.VI. MISCELLANEOUS

A. Independent Contractor

Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

B. Force Majeure

1. Timely performance by both parties is essential to this Agreement. However, neither party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The

event of Force Majeure may permit a reasonable delay in performance but does not excuse a party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, court orders, acts of superior governmental or military authority, and unanticipated computer virus attacks from third-parties of such magnitude that renders Contractor's equipment, Hardware, Software and FAMS System totally inoperable and for which anti-virus software is not immediately available, and which the affected party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Contractor to extra Reimbursable Expenses or payment.

2. This relief is not applicable unless the affected party does the following:
 - (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and
 - (b) provides the other party with reasonably prompt written notice of the cause and its anticipated effect.
 - (c) in the case of computer virus attacks, immediately deploy personnel and applicable anti-virus software to repair any and all damages to City data and restore System availability.

3. The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the Director is final.

4. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

5. If the Force Majeure continues for more than 30 days from the date performance is affected, 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 UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE. IN SUCH EVENT, THE LETTER OF CREDIT SHALL BE PROMPTLY RETURNED TO CONTRACTOR UPON RECONCILIATION OF ALL PAYMENTS BETWEEN THE PARTIES TO THE SATISFACTION OF THE DIRECTOR.**

6. 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 this 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. Notices

All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party, and shall be deemed delivered upon receipt by the addressee. Postage or delivery charges must be paid by the party giving the notice.

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 three (3) years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

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 regulation.

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

Each party shall remain obligated to the other 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. Parties In Interest

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

O. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

P. Business Structure and Assignments

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.

R. CONTRACTOR DEBT

IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

EXHIBIT "A"

SCOPE OF SERVICES

A. Contractor shall provide a turnkey, outsourced, and hosted solution, including documentation demonstrating that the hosted environment is reliable, recoverable and frequently maintained and backed up. Contractor shall provide all labor, material, and supervision necessary to perform and operate False Alarm Management Solution (FAMS). The service will mainly be comprised of 11 core processes to provide comprehensive alarm administration services to the City of Houston.

- | | |
|--|--|
| ■ CAD Interface | ■ FAMS Hearing and Appeals |
| ■ Permitting | ■ Security Company Customer Information Integration |
| ■ Billing | ■ False Alarm Reduction Education Processes |
| ■ Collections services | ■ Reporting |
| ■ Skip Tracing | ■ FAMS Functional and Technical Ability to Meet RFP Requirements |
| ■ Citizen Side Self Service Web Portal | |
| ■ False Alarm Reduction Processes | |

B. The Contractor shall designate a Contractor Project Manager who at all times shall represent the Contractor before the City on all matters relating to this Agreement. The Contractor Project Manager shall continue in such capacity unless and until he or she is removed at the request of the City, or is no longer employed by the Contractor.

C. Contractor shall assist the City to define the parameters required to configure the hosted solution to meet the City's business, operating, process and transactional requirements. These parameters shall be defined by the City during facilitated design sessions led by Contractor staff.

D. The Contractor shall provide access to a Production server hardware and software environment capable of supporting operations and transaction volumes defined and documented during the design process. This environment shall be capable of sustaining 99.999% uptime.

E. The Contractor shall provide access to a Test server hardware and software environment configured in accordance with the City design specifications and capable of verifying modifications and enhancements prior to their introduction into the production environment.

F. The Contractor shall provide access to a Training server hardware and software environment capable of supporting training activities for City staff.

G. Contractor shall perform testing of the configured solution prior to taking the system into production. The purpose of this testing will be to confirm the integration of all components, assess the configuration, and identify issues to be resolved. Testing shall include Integration Testing of all integration points and interfaces.

H. User Acceptance Testing shall be conducted by the City with the Contractor's assistance. The City will develop user acceptance test scripts that reflect the workflow as outlined in the Design Document and refined during training and business process re-engineering.

I. Contractor shall provide to technical support from **7:00 AM to 9:00 PM CST, Monday through Friday**. Technical Support is defined as actions required to address "System Down" errors and outages where all or part of the service is inaccessible. Contractor shall provide a phone number to access technical support from qualified technical support personnel in the event that system down errors or host outages occur.

J. Contractor shall provide remote user support to be available during normal business hours. User support is defined as actions required to address general product usability questions or training. Contractor shall provide one-on-one or one-on-many training on an as-needed basis to support regular use.

K. Contractor shall maintain FAMS using current Microsoft .NET tools and capabilities; including, MS Windows Server, MS IIS, MS SQL Server, MS .NET Framework, application blocks, web services and APIs accessible by external applications via standard SOAP calls, etc.

L. Contractor shall create an escrow account with a mutually agreeable entity and deposit into that escrow account all source code, system specifications, configuration parameters, user & system documentation, etc. the City would require to build, configure, and sustain the solution internally should Contractor become insolvent or discontinue support of the Contractor solution. Contractor shall deposit updated materials each time the solution is changed or upgraded. Contractor agrees to submit to audits of the escrow account at mutually agreeable times, but no more than four times a year.

M. On a monthly basis, Contractor shall provide the City with a physical back-up, in a mutually agreeable format on a mutually agreeable media, of all data stored in the Contractor database.

N. Contractor shall provide a user manual that documents system operations for both administrators and users.

O. Contractor shall notify the City of any scheduled maintenance that is expected to make the hosted services unavailable for longer than 15-minutes. Such notifications shall be sent via e-mail to the designated City business owner no less than one calendar week before the planned event. With rare exception, scheduled maintenance shall be performed on weekends (Saturday through Sunday) during the evening and/or early morning hours.

In addition, Contractor shall notify the City of any unplanned system outages/interruptions experienced during normal business hours (**Monday through Friday, 7:00 AM to 9:00 PM CST**) as soon as the extent of the particular issue is known.

P. Contractor shall communicate any/all known inaccuracies in the City's data caused by any outage or system failure and shall work to correct any inaccuracies within a reasonable period of time.

Q. The Contractor shall provide all general system documentation in a mutually agreeable electronic format. The City may print and use copies of the documentation, as needed.

R. The Contractor shall provide all User Documentation that is sufficiently detailed and complete that a computer literate user, knowledgeable of the permitting process, could use it to learn all functions of the solution. The documentation must incorporate instructions on how to use all features customized and configured for the City.

S. The Contractor shall provide an editable electronic version of any training manuals so that it can be updated and printed for employee training. The City shall own and be entitled to the use of all Training Documentation developed for the City under the Agreement.

T. The Contractor shall provide electronic versions of all Hardware and Software technical documentation. This documentation should include, but not be limited to, the following:

- System and database administration procedures
- Integration programming specifications
- Customization specifications
- Interface specifications
- Backup and recover procedures

U. The Contractor shall provide additional training for selected City personnel in the use of the System. Training may be provided by the Contractor, in conjunction with third parties (vendor and/or City staff), and independently by a third party as a subcontractor to the Contractor. The type and scope of training shall be approved by the Director upon his receipt of a final recommended training schedule from the party(ies) required to perform such training;

V. The Contractor shall provide, at no additional charge, reasonable additional professional services within the scope of this Agreement, equipment, and licenses related to the Agreement as specifically identified by the City Project Administrator. Additional professional services may include, but are not limited to, programming, investigations, analysis, training, policy/procedure development, modification to licenses, equipment, etc...

Hardware Configurations Involved in Setup

FAMS hardware configuration is designed to provide security, application redundancy and optimal transaction processing power. This is achieved through the following hardware configuration:

- 2 Servers with Identical Hardware
- Load Balancer where required
- Firewall for added protection

Fail Safe Hosting

The complete hosted solution will have two servers and both of the servers will be mirrored.

In the case of an unavailability occurrence, our Hosting company provides PMAM with the following service guarantees:

- Dedicated employees providing 24x7x365 support
- 100% Network Uptime Guarantee
- 1-Hour Hardware Replacement Guarantee

Secure Client Transactions

FAMS's servers are hosted with Verisign's SSL Certificate providing secure encrypted communication between client browsers. This security is also enforced to our server's Payment Gateway.

Fee and Hosting

The hardware and hosting charges shall be paid by PMAM and are included in its overall pricing provided in this contract.

Core Objectives

The following details the core objectives as laid out in the RFP that will be accomplished using the following core processes.

1. PMAM shall manage the false alarm tracking (or similar process) and billing for the City. The City has **152,000** permitted alarm sites and at least 100,000 annual false alarms.
2. PMAM shall have e-mail capability for the Administration & Regulatory Affairs (ARA) Department Alarm Detail for communicating with the City by e-mail.
3. PMAM shall provide a voice-mail greeting giving information to after-hours callers on hours of operation and/or answers to frequently asked questions.
4. PMAM shall provide a website for providing information to citizens regarding the alarm ordinance, fees for false alarms, etc.
5. PMAM shall provide a single point of contact for the Alarm Detail Commander.
6. PMAM shall provide training to employees at ARA Alarm Detail on system operation.
7. PMAM shall electronically transmit incident data from HEC's Computer Aided Dispatch system (CAD) to the ATB system and electronically transmit account status from ATB to the CAD system.

8. PMAM shall be able to accept credit card payments.
9. PMAM shall bill alarm incidents at the frequency decided by the Director.
10. PMAM shall print and mail invoices on renewals.
11. PMAM shall incorporate a cash-collection process with strong internal controls.
12. PMAM shall process daily cash receipts, adjustments, and returned checks.
13. PMAM shall perform skip tracing on returned billings.
14. PMAM shall pull in (convert/import) registration data.
15. Update permits detail changes.
16. Manage the billing and collection compliance fee processes.
17. Generate permit alarm notices, cash receipts and remote site cash collections.
18. Generate annual permit renewal notices and billing processes for alarm changes.
19. Manage real-time online burglar alarm administration (ad hoc reporting of queries to include permit types, current charges, collections, cash transactions, revoked permits, summary of roster of incidents, etc.).
20. Enforce the alarm ordinance.
21. Reduce the number of false alarms.
22. Provide detailed and concise processes to generate letters and invoices to residences and businesses.
23. Provide real-time data and reports to the City.
24. Provide web-interface that allows residents and businesses to log in, register online, check the account activity and pay fines including renewals online.
25. Data requirements:
26. PMAM's software system shall have the ability to:
 - a. Identify and maintain the following account types: Permit holder Hold up/Panic (code 1310) Burglary (codes 322L, 322S, 122S) Combination of burglar and panic.
 - b. Non-permit holder (also called a temporary): Hold up/Panic (code 1310) Burglary (codes 322L, 322S, 122S) Combination of burglar and panic.

27. Automatically generate permit numbers.

28. Maintain database of alarm permits.

29. Capture the following permit information:

- a. Applicant/holder
- b. Permit number
- c. Name
- d. Address (block, street, apartment #, city, state, zip)
- e. Telephone numbers (minimum of 2)
- f. Drivers license number and state
- g. Permit type
- h. Billing name and address

30. Site:

- a. Street address of property
- b. Type of property (residential/nonresidential/exempt)
- c. Business name
- d. Telephone number
- e. Type of alarm system installed:
 - i. Burglary
 - ii. Holdup/panic
 - iii. Burglary/panic combination
- f. Name of alarm system business that is monitoring the system
- g. Name and phone number of persons to be contacted.
- h. Key map reference
- i. Police district
- j. Comments.

31. Maintain the following critical dates:

- a. Permit issue date "original." (This date is usually used for renewal date.)
- b. Permit revocation date first offense and second offense.
- c. Permit reinstatement date.

32. Perform validation of address against ARA, and Emergency Center GEO database.

33. Provide comments during permit entry.

34. Maintain reasons for denial of issuance of permit.

- a. Applications: incomplete, misleading, or false.

- b. Alarm system installed is unreliable.
 - c. Applicant has outstanding alarm fees.
 - d. Credit card not approved.
 - e. Applicant sent wrong amount.
35. Generate renewal notices automatically within specified periods.
36. Generate revocation notices based upon reasons entered.
37. Maintain current permit status information.
38. Maintain incident count (true/false alarms for burglar and panic) information on each permit.
39. Perform search on business name, applicant, permit number, address, and driver's license.
40. Print permits batch or on-line.
41. Archive and purge inactive permits which have had no activity for a user-specified period.
42. Maintain a table of incident criteria:
- a. Permit owner - number of free calls. (Non-permit owners do not receive free calls.)
 - b. Number of false alarms before first revocation. (Permit owner only.)
 - c. Number of false alarms before second revocation. (Permit owner only.)
43. Combine single permits (such as burglar and panic) at the same location into one permit.
44. Make adjustments/corrections on incident information.
45. Generate incidents manually for an account.
46. Issue notices to permit holders with excessive alarms.
47. Reference account numbers to a primary account number for billing purposes (i.e., businesses with multiple locations with a central billing site).
48. Perform an inquiry by name, account number or permit number on master file information or detail transactions.
49. Maintain a table of fees for renewals based on type of permit (residential, non-residential or exempt) and type of alarm (burglar, panic or combination).
50. Maintain a table of charges for alarm incidents based on incident type (false or true), type of alarm (burglar, panic or combination), and permit held (residential, non-residential or exempt).

51. Determine false alarm charge based on the following:
 - a. Within free call limits
 - b. Type of incident
 - c. Outside allowable 30-minute response time.

52. Generate billings for alarm charges which includes the following information:
 - a. Summary information: OP-CL
 - i. Previous/past due amounts
 - ii. New charges
 - iii. Payments
 - iv. Adjustments
 - v. New balance due

 - b. Detail information: - Alarm Incident
 - i. Type of incident
 - ii. Date
 - iii. Time received
 - iv. Reason/description
 - v. Charge if applicable

53. Show all incidents and their associated charges during the current billing period, including free calls Monthly Incidents

54. Maintain accounts receivable database of permit holders and non-permit holders with outstanding alarm charges.

55. Provide balance forward capabilities on billings.

56. Waive fees and make appropriate adjustments.

57. Input miscellaneous charges on an account directly to the accounts receivable (i.e., returned check charge).

58. Input receipts and indicate to which charges the payment should be applied.

59. Process returned checks.

60. Maintain an alarm company master file which includes:
 - a. Assigned code number
 - b. Name, address and telephone number of the business
 - c. Manager's name, address telephone number.

61. Manage and schedule alarm hearings and appeals.

Interface Between Alarm Tracking and Other Systems:

1. PMAM shall have the ability to interface with ARA CAD system as follows:
2. Perform a daily electronic transfer from ATB system to CAD to provide current updates to the permit database including the following information:

Position in	Description
1-8	Alarm ID
9-12	Skipped
13-54	Business Name (Only 32 Relevant)
55-61	House Number
62-63	Street Direction (e.g., S/N/E/W)
64-88	Street Name
89-93	Street Type
94	Alarm Type
95-119	Alarm Company
120-129	Expiration Date
130	Alarm Status
131-140	Alarm Company Phone
141-144	False Alarm Count
145-154	Date of Last Incident
155-162	Time of Last Incident
163-167	City Code
168	Street Suffix (e.g., S/N/E/W.)
169-171	Skipped
172	Category: (B=Business, G=Government, R=Residence.)
173-177	Apartment Number
178-181	True Alarm Count
182-206	First Contact Name
207-216	First Contact Phone
217-241	Second Contact name
242-251	Second Contact phone

3. Perform a daily electronic transfer of incident records from CAD to ATB including:
 - a. Incident number
 - b. Priority
 - c. Call code
 - d. Date
 - e. Time (received, dispatched, arrived, cleared)
 - f. Remarks
 - g. Reportee's name, address, phone number
 - h. Dispatcher employee number and terminal
 - i. Phone clerk employee number and terminal
 - j. Cleared code and disposition (true/false)

- k. Officer number
 - l. Unit(s) assigned.
 - m. Perform a weekly electronic transfer of the GEO database from CAD to the ATB system.
4. Reports Required: PMAM shall have the ability to generate, at a minimum, the following reports:
- a. Listings of permits by:
 - Alarm company
 - Permit number
 - Site address
 - Business/owner name
 - Police district
 - b. Listing of permit counts in all categories:
 - Burglar (Residential)
 - Panic (Residential)
 - Burglar (Non-Residential)
 - Panic (Non-Residential)
 - c. Listing of permit counts by issue date and group.
5. Listing of outstanding charges.
- a. Renewals
 - b. Fines
6. Generating a detail aging report of outstanding charges no later than three (3) business days after the end of the month.
- a. 30 days
 - b. 60 days
 - c. 90 days
 - d. 120 days or more
7. Listing of cash transactions per day including:
- a. Cash received by billing type:
 - b. Renewal
 - c. False alarm
 - d. Account adjustment

- e. Returned check fee.
8. Deposit Report for daily collections by collection site:
- a. Vendor
 - b. ARA Alarm Administration.
9. Incident exception report generated during daily incident update process from the Computer Aided Dispatch System (CAD) including the following:
- a. Non-permit holder incidents
 - b. Type codes other than true or false.
10. Daily activity reports including:
- a. New permits issued by type.
 - b. Burglar (residential/non-residential).
 - c. Panic (residential/non-residential).
 - d. Renewal notices -- billed date and received payment date.
 - e. Account billings.
 - f. Cash collections.
 - g. Incidents processed.
 - h. Monthly generated/processed transactions (charges credits, incidents, etc.).
 - i. Monthly summary activity reports of the same processes stated in item 7.4.9.8 (above).
 - j. Generating daily listing of new revoked permits with revocation letters.
 - k. Listing of renewal fees not received within 30 (user-defined) days of permit renewal date.
 - l. Exception listing report of permits/non-permits which have exceeded established limitations.
 - m. Monthly alarm company roster which includes details of incidents generated by Alarm Company.
 - n. PMAM shall have the ability to provide all reports in both alpha and permit/account number order.

Collection of Past Due Accounts

PMAM's staff shall produce lists of businesses and individuals who have past due accounts. The staff shall attempt to locate these individuals by (1) continued efforts to discover a valid postal address and (2) by developing information such as that based on changes of utility information on wherever practical. PMAM's staff shall send additional past due notices and possible use other means including but not limited to telephone contacts to encourage these businesses and individuals to settle their past due accounts. It will be PMAM's discretion with the advice of the City of Houston to make decisions as to which accounts contain necessary information for additional follow-up. All efforts will be reviewed by the Director ARA from the

City of Houston to ensure that these activities are appropriate and within the legal and reasonable scope of the project.

PMAM shall review all past due accounts for the collection activities. If, as a result of research or attempts to collect, PMAM may indicate that individual accounts are "uncollectible". A listing of these uncollectible accounts will be forwarded to the City of Houston. The City may review this list and may select some or all of these uncollectible accounts to return to PMAM for additional attempts at collection.

PMAM shall attempt to recover on those accounts for which sufficient additional information can be developed. PMAM shall provide to the City of Houston a monthly reporting indicating:

- The number of and the dollar value of past due accounts
- The number of and dollar value of past due collections made during the month.
- The amount of money collected since the start of the contract.
- The number and amounts of any accounts returned to the City as uncollectible.

Exhibit B Fee Schedule



Revenue		Actual		PMAM		Cumulative		City of Houston		Cumulative		
				Share	Amount	Amount	Share	Share	Amount	Amount	Share	Amount
From	To											
\$0	\$500,000	\$500,000	\$500,000	35%	\$175,000	\$175,000	35%	65%	\$325,000	\$325,000	65%	
\$500,001	\$10,000,000	\$9,499,999	\$9,499,999	10%	\$950,000	\$1,125,000	11%	90%	\$8,549,999	\$8,874,999	89%	
\$10,000,001	\$15,000,000	\$4,999,999	\$4,999,999	8%	\$400,000	\$1,525,000	10%	92%	\$4,599,999	\$13,474,998	90%	
\$15,000,001	\$25,000,000	\$9,999,999	\$9,999,999	8%	\$800,000	\$2,325,000	9%	92%	\$9,199,999	\$22,674,997	91%	
\$25,000,001	\$28,000,000	\$2,999,999	\$2,999,999	5%	\$150,000	\$2,475,000	9%	95%	\$2,849,999	\$25,524,996	91%	
\$28,000,001	up			5%				95%				

EXHIBIT "C"

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 "D"

MWBE SUBCONTRACT TERMS

Contractor shall ensure 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 such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

3. Within five business days of execution of this subcontract, Contractor (prime contractor) 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. As concluded by the parties to this subcontract, and as evidenced by their signature hereto, 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. Upon submittal of the matter to arbitration 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. In the event 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.

EXHIBIT "E"

DRUG POLICY COMPLIANCE AGREEMENT

**Pankaj Kumar
Chief Executive Officer**

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

PMAM Corporation _____ (Contractor)
(Name of Company)

have authority to bind Contractor 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 Contractor 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:

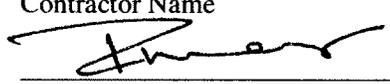
1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (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 Contractor 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.

04-30-2009
Date

PMAM Corporation

Contractor Name


Signature
CEO

Title

EXHIBIT "F"

CONTRACTOR'S CERTIFICATION
OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT

I, (Contractor), Pankaj Kumar
Chief Executive Officer,
(Name) (Title)
as an owner or officer of PMAM Corporation
(Name of Company)

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

in performing Burglar Alarm Administration Services
(Project)

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

04-30-2009
(Date)

Pankaj Kumar
(Typed or Printed Name)

(Signature)
CEO
(Title)

EXHIBIT "G"

DRUG POLICY COMPLIANCE DECLARATION

I, **Pankaj Kumar** as an owner or officer of
 (Name) (Print/Type) (Title)
Chief Executive Officer
PMAM Corporation (Contractor)
 (Name of Company)

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

This reporting period covers the preceding 6 months from 11-1-2008 to 04-30-2009.

[Signature]
Initials

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

[Signature]
Initials

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

[Signature]
Initials

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

[Signature]
Initials

Appropriate safety impact positions have been designated for employee positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is 0.

[Signature]
Initials

From 11-1-2008 to 04-30-2009 the following test has occurred
 (Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested	<u>8</u>	<u>—</u>	<u>—</u>	<u>8</u>
Number Employees Positive	<u>—</u>	<u>—</u>	<u>—</u>	<u>0</u>
Percent Employees Positive	<u>—</u>	<u>—</u>	<u>—</u>	<u>0</u>

[Signature]
Initials

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

[Signature]
Initials

I affirm that falsification or failure to submit this declaration timely in accordance with established 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.

04-30-2009
(Date)

PMAM Corporation Pankaj Kumar
 (Typed or Printed Name)
[Signature]
 (Signature)
CEO
 (Title)

EXHIBIT "H"

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE OF ISSUANCE _____

City of Houston
611 Walker Street, 9th Floor
Houston, Texas 77002
Attention: Director of Department of Administration and Regulatory Affairs

Re: Letter of Credit No. _____

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of **PMAM Corporation** (the "Account Party"), for the aggregate amount not exceeding One Million United States Dollars (\$1,000,000.00), available to you at sight upon demand at our counters at Houston, Texas, on or before the expiration hereof against presentation to us of the following statement, dated and signed by a representative of the City of Houston:

1. "Account Party has failed to comply with the provisions of the Burglar Alarm Administration Services Agreement (the "Agreement"), and all applicable notice and cure periods contained in Sections III.(Z) and V.(D) therein have expired and Account Party remains in default under the terms of the Agreement. Therefore, we are drawing under _____/Issuing Bank's Letter of Credit No. _____ in the amount of One Million Dollars (**\$1,000,000.00**)"

This Letter of Credit expires Eighteen (18) Months from the date of issuance herein and shall expire and terminate for all purposes on that date.

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit must be duly honored upon presentation as specified.

This Letter of Credit is issued under and governed by the International Standby Practices 1998 International Chamber of Commerce publication No. 598 ("ISP") and, to the extent not inconsistent therewith, the Laws of the state of Texas shall govern this Letter of Credit, notwithstanding anything contained in this letter of credit or in the ISP, jurisdiction and venue for any disputes relating to this letter of credit, including but not limited to, its validity and enforceability, shall lie exclusively in the courts of the State of Texas located in Houston, Harris County, Texas. Any attempt to litigate any issue relating to this letter of credit in any other forum shall be subject to immediate dismissal for lack of jurisdiction. We agree that our issuance of this Letter of Credit provides in personam jurisdiction over _____ Bank in the District Courts of Harris County, Texas.

This Letter of Credit may not be amended, changed or modified without the express written consent of the City of Houston as the Beneficiary and the Issuing Bank.

Sincerely,

WITNESS:

Name:
Title:

Name:
Title: