

THE STATE OF TEXAS

BID # E24168

ORDINANCE # 2012-0609

COUNTY OF HARRIS

CONTRACT # 4600011387

I. PARTIES

1.0 ADDRESS:

THIS AGREEMENT FOR AUTOMATED FUEL SYSTEM MAINTENANCE AND SUPPORT SERVICES

("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a Texas Home-Rule City and **MULTIFORCE SYSTEMS CORPORATION** ("Contractor or Vendor"), a corporation doing business in Texas.

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

City

Contractor

City Purchasing Agent for Director(s)
of Various Department(s)
City of Houston
P.O. Box 1562
Houston, Texas 77251

MultiForce Systems Corporation
101 Wall Street
Princeton, NJ 08540
Phone: 609-683-4242 Ext. 102
Fax: 609-683-4835

The Parties agree as follows:

2.0 TABLE OF CONTENTS:

2.1 This Agreement consists of the following sections:

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3.0 PARTS INCORPORATED:

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

4.0 CONTROLLING PARTS:

4.1 If a conflict among the sections or exhibits arises the Exhibits control over the Sections.

5.0 DEFINITIONS:

5.1 Certain terms used in this Agreement are defined in Exhibit "A".

6.0 SIGNATURES:

6.1 The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL (if a corporation):

MultiForce Systems Corporation

WITNESS (if not a corporation):

By: _____

By: 

Name:

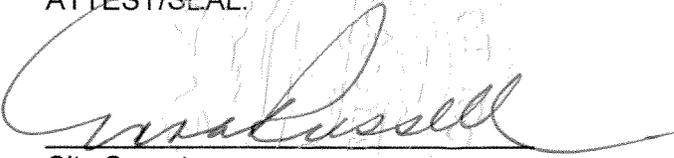
Name: THOMAS M. BATES

Title:

Title: PRESIDENT

Federal Tax ID Number: 22-2424161

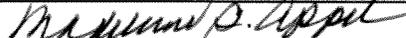
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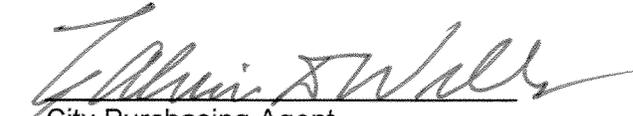
City Secretary

CITY OF HOUSTON, TEXAS

Signed by:


Mayor 

APPROVED:



City Purchasing Agent

COUNTERSIGNED BY:



City Controller 

DATE COUNTERSIGNED:

7-20-12

This Contract has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

7-12-12
Date


Legal Assistant

II. DUTIES OF CONTRACTOR

1.0 SCOPE OF SERVICES:

- 1.1 In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, equipment, transportation and supervision necessary to perform the services described in Exhibit "B."

2.0 INDEMNITY AND RELEASE:

2.1 RELEASE

PRIME CONTRACTOR/SUPPLIER 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.

2.2 INDEMNIFICATION:

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

- 2.2.1 PRIME CONTRACTOR/SUPPLIERS AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 2.1-2.3, "PRIME CONTRACTOR/SUPPLIER") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- 2.2.2 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER PRIME CONTRACTOR/SUPPLIER IS IMMUNE FROM LIABILITY OR NOT; AND
- 2.2.3 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER PRIME CONTRACTOR/SUPPLIER IS IMMUNE FROM LIABILITY OR NOT.
- 2.2.4 PRIME CONTRACTOR/SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. PRIME CONTRACTOR/SUPPLIER'S INDEMNIFICATION IS LIMITED TO \$500,000.00 PER OCCURRENCE. PRIME CONTRACTOR/SUPPLIER SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

2.3 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.

3.0 INDEMNIFICATION PROCEDURES:

3.1 Notice of Claims. If the City or Prime Contractor/Supplier 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 10 days. The notice must include the following:

3.1.1 a description of the indemnification event in reasonable detail,

3.1.2 the basis on which indemnification may be due, and

3.1.3 the anticipated amount of the indemnified loss.

3.2 This notice does not stop 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 10 day period, it does not waive any right to indemnification except to the extent that Prime Contractor/Supplier is prejudiced, suffers loss, or incurs expense because of the delay.

3.3 Defense of Claims

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

3.3.2 Continued Participation. If Prime Contractor/Supplier elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Prime Contractor/Supplier 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 Prime Contractor/Supplier 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.

4.0 INSURANCE:

4.1 Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Professional Liability and Workers' Compensation must name the City as an additional insured. 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. Contractor shall maintain the following insurance coverages in the following amounts:

4.1.1 Commercial General Liability insurance including Contractual Liability insurance:

\$500,000 per occurrence; \$1,000,000 aggregate

- 4.1.2 Workers' Compensation including Broad Form All States endorsement:
Statutory amount
- 4.1.3 Automobile Liability insurance
\$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.
- 4.1.4 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)
- 4.2 All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, Contractor shall give written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may:
 - 4.2.1 immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or
 - 4.2.2 purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

5.0 WARRANTIES:

- 5.1 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 and skilled persons having substantial experience performing the work required under this Agreement.
- 5.2 With respect to any parts and goods furnished by it, Contractor warrants:
 - 5.2.1 that all items are free of defects in title, material, and workmanship,
 - 5.2.2 that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,
 - 5.2.3 that each replacement item is new in accordance with original equipment manufacturer's specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new), and
 - 5.2.4 that no item or its use infringes any patent, copyright, or proprietary right.

6.0 LICENSES AND PERMITS:

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

7.0 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE:

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

8.0 MWBE COMPLIANCE:

8.1 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 0 % of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity ("OBO"), and will comply with them.

8.2 Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration to be conducted in Houston, Texas if directed to do so by the OBO Director. MWBE subcontracts must contain the terms set out in Exhibit "D."

9.0 DRUG ABUSE DETECTION AND DETERRENCE:

9.1 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.

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

9.2.1 a copy of its drug-free workplace policy,

9.2.2 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,

9.2.3 if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F."

9.3 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.

9.4 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.

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

10.0 ENVIRONMENTAL LAWS:

10.1 Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any

other governmental agency with the authority to promulgate environmental rules and regulations ("Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply.

- 10.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in strict compliance with the Environmental Regulations. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

11.0 CONTRACTOR'S PERFORMANCE:

- 11.1 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.

12.0 PAYMENT OF EMPLOYEES AND SUBCONTRACTORS:

- 12.1 Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees.
- 12.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this contract for which the Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.
- 12.3 Contractor shall defend and indemnify the City from any claims or liability arising out of Contractor's failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

13.0 CONTRACTOR PAY OR PLAY PROGRAM:

- 13.1 The requirement and terms of the City of Houston Pay or Play Policy, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 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. Exhibit "I".
- 13.2 The Pay or Play Program for various departments will be administered by the City of Houston Affirmative Action Division's designee and for a Department specific contract; the Department's designated contract administrator will administer the Pay or Play Program.

III. DUTIES OF CITY

1.0 PAYMENT TERMS:

- 1.1 The City shall pay and Contractor shall accept fees at the unit prices provided in Exhibit H for all services rendered and the Deliverables furnished by Contractor. The fees must only be paid from Allocated Funds, as provided below.
- 1.2 Any quantities of services or Deliverables shown in any part of this contract or its exhibits are estimated only and are not any guarantee that the City will not purchase more or less of those services or Deliverables. The City will pay only for the services or Deliverables actually ordered and only at the unit prices set out.

2.0 TAXES:

- 2.1 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.

3.0 METHOD OF PAYMENT:

- 3.1 The City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director, showing the specific tasks completed in the preceding month and the corresponding prices. The City shall make payments to Contractor at its address for notices within 30 days of receipt of an approved invoice.

4.0 METHOD OF PAYMENT - DISPUTED PAYMENTS:

- 4.1 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

5.0 LIMIT OF APPROPRIATION:

- 5.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.
- 5.2 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 **\$80,000.00** 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:
- 5.3 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.

\$ _____

5.4 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.

6.0 CHANGES:

6.1 At any time during the Agreement Term, the City Purchasing Agent or Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

6.2 The City Purchasing Agent or Director will issue the Change Order in substantially the following form:

CHANGE ORDER

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of Notice]
SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:
[Signature of City Purchasing Agent or Director]

6.3 The City Purchasing Agent or Director may issue more than one Change Order, subject to the following limitations:

6.3.1 Council expressly authorizes the City Purchasing Agent or Director to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.

6.3.2 If a Change Order describes items that Contractor is otherwise required to provide under

this Agreement, the City is not obligated to pay any additional money to Contractor.

- 6.3.3 The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.
- 6.4 Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.
- 6.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.
- 6.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

IV. TERM AND TERMINATION

1.0 CONTRACT TERM:

- 1.1 This Agreement is effective on the Countersignature Date and expires three (3) years after the date specified in the Notice to Proceed unless sooner terminated according to the terms of this Agreement.

2.0 NOTICE TO PROCEED:

- 2.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the City Purchasing Agent.

3.0 RENEWALS:

- 3.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two successive one-year terms on the same terms and conditions. If the Director of the City Department elects not to renew this Agreement, the City Purchasing shall notify Contractor in writing of non-renewal at least 30 days before the expiration of the then-current term.

4.0 TIME EXTENSIONS:

- 4.1 If the Department requests an extension of time to complete its performance, then the City Purchasing Agent may, in his or her sole discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

5.0 TERMINATION FOR CONVENIENCE BY THE CITY:

- 5.1 The City Purchasing Agent or 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.
- 5.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately

discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section III unless the fees exceed the allocated funds remaining under this Agreement.

- 5.3 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.

6.0 TERMINATION FOR CAUSE BY CITY:

- 6.1 If Contractor defaults under this Agreement, the City Purchasing Agent or 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:
- 6.1.1 Contractor fails to perform any of its duties under this Agreement;
 - 6.1.2 Contractor becomes insolvent;
 - 6.1.3 all or a substantial part of Contractor's assets are assigned for the benefit of its creditors;
or
 - 6.1.4 a receiver or trustee is appointed for Contractor.
- 6.2 If a default occurs, the City Purchasing Agent or Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent or Director at his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent or Director allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's or 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 City Purchasing Agent or Director may terminate this Agreement on the termination date, at no further obligation of the City.
- 6.3 To effect final termination, the City Purchasing Agent or 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.

7.0 TERMINATION FOR CAUSE BY CONTRACTOR:

- 7.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default 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 proposed termination date.
- 7.2 The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default

before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

8.0 REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS:

8.1 Upon expiration, or termination of this Agreement, Contractor is permitted ten (10) days within which to remove contractor-owned material and equipment from the City's premises. The City shall make such material and equipment readily available to Contractor. The time period may be extended upon approval by the Director. The City reserves the right to deny any extension of time.

V. MISCELLANEOUS

1.0 INDEPENDENT CONTRACTOR:

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

2.0 FORCE MAJEURE:

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

2.2 This relief is not applicable unless the affected party does the following:

2.2.1 uses due diligence to remove the Force Majeure as quickly as possible; and

2.2.2 provides the other party with prompt written notice of the cause and its anticipated effect.

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

2.4 If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director may terminate this Agreement by giving 30 days' written notice to Contractor. This termination is not a default or breach of this Agreement. CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.

3.0 SEVERABILITY:

3.1 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.

4.0 ENTIRE AGREEMENT:

4.1 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.

5.0 WRITTEN AMENDMENT:

5.1 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 duly 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.

6.0 APPLICABLE LAWS:

6.1 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.

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

7.0 NOTICES:

7.1 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. Postage or delivery charges must be paid by the party giving the notice.

8.0 NON-WAIVER:

8.1 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.

8.2 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.

9.0 INSPECTIONS AND AUDITS:

9.1 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 4 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

10.0 ENFORCEMENT:

10.1 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.

11.0 AMBIGUITIES:

11.1 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.

12.0 SURVIVAL:

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

13.0 PARTIES IN INTEREST:

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

14.0 SUCCESSORS AND ASSIGNS:

14.1 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.

15.0 BUSINESS STRUCTURE AND ASSIGNMENTS:

15.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the City Purchasing Agent's or Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406 (c) 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.

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

16.0 REMEDIES CUMULATIVE:

16.1 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.

17.0 CONTRACTOR DEBT:

17.1 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 from any payments owed to Contractor under this agreement, and Contractor waives any recourse therefor.

EXHIBIT "A"
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, change orders, and any written amendments authorized by City Council and Contractor.

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

"City Purchasing Agent" is defined as the person or duly authorized successor, authorized in writing to act for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the City Purchasing Agent acting within the limits of delegated authority.

"Contractor Administrator" means the representative of the Department who is responsible for the administration for the Contract.

"Contract Award Notice" means the official notification substantiated by the Notice to Proceed issued by the City Purchasing Agent to the Contractor.

"Contract Charges" means charges that accrue during a given month as defined in Article III.

"Contract Term" is defined in Article IV.

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

"Countersignature Date" means the date this agreement is countersigned by the City Controller.

"Director" mean the Directors/Chiefs of each of the Departments or the City Purchasing Agent for the City, or the person he or she designates.

"Effective Date" is defined as date contract is countersigned by the City Controller.

"Governing Body" means the Mayor and City Council of the City of Houston.

"Hazardous Materials" is defined in Article II (Environmental Laws).

"Notice to Proceed" means a written communication from the City Purchasing Agent to Contractor instructing Contractor to begin performance.

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

EXHIBIT "B"
SCOPE OF WORK

1. Hardware Maintenance and Support Services
 - a. Contractor shall render Hardware Parts Maintenance and Software Support services during Business Hours to maintain in good condition and working order of the Hardware listed in Exhibit "H" throughout the term of this agreement. The City shall provide Preventive Maintenance on a scheduled basis, the schedule to be based upon City's opinion of the particular service required for each item of Hardware. Contractor shall provide replacement parts when requested by the City.
 - b. Contractor shall provide Hardware Maintenance and Support Services to the City during the term of this Agreement in accordance with the Hardware and Software Maintenance and Support Services Fees set forth in Exhibit "H"
 - c. Replacement Parts
 - i. Additional Replacement Parts. Contractor shall be responsible for providing all replacement parts necessary to perform the Hardware Maintenance and Support Services set out in this Agreement to restore the Hardware to good condition and working order, for which Contractor shall charge the City the annual support price per FuelForce Hardware item set forth in Exhibit "H". In the event that City determines that it must purchase Additional Replacement Parts in order to restore the Hardware to full operational condition under this Agreement, Contractor shall obtain the Director's written approval prior to providing such an Additional Replacement Part to the City under this Agreement. The Additional Replacement Parts prices are set forth in Exhibit "H",
 - ii. FuelForce Hardware Replacement Parts Inventory.
 1. At all times during the term of this Agreement, the City may maintain an inventory of replacement parts (the "FuelForce Hardware Replacement Parts Inventory.") The FuelForce Hardware Replacement Parts Inventory shall be used by a Multiforce certified City employee or third party City contractor (the "City Service Provider") to replace parts in the FuelForce Hardware items set forth in Exhibit "H". Once a part from the FuelForce Hardware Replacement Parts Inventory is used to replace a defective part in the FuelForce Hardware, the City shall ship the defective part to Contractor per the Contractor's shipper, and within ten (10) Business Days of receiving such a defective part Contractor shall send the City a new or repaired replacement part of that type

that fully meets the requirements of this Agreement so that the City may include the new or repaired part in its FuelForce Hardware Replacement Parts Inventory. None of the replacement parts in the FuelForce Hardware Replacement Parts Inventory are Additional Replacement Parts.

2. The City Service Provider shall be a certified City employee or a third party Service Provider certified by Contractor on FuelForce Hardware. So long as the City ensures that its City Service Provider's employee is certified by Contractor at all times during the term of this Agreement, Contractor shall remain fully responsible for providing all automated fuel systems maintenance and support services set forth in this Agreement, unless the event for which such maintenance and support services are required is due to the negligence, act of omission by the City Service Provider or Force Majeure. Should the City choose to use another vendor or employee to serve as the City Service Provider during the term of this Agreement, the City shall ensure that such other vendor or employee is certified by Contractor before permitting that vendor to serve as the City Service Provider.

iii. Replacement Part Requirements. All replacement parts provided by Contractor under this Agreement shall either be new parts or parts equivalent in performance to new parts when used with the Equipment. Parts removed from the Equipment shall become the property of Contractor.

d. Engineering changes, as determined applicable by Contractor, shall be installed by Contractor or the certified City Service Provider on the Equipment at no charge to the City. Optional upgrades to the Equipment or Software shall be offered to the City at prices in effect at time of offer and may be purchased at the sole discretion of the City.

2. Software Maintenance and Support Services. Contractor shall provide Software Maintenance and Support services during the term of this Agreement for the Software items set forth in Exhibit "H" in accordance with the fees set forth in Exhibit "H". Software Maintenance and Support services include, but are not limited to, the following tasks:

- Identification and resolution of Software problems.
- Consultation assistance during installation and upgrade of software.
- Clarification of Contractor's Documentation and Release bulletins.
Response to questions on Software use regarding compatibility with other software and general questions regarding the capabilities of the Software.
- Correction or replacement of the Software under the maintenance

agreement or provision of services necessary to remedy programming errors attributable to Contractor.

- Assistance in resolving problems related to the installation of updated and corrective information.
- Provision of personnel at all times during Business Hours to provide Software Maintenance and Support Services to the City. Contractor shall use best efforts to return all telephone calls for requests for Software Maintenance and Support Services within four (4) hours after it receives notification from the City.
- Making available to City at no cost, during the term of this Agreement and during any period that City is under a Software Maintenance and Support services agreement with Contractor, any generally incorporated improvements and enhancements to the Software that are not designated as options.

3. On-Site Scheduling for Hardware and Software Maintenance and Support. Contractor and the Project Manager shall jointly schedule all routine on-site visits to be performed by Contractor for the City. Each schedule shall be confirmed 5 Business Days in advance. This shall include departmental visits, training, testing and installation.

4. Trouble Tracking Services. As part of its performance of Hardware and Software Maintenance and support under this Agreement, Contractor shall provide trouble tracking services by maintaining a trouble log for the City to keep track of all calls received by Contractor from City. Contractor shall assign a reference number to each call received by the City and shall provide the City with access to the status of each trouble ticket. All calls not closed within ten (10) Business Days shall be reviewed by both parties for assessment and prioritization at the request of the Project Manager.

5. Professional Services.

a. Under this Agreement, Contractor shall provide the City with professional services for the automated fuel systems on a time and expense basis at prices specified in Exhibit H.

b. Requesting and Documenting Professional Services.

i. Exhibit "H" sets forth the Professional Services that the City can obtain from Contractor under this Agreement. In the event that the Project Manager wishes to obtain Professional Services from Contractor under this Agreement, the Project Manager shall submit a written request to Contractor setting forth the specific Professional Services from Exhibit "H" that Contractor is requested to perform and the City's specific requirements for those Professional Services (a "Professional

Services Request").

- ii. Upon receipt of a Professional Services Request, Contractor shall identify its prices to provide the requested Professional Services to the City, which shall equal the "Unit Costs" for the requested Professional Services as set forth in Exhibit "H". Contractor shall also identify any amounts the City shall be required to reimburse Contractor for travel by Contractor personnel to the City in order to provide the requested Professional Services (a "Reimbursable Travel Expense"). The Reimbursable Travel Expense for each Contractor employee shall not exceed \$1,600.00 for round-trip transportation expense plus \$250 per diem expense. All Reimbursable Travel Expense shall be supported by receipts.
- iii. In the event that the Project Manager agrees to Contractor's total cost to provide the requested Professional Services to the City and the associated Reimbursable Travel Expenses proposed by Contractor, the Project Manager and Contractor shall document in a written "Professional Services Document" (1) the specific Professional Services to be performed by Contractor, (2) the total cost that Contractor shall charge the City for its performance of those Professional Services, and (3) any Reimbursable Travel Expenses associated with those Professional Services. Following the signature of an Professional Services Document by the Project Manager and Contractor, Contractor shall proceed with performing the Professional Services set forth in the Professional Services Document.
- iv. A Professional Services Document shall only contain a description of the specific Professional Services to be performed by Contractor the total cost that Contractor shall charge the City for its performance of those Professional Services, and any Reimbursable Travel Expenses associated with those Professional Services. Any other information contained in a Professional Services Document shall be null and void and have no contractual effect, regardless of the party that requests the inclusion of such information in that Document. In the event of an inconsistency between this Agreement and the contents of a Professional Services Document, the provisions of this Agreement shall control over the contents of the Professional Services Document.
- v. In the event that Contractor provides any Professional Services that are not specifically documented in a Professional Services Document signed by the Project Manager and Contractor, or there is any travel by Contractor personnel that has not been specifically identified as a Reimbursable Travel Expense in a Professional

Services Document signed by the Project Manager and Contractor, then Contractor shall not be compensated for its performance of such Professional Services or for incurring such travel expenses, **and Contractor shall be considered to have gratuitously provided such Professional Services and travel expenses under this Agreement.**

- c. Acceptance of Professional Services. If, following Contractor's performance of all of the Professional Services set forth in a Professional Services Document, the Project Manager determines that Contractor has performed such Professional Services in accordance with the terms of the associated Professional Services Document and this Agreement, then the Project Manager shall provide a written "Professional Services Acceptance Notice" to Contractor documenting such acceptance.

6. Automated Fuel System Expansion.

- a. Definition. Under a previous City contract, Contract Number 036446, Ordinance 96-418 (the "Prior Contract"), the City contracted with Contractor for

- i. Contractor's provision of the Equipment so that the Equipment operates together as a System, in accordance with the Prior Contract and with Contractor's Documentation (the "Automated Fuel System"). Under this Agreement, the City may purchase additional system compatible hardware and software at prices specified in Exhibit H.
- ii. Contractor shall also provide all hardware, software, and services necessary to expand the Automated Fuel System to new City locations as requested by the Project Manager ("Automated Fuel System Expansion").

- b. Requesting and Documenting Automated Fuel System Expansions.

- i. Automated Fuel System Expansion Request. In the event that the Project Manager wishes Contractor to perform an Automated Fuel System Expansion under this Agreement, the Project Manager shall submit a written request to Contractor setting forth the City's requirements for such an Automated Fuel System Expansion (an "Automated Fuel System Expansion Request").
- ii. Automated Fuel System Expansion Negotiation. Upon Contractor's receipt of an Automated Fuel System Expansion Request, the Project Manager and Contractor shall document the following business and technical requirements for Contractor's provision of the requested Automated Fuel System Expansion in an "Automated Fuel System Expansion Document":

- I. The specific City location(s) where the Automated Fuel System Expansion is to be performed.

2. The functionality that such an expanded Automated Fuel System implemented at such City location(s) shall provide.
 3. The specific hardware and software items Contractor shall provide to perform the requested Automated Fuel System Expansion, and Contractor's price to provide such hardware and software items.
 4. Any required preparation of the City location to which the Automated Fuel System is to be expanded ("Site Preparation") and, if such Site Preparation is required. Contractor's price to perform such Site Preparation;
 5. All Professional Services that Contractor shall need to perform in order to complete the requested Automated Fuel System Expansion, and Contractor's price to perform each Professional Service. Such Professional Services shall consist of one or more of the Professional Services set forth in Exhibit "H".
 6. The amount the City shall reimburse Contractor for travel by Contractor personnel to the City in order to perform such an Automated Fuel System Expansion (a "Reimbursable Travel Expense"). The Reimbursable Travel Expense for each Contractor employee shall not exceed \$1,600.00 round trip transportation cost plus \$250 per diem.
 7. The schedule under which Contractor shall perform the requested Automated Fuel System Expansion (the "Automated Fuel System Expansion Schedule").
- iii. In the event that the Project Manager and Contractor agree to the business and technical requirements for Contractor's performance of an Automated Fuel System Expansion as documented in a written Automated Fuel System Expansion Document, then the Project Manager and Contractor shall sign such an Automated Fuel System Expansion Document. Following the signature of an Automated Fuel System Expansion Document by the Project Manager and Contractor, Contractor shall proceed with performing the Automated Fuel System Expansion in accordance with that Document.
 - iv. An Automated Fuel System Expansion Document shall only contain a description of the business and technical requirements identified in Section III. A. (6) (b) (ii) for Contractor's performance of an Automated Fuel System Expansion. Any other information contained in an Automated Fuel System Expansion Document shall be null and void and have no contractual effect, regardless of the party that requests the inclusion of such information in that Document. **In the event of an inconsistency between this Agreement and the contents of a Automated Fuel System**

Expansion Document, the provisions of this Agreement shall control over the contents of the Automated Fuel System Expansion Document.

- v. In the event that Contractor provides any hardware, software, Site Preparation, or Professional Services that are not specifically documented in a Automated Fuel System Expansion Document signed by the Project Manager and Contractor, or there is any travel by Contractor personnel that has not been specifically identified as a Reimbursable Travel Expense in a Automated Fuel System Expansion Document signed by the Project Manager and Contractor, **then Contractor shall not be compensated under this Agreement for its provision of such items, and Contractor shall be considered to have gratuitously provided such items under this Agreement.**
 - vi. As the technical expert in the Automated Fuel System, Contractor shall be solely responsible for identifying all hardware, software, Site Preparation, and Professional Services that Contractor shall need to provide (as well as all Reimbursable Travel Expenses that Contractor shall need to incur) in order for Contractor to perform the Automated Fuel System Expansion requested by the Project Manager. In the event that, following Contractor's start of work on an Automated Fuel System Expansion as set forth in an Automated Fuel System Expansion Document, Contractor determines that it needs to **provide additional** hardware, software, **Site Preparation**, or **Professional Services** (or that Contractor needs to incur additional **Reimbursable Travel Expenses**) in order to perform the Automated Fuel System Expansion as set forth in that Document, but such items or expenses are not documented in the corresponding Automated Fuel System Expansion Document, then Contractor shall be solely responsible for providing such items and incurring such expenses at its own cost in order to complete the Automated Fuel System Expansion as set out in the Automated Fuel Systems Expansion Document,
 - c. Acceptance of Automated Fuel System Expansion. If, following Contractor's performance of an Automated Fuel System Expansion, the Project Manager determines that Contractor has performed the Automated Fuel System Expansion in accordance with the applicable Automated Fuel System Expansion Document, Contractor's Documentation, and the terms of this Agreement, then the Project Manager shall provide a written "Automated Fuel System Expansion Acceptance Notice" to Contractor documenting such acceptance.
7. Use of Work Products
- a. Software Provided During Automated Fuel System Expansion. In the event that Contractor

- provides the City with software during the performance of an Automated Fuel System Expansion under this Agreement, as set forth in Section III. A. (6), (the "Automated Fuel System Expansion Software") Contractor shall provide the City with an unlimited, perpetual, irrevocable, royalty-free license to use such Automated Fuel System Expansion Software at all City locations where the Automated Fuel System is implemented. The license provisions in this paragraph shall replace and supplant any alternative license terms that may accompany such Automated Fuel System Expansion Software.
- b. Other Works. Contractor conveys and assigns to the City its entire interest and full ownership worldwide in and to any work, invention, and all Documents, and the copyrights, patents, trademarks, trade secrets, and any other proprietary rights therein (collectively "Proprietary Rights") that Contractor, its agents, employees, contractors, and subcontractors (collectively "Authors") develop, write, or produce under this Agreement (collectively "Works"). The Works shall include, but shall not be limited to, any Software applications or interfaces developed by Contractor and provided to the City under this Agreement. However, the Works shall not include any Automated Fuel System Expansion Software obtained by the City as a result of Contractor's performance of an Automated Fuel System Expansion, as set forth in Section III. A. (6).
 - c. The Authors shall not claim or exercise any Proprietary Rights related to the Works. If requested by the Director, Contractor shall place a conspicuous notation on any Works which indicates that the City owns the Proprietary Rights .
 - d. Contractor shall execute all documents required by the Director to further evidence this assignment and ownership. Contractor shall cooperate with the City in registering, creating, and enforcing Proprietary Rights arising under this Agreement. If Contractor's assistance is requested and rendered under this Section, the City shall reimburse Contractor for all out-of-pocket expenses it incurs in rendering assistance, subject to the availability of funds. On termination of this Agreement, or if requested by the Director, Contractor shall deliver all Works to the City. Contractor shall obtain written agreements from the Authors which bind them to the terms in this Section.
 - e. All Works developed, written, or produced under this Agreement for use as a contribution to a collective work; a part of a motion picture or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas, are "works made for hire."
 - f. Contractor may retain copies of the Works for its archives. Contractor shall not otherwise use, sell, license, or market the Works.

g. Contractor shall provide the Director with the source code for all Works that are Software applications or interfaces developed by Contractor and provided to the City under this Agreement.

8. Coordinate Performance

a. 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.

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 REQUIREMENTS

ATTACHMENT "C"
CITY OF HOUSTON CERTIFIED M/WBE SUBCONTRACT TERMS

Contractor shall insure that all subcontracts with M/WBE 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. _____ (M/WBE 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 Mayor's Office of Business Opportunity (MOBO) Director ("the Director")
2. _____ (M/WBE 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 (5) 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 conclude by the parties to this subcontract, and as evidenced by their signatures 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 MOBO.
 - c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
 - d. In the event the American Arbitration Association no longer administers MOBO 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.

These provisions apply to goal-oriented contracts. A goal oriented contract means any contract for the supply of goods or non-personal or non-professional services in excess of \$100,000.00 for which competitive bids are required by law; not within the scope of the MBE/WBE program of the United States Environmental Protection Agency on the United States Department of Transportation; and ;, which the City Purchasing Agent has determined to have significant M/WBE subcontracting potential in fields which there are an adequate number on known MBEs and/or WBE's to compete for City contract.

The M/WBE policy of the City of Houston will be discussed during the pre-bid. For information assistance, and/or to receive a copy of the MOBO policy and/or ordinance contact MOBO at (832) 393-0600, 611 Walker, 7th Floor, Houston, Texas 77002.

ATTACHMENT "D"

**CITY OF HOUSTON
MAYOR'S OFFICE OF BUSINESS OPPORTUNITY & CONTRACT COMPLIANCE
M/WBE UTILIZATION REPORT**

Report Period _____

PROJECT NAME & NUMBER: _____ AWARD DATE: _____

PRIME CONTRACTOR: _____ CONTRACT No.: _____

ADDRESS: _____ CONTRACT AMOUNT: _____

LIAISON/PHONE No.: _____ M/WBE GOAL: _____

M/WBE SUB/VENDOR NAME	DATE OF MOBO CERTIFICATION	DATE OF SUBCONTRACT	SUBCONTRACT AMOUNT	% OF TOTAL CONTRACT	AMOUNT PAID TO DATE	% OF CONTRACT TO DATE
Use additional pages if needed. Submit by the 15th day of the following month. Provide support documentation on all revenues paid to end of the report period to: M/WBEs to reflect up/down variances on contract amount						
MOBO ATTN: Carlecia D. Wright, 832-393-0600 611 Walker, 7 th Floor Houston, Texas 77002						

EXHIBIT "E"
DRUG POLICY COMPLIANCE AGREEMENT

DRUG POLICY COMPLIANCE AGREEMENT

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

Date _____

Contractor Name _____

Signature _____

Title _____

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

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

I, Thomas M. Bates President
(Name)(Print/Type) (Title)

as an owner or officer of MULTIFORCE SYSTEMS Corp (Contractor) have authority to bind the Contractor with respect to its bid, and I 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 this City Contract. Contractor agrees and covenants that it shall immediately notify the City's Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

5/14/12
Date

MULTIFORCE SYSTEMS Corp
Contractor Name

Thomas M. Bates
Signature

President
Title

CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES
FOR CONTRACTORS

I, Thomas M. Bates President
(NAME) (PRINT/TYPER) (TITLE)

as an owner or officer of MULTIFORCE SYSTEMS Corp (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifteen (15) employees during any 20-week period during a calendar year and also 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 this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

5/14/12
DATE

MULTIFORCE SYSTEMS Corp
CONTRACTOR NAME

Thomas M. Bates
SIGNATURE

President
TITLE

DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of

 (Name) (Print/Type) (Title)
 _____(Contractor or Vendor)
 (Name of Company)

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

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

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

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

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

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

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

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

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

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

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

 (Date)

 (Typed or Printed Name)

 (Signature)

**EXHIBIT "H"
FEES AND COSTS**

Bid Item	Description	Unit Price
FuelForce Services		
FS100-01	Fuelserve.net Setup Service (Single Site controller) per site	\$ 495.00
FS100-02	Fuelserve.net Setup Service (2-15 site controllers) per site	\$ 395.00
FS100-03	Fuelserve.net Setup Service (16+ site site controllers) per site	\$ 395.00
PS900-6	Installation of FuelForce software, PC version, per day	\$ 945.00
PS900-7	Instruction and Training Service with Hardware Purchase per day	\$ 945.00
PS900-8	Software Setup: Load Customer Database, pre-configure Host Software per day	\$ 945.00
PS901	Programming Service per day	\$ 850.00
PS902	Systems Analysis and Design per day	\$ 1,000.00
PS903	Senior Consulting and Project Management per day	\$ 1,250.00
PS935	Telephone Training Service (one-on-one) per hour	\$ 100.00
PS936	Preload Data on System CD per acct	\$ 475.00
PS937	Installation of FuelForce software, SQL Server version per acct	\$ 1,325.00
PS938	Network Consulting and Support per day	\$ 945.00
PS934-01	Annual Fuelserve.net Reporting Service (Single Site) per site	\$ 1,260.00
PS934-C4	Cellular Service Charge (4 polls per day) per cell modem	\$ 540.00
FF900-01	Hookup and Checkout of Fuel Management System hardware per unit, per day	\$ 800.00
FF900-10	Project Management (remote telephone consulting during start-up) per site controller	\$ 275.00

SURVEY	Site Survey in preparation for installation (per on-site site survey)	\$ 1,800.00
PS933-01	Standalone Fueserve.net Reporting Service, foreign controller (per site)	\$ 1,860.00
PS901C2	Standalone Integration Service per interface	\$ 2,000.00
SURVEY2	Standalone site Survey for Fuel Management System per on-site survey	\$ 1,800.00
PS903	Standalone Consulting Services per day	\$ 1,250.00
PS934-M	Annual Fuelserve.net Reporting Service (Manual Site, no controller) per site	\$ 600.00
PS934-S	Annual Fuelserve.net Reporting Service (second controller on one site) per controller	\$ 600.00
PS934-CU	Cellular Service Charge (Unlimited polls per day) per cell modem	\$ 720.00
PS904	Conversion of Legacy Data from Imported FuelForce Data Folders per 100,000 records	\$ 350.00
Software License Fees		
FS001-01	Annual Fuelserve.net Site License (1 site) per site	\$ 1,200.00
FS001-05	Annual Fuelserve.net Site License (2-5 site) per site	\$ 1,000.00
FS001-15	Annual Fuelserve.net Site License (6-15 site) per site	\$ 800.00
FS001-UN	Annual Fuelserve.net Site License (16+ site) per site	\$ 600.00
FS001-M	Annual Fuelserve.net Site License (Manual Entry) per site	\$ 600.00
FS001-S	Annual Fuelserve.net Site License (Second Controller on 1 site) per site	\$ 600.00
FF003-01	Host Software - PC (1 site)	\$ 995.00
FF003-05	Host Software - PC (2 - 5 site)	\$ 1,675.00
FF003-UN	Host Software - PC (Unlimited site)	\$ 2,095.00
FF005-01	Host Software - Server (1 site)	\$ 1,595.00

FF005-05	Host Software - Server (2 - 5 site)	\$ 2,725.00
FF005-UN	Host Software - Server (Unlimited site)	\$ 3,670.00
FF004S-01	Host Software - SQL Server (1 site)	\$ 3,775.00
	Must have Microsoft SQL licenses	
FF004S-05	Host Software - SQL Server (5 site)	\$ 5,875.00
	Must have Microsoft SQL licenses	
FF004S-UN	Host Software - SQL Server (Unlimited site)	\$ 7,870.00
	Must have Microsoft SQL licenses	
Software License Upgrades		
	Single Site License	
FF034-1	Upgrade to Server	\$ 630.00
FF034S-1	Upgrade to SQL Server	\$ 2,100.00
	Must have Microsoft SQL licenses	
	5 Site License	
FF034-5	Upgrade to Server	\$ 1,050.00
FF034S-5	Upgrade to SQL Server	\$ 3,150.00
	Must have Microsoft SQL licenses	
	Unlimited Site License	
FF034-U	Upgrade to Server	\$ 1,575.00
FF034S-U	Upgrade to SQL Server	\$ 4,200.00
	Must have Microsoft SQL licenses	
Optional Host Software		
TW001	TankWatch Software - for Automatic Tank Reconciliation per account	\$ 825.00
TW002	TankWatch Inform Module - Alarm Notification via Email or cell phone per account	\$ 525.00
SF001	CNG Slow Fill Software per site	\$ 525.00
IF001-EX	Std Export per interface	\$ 625.00
IF001-IM	Std Import per interface	\$ 625.00
IF002-EX	Custom Export per interface	\$ 1,675.00
IF002-IM	Custom Import per interface	\$ 1,675.00
Site Software		
FF004-01	FuelForce Site Software license per site	\$ 262.00
NL001-01	NetLink Dial out Auth per site controller	\$ 100.00
TW001-01	TankWatch - Autopolling of TLS controller from FuelForce controller (per TLS controller)	\$ 158.00
TW002-01	TankWatch - Inform (per TLS controller) per site	\$ 26.00
SF001-01	Site Control Software for Slow Fill CNG (per manifold)	\$ 158.00

FuelForce Site Controllers		
	Exacta Series	
EXACTA	Exacta Ctlr, Keypad	\$ 3,000.00
EXACTA-C	Exacta Ctlr Mag Stripe Card	\$ 3,200.00
EXACTA-CP	Exacta Ctlr, Mag Stripe Card, Receipt Printer	\$ 4,100.00
EXACTA-K	Exacta Ctlr, Prox Card	\$ 3,800.00
EXACTA-FS	Exacta Ctlr, Installed in FuelSite System	\$ 3,800.00
	FF894 Series	
FF894	Numeric 4 hose Ctlr, Keypad	\$ 4,895.00
FF894-C	Numeric 4 hose Ctlr, Card Reader	\$ 4,995.00
FF894-K	Numeric 4 hose Ctlr, Prox Reader	\$ 5,195.00
FF894-G	Numeric 4 hose Ctlr, Gate Opener	\$ 2,895.00
FF894-GC	Num 4 hose Ctlr, Gate Opener, Card Rdr	\$ 2,995.00
FF894-T	Numeric 4 hose Mobile Ctlr	\$ 4,295.00
FF894-T01	Hose Control for Mobile.Ctlr.	\$ 895.00
SC100	Std Comm Kit for Mobile Ctlr	\$ 1,045.00
	FF814 Series	
FF814	Alpha 4 hose Controller, Keypad	\$ 6,895.00
FF814-C	Alpha 4 hose Controller Card Rdr	\$ 6,995.00
FF814-K	Alpha 4 hose Controller Prox Rdr	\$ 7,195.00
FF814R	Remote Island Terminal, Keypad	\$ 3,395.00
FF814R-C	Remote Island Terminal, Card Rdr	\$ 3,495.00
FF814R-K	Remote Island Terminal, Prox Rdr.	\$ 3,695.00
FF814W	Wall Mounted Controller	\$ 4,195.00
	WAVE Series	
WAVE-CRPT	WAVE Ctlr, Card Rdr, Rcpt Ptr.	\$10,195.00
WAVE	WAVE Ctlr, Keypad	\$ 8,995.00
PADLOCK Premier	PADLOCK Premier	\$ 4,995.00
Options and Accessories		
FF805	4-hose Kit for 814	\$ 795.00
FF102	Magnetic Stripe Card Reader, Factory installed	\$ 100.00
FF102-10	Magnetic Stripe Cards (Pack of 10)	\$ 50.00
KR102-10	Proximity Cards (pack of 10)	\$ 70.00
BR102	Bar Code Reader Assembly, Factory installed	\$ 1,595.00
BR102W	Wireless Handheld Bar Code Reader	\$ 1,500.00
FF306	Island terminal heater	\$ 100.00
FF206	Manual Swipe Magnetic Card Reader/Writer (Programmed)	\$ 1,675.00
MF908	Surge Unit Assembly	\$ 175.00

US100	Battery Backup Power Supply (Hammonton & Hamiltong)	\$ 125.00
MF015	Pump Isolation Relays	\$ 15.00
PP103	24 volt power supply (required for hose reel control)	\$ 340.00
Communication Options (to be included with site preparation)		
WC-001	Ringdown Box	\$ 495.00
WC-002	802.11 B/G wireless network bridge	\$ 595.00
WC-003	802.11 B/G wireless Access Point	\$ 1,195.00
WC-004	Wireless Transceiver	\$ 1,495.00
WC-005	Wireless Radio Link	\$ 1,800.00
	Customize Option #7	
WBR	Wireless Handheld Bar Code Reader	\$ 1,500.00
	Customize Option #8	
EF900	EasyFuel Receiver Board	\$ 2,150.00
FF101TH	Receipt Printer Assembly (Top Mounted, Thermal Printer for FF814)	\$ 1,575.00
PT	Receipt Printer Factory installed in Exacta fuel controller	\$ 900.00
PTW	Receipt Printer Assembly (Factory installed for the WAVE)	\$ 1,200.00
WC-006	Cellular Modem - (Requires good cell coverage at the site)	\$ 775.00
FF100	Receipt printer (Thermal indoor)	\$ 595.00
Easyfuel Options		
EF900	EasyFuel Receiver Board	\$ 2,150.00
EF900-01	EasyFuel Nozzle Tag and Boot	\$ 175.00
EF901-01	EasyFuel Calibration Software	\$ 1,500.00
EF901-02	EasyFuel Calibration Unit	\$ 2,495.00
10013420	EF900 Basic Vehicle Tag V4.1	\$ 80.00
10013422	EF900 Basie W Vehicle Tag V4.1	\$ 80.00
10013423	EF900 Standard Vehicle Tag V4.1	\$ 125.00
10013424	EF900 Standard W Vehicle Tag V4.1	\$ 125.00
10013425	EF900 Enhanced Vehicle Tag V4.1	\$ 195.00
10012354	All-in-one Vehicle Tag	\$ 195.00
10004951	Connector Cable J1939 and J1709	\$ 60.00
10004952	Y-Connector Cable J1939 and J1709	\$ 67.00
10004953	Connector Cable OBDII	\$ 60.00
10004954	Y-Connector Cable OBDII	\$ 67.00
10028160	Window Antenna	\$ 24.95
10028310	Body Antenna	\$ 75.00
90006042	Antenna Bracket	\$ 7.15

90060009	GOS Active Odometer Sender with bulknead mount active antenna	\$ 175.00
10014989	Fuel Inlet Coil 70MM7M	\$ 25.50
10014989	Fuel Inlet Coil 90MM/7M	\$ 25.50
10014995	Fuel Inlet Coil 120MM/7M	\$ 25.50
SoftwareSupport		
	Single Site License	
CS003-1	VFP HCP (1 Site - PC license)	\$ 650.00
CS004-1	VPF HCP (1 Site - server)	\$ 800.00
CS005-1	VPF HCP (1 Site - network server)	\$ 1,800.00
CS004S-1	SQL HCP (1 Site -SQL server)	\$ 1,800.00
CS005S-1	SQL HCP (1 Site - network SQL server)	\$ 2,800.00
	2-5 Site License	
CS003-5	VFP HCP (2 - 5 Site - PC license)	\$ 1,000.00
CS004-5	VPF HCP (2 - 5 Site - server)	\$ 1,300.00
CS005-5	VPF HCP (2 - 5 Site - network server)	\$ 2,300.00
CS004S-5	SQL HCP (2 - 5 Site -SQL server)	\$ 2,300.00
CS005S-5	SQL HCP (2 - 5 Site - network SQL server)	\$ 3,300.00
	Unlimited Site License	
CS003-U	VFP HCP (Unl Site - PC license)	\$ 1,300.00
CS004-U	VPF HCP (Unl Site - server)	\$ 1,900.00
CS005-U	VPF HCP (Unl Site - network server)	\$ 2,650.00
CS004S-U	SQL HCP (Unl Site -SQL server)	\$ 2,900.00
CS005S-U	SQL HCP (Unl Site - network SQL server)	\$ 3,650.00
	Additional Transaction Processor License	
CS024S	SQL Transaction Processor	\$ 630.00
	Fleet Advisory Premium (Annual Site Visit)	
Annual	Annual review and analysis of data per year per account	\$ 1,000.00
Quarterly	Quarterly review and analysis of data per year per account	\$ 3,600.00
	Help Desk Support	
Event Based	Telephone Support - per call	\$ 420.00
HD001	Annual Cost per Fuel Island Terminal (Dial-up or Cell Modem)	\$ 105.00
HD002	Annual Cost per Fuel Island Terminal (Network)	\$ 205.00
	Spare Parts (Individual items)	
FF10055 BP	SCP Backplate Assembly (LX)	\$ 2,830.00
FF10055-A	SCP Motherboard Stack	\$ 2,058.00
FF10055	SCP Motherboard	\$ 1,470.00

FF10061	RIT Processor/Pin Door Assembly (New Style Display)	\$ 1,895.00
FF10062	RIT Processor/Door Assembly (New Style display)	\$ 1,895.00
FF10063	RIT Processor/Door Assembly (New Style display w Cam Lock)	\$ 1,895.00
FF101-01	Impact Receipt Printer	\$ 562.00
FF102	Mag card reader	\$ 236.00
FF107	Power Supply (#22)	\$ 139.00
FF108	Power Supply (#112)	\$ 203.00
FF609	Relay	\$ 41.00
FF610	Relay	\$ 39.00
FF805 Rev B	814 - 4 hose control board	\$ 562.00
FF814-05	814 - Flat faced keyboard/overlay	\$ 80.00
FF814-12	Phone line surge protector	\$ 158.00
FF814-14	RS232 Transcient Surge Protector	\$ 158.00
FF8410	33.6 kb modem (REV3-1)	\$ 358.00
FF894-01	894 - LCD Display Assembly	\$ 236.00
FF894-02	894 - Keyboard Assembly	\$ 53.00
MF901/104	814 - Reset Module	\$ 131.00
MF906-4	814 - 4 hose relay board	\$ 315.00
MF906-8	814 - 8 hose relay board	\$ 630.00
MF907	814 - Serial Interface Board	\$ 184.00
MF908	Surge Unit Assembly	\$ 158.00
MF909	814 - Hose Control Module	\$ 95.00
MF911	894 - One Port Interface / Phone Board	\$ 225.00
MF915	894 - 4 hose relay board for FF894	\$ 236.00
MF916	894 - 4 hose control/reset board for FF894	\$ 236.00
MF918	814 - Dual serial module for PC104	\$ 263.00
MF919	814 - Four hose control board (New Style)	\$ 562.00
MF919G	814 - Gate control board (New Style)	\$ 105.00
MF920	814 - RIT processor board -v2003	\$ 578.00
MFXXX	814 - Flash drive assembly	\$ 250.00
Spare Parts Kits		
FF814-S	Spare Parts Kit for FF814	\$ 3,176.00
	Includes:	
	SCP Motherboard (LX)	
	Power Supply (#22)	
	814 - Reset Module	
	814 - 4 hose control board	
	814 - Flat faced keyboard/overlay	
	814 - LCD Display assembly	
	814 - RIT processor board -v2003	
	814 - Serial Interface Board	

FF894C-S	Spare Parts Kit for FF894 with Card Reader	\$ 2,730.00
Includes: SCP Motherboard 33.6 kb modem (REV3-1) Power Supply (#22) 894 - 4 hose control/reset board for FF894 894 - Keyboard Assembly 894 - Display Assembly Mag Card Reader		
Annual Hardware Maintenance, parts only (after warranty period)		
EXACTA	Bennet Dispenser mounted SCP	\$ 350.00
EXACTA-C	Bennet Dispenser mounted with Mag Stripe Card Reader	\$ 450.00
EXACTA-CP	Bennet Dispenser mounted with Mag Stripe Card Reader and Printer	\$ 550.00
EXACTA-K	Bennet Dispenser mounted with Prox Card Reader	\$ 450.00
EXACTA-FS	Bennet Dispenser mounted with Mag Stripe Card Reader installed in a FuelSite Skid Mounted Fuel Vending Solution	\$ 450.00
WAVE-M	Island mounted SCP	\$ 895.00
WAVE-CM	Island mounted SCP Card Reader	\$ 995.00
WAVE-CRPM	Island mounted SCP, Card Reader, Printer	\$ 1,295.00
WAVE-KM	Island mounted SCP with Prox Card Reader	\$ 995.00
WAVE-EFM	Island mounted SCP with EasyFuel Board	\$ 1,175.00
FF805M	Four hose Interface Board	\$ 63.00
FF814M	Island mounted SCP (alphanumeric keypad)	\$,775.00
FF814CM	Island mounted SCP (alphanumeric keypad) w card reader	\$ 875.00
FF814-EFM	Island mounted SCP with EasyFuel board	\$ 975.00
FF814-W ETM	Wall mounted SCP with EasyTracker board	\$ 745.00
FF814KM	Island mounted SCPI (alphanumeric keypad)	\$ 805.00

FF814RM	Remote island keypad terminal (alphanumeric keypad)	\$405.00
FF814RCM	Remote island keypad terminal (alphanumeric keypad)	\$ 505.00
FF814RKM	Remote island keypad terminal (alphanumeric keypad)	\$ 505.00
FF814WM	Wall mounted site control terminal	\$ 440.00
FF827M	SCP for Gilbarco Advantage Series Dispenser with Crind	\$ 790.00
FF894M	Island mounted SCP (numeric keypad)	\$ 450.00
FF894CM	Island mounted SCP (numeric keypad)	\$ 550.00
FF894KM	Island mounted SCP (numeric keypad)	\$ 550.00
FF894TM	Truck mounted SCP (without hose control)	\$ 525.00
FF894TMC	Truck mounted SCP (with hose control)	\$ 685.00
FF894-EF	SCPsite control terminal with EasyFuel board	\$ 775.00
FF894-D ET	Desktop Data Entry Terminal - with EasyTracker	\$ 695.00
FF101TH	Top Hat Printer Unit	\$ 350.00
FF805A	Annual cost of Shipping Both Ways per device	\$ 84.00

EXHIBIT "I"
PAY OR PLAY PROGRAM

FORM POP 2 (DOCUMENT 00630)

CERTIFICATION OF AGREEMENT TO COMPLY WITH PAY OR PLAY PROGRAM



Contractor Name: MULTIFORCE SYSTEMS Corp \$ _____
(Contractor/Subcontractor) (Amount of Contract)

Contractor Address: 101 WALL ST, PRINCETON NJ 08540

Project No.: [GFS/CIP/AIP/File No.] _____

Project Name: [Legal Project Name] _____

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534, Contractor agrees to abide by the terms of this Program. This certification is required of all contractors for contracts subject to the program. You must agree EITHER to PAY or to PLAY for each covered employee, including those of subcontractors subject to the program.

Yes No Contractor agrees to Pay \$1.00 per hour for work performed by covered employees, including compliance for covered subcontractors' employees and contract labor, under the contract with the City.

Yes No Contractor agrees to offer health benefits to each covered employee, including compliance by the covered subcontractors that meet or exceed the following criteria:
 (1) the employer will contribute no less than \$150 per employee per month toward the total premium cost; and
 (2) the employee contribution, if any amount, will be no greater than 50% of the total premium cost.

Yes No Contractor agrees to pay on behalf of some covered employees and contract labor and play on behalf of other covered employees, in accordance with program requirements, including subcontractors' employees, if applicable.

Yes No If contract labor is utilized the Contractor agrees to report hours worked by the contract laborer and Pay \$1.00 per hour for work performed.

Yes No Contractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program provisions.

Yes No For Prime Contractors Only: Contractor will file compliance reports with the City, which will include activity for subcontractors subject to the program, in the form and to the extent requested by the administering department or the Affirmative Action and Contract Compliance Office. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records.

Following information is Mandatory	Prime Contractor	Sub-Contractor
Total No. Of Employees on City Job	0	
No. Of Employees-"Playing"	0	
No. Of Employees --"Paying"	0	
No. Of Employees "Exempt"	0	

I hereby certify that the above information is true and correct.

[Signature] _____ DATE 5/14/12

CONTRACTOR (Signature) _____
J. Umar M. Bates President
 NAME AND TITLE (Print or type)