

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

02-0649  
54040  
54040

**I. PARTIES**

A. Address

**THIS AGREEMENT FOR AN EMERGENCY ALERTING SYSTEM SOFTWARE AND SERVICES** ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a municipal corporation, and **CUSTOM LOGIC DESIGN, INC.** ("Contractor"), a Texas corporation.

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

City  
Chief, Houston Fire Department  
or Designee  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251

Contractor  
Custom Logic Design, Inc.  
P. O. Box 24  
Houston, Texas 77001-0024

The Parties agree as follows:

B. Table of Contents

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C. Parts Incorporated

The above described exhibits are incorporated into this Agreement.

D. Controlling Parts

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

E. Signatures

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

ATTEST/SEAL:

CUSTOM LOGIC DESIGN, INC. ("Contractor")

By: Michelle Christ  
Name: Michelle Christ  
Title: Secretary

By: [Signature]  
Name: Mark C. Zerina  
Title: Vice-President  
Tax Identification No. 76-0328952

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS ("City")

[Signature]  
City Secretary

Signed by: [Signature]  
Mayor

APPROVED:

COUNTERSIGNED BY:

[Signature] <sup>ACTING</sup> Fire Chief  
Chief, Houston Fire Department

[Signature]  
City Controller

APPROVED AS TO FORM:

DATE COUNTERSIGNED:

[Signature]  
Assistant City Attorney  
L.D. File No. 035-9800275-003

7/16/02

## II. DEFINITIONS

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

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

"Chief" means the Chief of the Houston Fire Department, or the person he or she designates.

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

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

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

"Documents" mean notes, manuals, notebooks, plans, computations, software, databases, data, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, the original tracings of all drawings and plans, and other work products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement.

"EAS" means Emergency Alerting System.

"EAS Apparatus Clients" are defined in Section II. A. (3) (b) of Exhibit "A".

"EAS Apparatus Client Hardware" is defined in Section III. D. of Exhibit "B".

"EAS Apparatus Mobile Client Software" is defined in Section I. C. of Exhibit "B".

"EAS Documentation" means all applicable materials that describe the operation and usage of the EAS, including, but not limited to, the EAS Functional Requirements Document set forth in Section III. of Exhibit "A" and the EAS Pilot Project Materials which are on file with HFD.

"EAS Fire Station Clients" are defined in Section II. A. (3) (a) of Exhibit "A".

"EAS Fire Station Client Hardware" is defined in Section III. A. of Exhibit "B".

"EAS Fire Station Client Software" is defined in Section I. B. of Exhibit "B".

"EAS Implementation" is defined in Article IX. of Exhibit "A".

"EAS Pagers" are defined in Section II. A. (3) (c) of Exhibit "A".

"EAS Servers" are defined in Section II. A. (2) of Exhibit "A".

"EAS Server Hardware" is defined in Section III. B. of Exhibit "B".

"EAS Server Software" is defined in Section I. A. of Exhibit "B".

"EAS Spare Clients" are defined in Section II. A. (3) (a) of Exhibit "A".

"EAS Spare Client Hardware" is defined in Section III. C. of Exhibit "B".

"EAS Software" means the software developed by Contractor and provided to the City under license for use in the EAS. The EAS Software shall remain the property of Contractor. However, under this Agreement Contractor grants a perpetual, irrevocable license to the City to use the EAS Software and shall provide the City with the source code for all EAS Software developed by Contractor as set forth in Section III. N. (1).

"HFD" means the Houston Fire Department.

"HPD" means the Houston Police Department.

"MDT System" means the Houston Police Department's Mobile Data Terminal System. The wireless operation of the EAS shall be based on the MDT System.

"Notice to Proceed" means a written communication from the Chief to Contractor instructing Contractor to begin performance.

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

"Start Date" is defined in Section III. C. (1).

### **III. DUTIES OF CONTRACTOR**

#### **A. Scope of Work**

In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, and supervision necessary to provide the City with the software ("EAS Software"), services ("EAS Services"), and Software Development System as set forth in Exhibit "A" that are necessary for an Emergency Alerting System ("EAS") to be implemented for the City's Fire Department so that the EAS operates in accordance with the requirements of this Agreement (which shall include, but is not limited to, the requirements set forth in the EAS Documentation.) Contractor shall also provide maintenance and support for the EAS Software and the Software Development System ("Maintenance and Support") as set forth in Exhibit "A".

Under a prior agreement, Contractor implemented an EAS Pilot Project at HFD Fire Station 31. The materials that set forth the operation of the EAS resulting from that EAS Pilot Project are on file with HFD.

#### **B. Coordinate Performance**

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

C. Time of Performance

(1) The Chief shall provide Contractor a written Notice to Proceed specifying a date to begin performance ("Start Date"). The Start Date shall be no earlier than the date that the City obtains all of the EAS Hardware set forth in Section III. of Exhibit "B" and all of the Software Development System hardware set forth in Section IV. A. of Exhibit "B".

(2) Contractor shall begin its performance no later than the Start Date. Contractor shall begin and complete its obligations to provide EAS Software and EAS Services in order to implement the EAS for the City in accordance with a detailed written Project Schedule developed and signed by the Chief and Contractor after the Countersignature Date of this Agreement ("EAS Project Schedule"). Once the Chief and Contractor have signed the EAS Project Schedule, it shall be incorporated into this Agreement.

(3) The Chief and Contractor may agree to modify the EAS Project Schedule by signing a new, revised written version of the EAS Project Schedule setting forth such modifications. Once a revised EAS Project Schedule is signed by the Chief and Contractor, the revised EAS Project Schedule shall be incorporated into this Agreement, and shall replace and supplant all prior EAS Project Schedules agreed to by the parties under this Agreement.

(4) The failure of either party to meet a date or deadline set forth in the EAS Project Schedule shall not be considered an event of default under this Agreement unless the Chief and Contractor have documented in the written EAS Project Schedule that is then in effect that such failure shall constitute an event of default under this Agreement.

(5) Contractor shall perform its obligations under this Agreement diligently. Contractor acknowledges that time is of the essence.

D. RELEASE

**CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH 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.**

**E. INDEMNIFICATION**

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

- (1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (2) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND
- (3) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

**F. RELEASE AND INDEMNIFICATION - PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT**

CONTRACTOR AGREES TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING CONTRACTOR

(EXCEPT IN INSTANCES WHERE THE CITY IS USING THE EAS SOFTWARE, THE ESRI SOFTWARE, OR THE SOFTWARE DEVELOPMENT SYSTEM SOFTWARE IN A MANNER THAT VIOLATES THE TERMS OF THE LICENSES FOR SUCH SOFTWARE AS SET FORTH IN THIS AGREEMENT), ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

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

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

**G. INDEMNIFICATION PROCEDURES**

(1) Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

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

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that

Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

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

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

H. Insurance

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

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

<u>(Coverage)</u>	<u>(Limit of Liability)</u>
Workers's Compensation	Statutory for Worker's Compensation
Employer's Liability	Bodily Injury by accident \$100,000 (each accident) Bodily Injury by Disease \$100,000 (policy limit) Bodily Injury by Disease \$100,000 (each employee)
Commercial General Liability: Including Broad Form Coverage, Contractual Liability, and Bodily and Personal Injury	Bodily Injury and Property Damage, Combined Limits of \$500,000 each Occurrence and \$1,000,000 aggregate
Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Non-Ownership and Hired Auto Coverage)	\$1,000,000 combined single limit

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

- (2) Form of Policies. The Chief may approve the form of the insurance policies, but nothing the Chief does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Chief's actions or inactions do not waive the City's rights under this Agreement.
- (3) Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or 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, Property-Casualty United States.
- (4) Insured Parties. Each policy, except those for Workers Compensation, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.
- (5) Deductibles. Contractor shall be responsible for and pay any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.
- (6) Cancellation. Each policy must state that it may not be canceled, materially modified, or nonrenewed unless the insurance company gives the Chief 30 days' advance written notice. Contractor shall give written notice to the Chief within five days of the date on which total claims by any party against Contractor reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.
- (7) Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.
- (8) Endorsement of Primary Insurance. Each policy, except Worker's Compensation and Professional Liability (if any), must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.

- (9) Liability for Premium. Contractor shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.
- (10) Subcontractors. Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Chief.

(11) Proof of Insurance.

(a) On the Effective Date and at any time during the Term of this Agreement, Contractor shall furnish the Chief with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Chief, Contractor shall furnish the City with certified copies of Contractor's actual insurance policies.

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

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

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

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

I. Warranties

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

(2) EAS Software. The EAS Software Licenses set forth in Exhibit "C" contain the warranties Contractor provides to the City regarding the EAS Software, as well as limitations on each party's liability with regards to such EAS Software Licenses.

(3) Software Development System Software. The Software Development System Software shall be warranted by the third-party owners of such software as set forth in the licenses that Contractor transfers to the City as set forth in Section III. N. (5). However, to the extent that such Software Development System Software is not warranted by the third party owner of such software during the period following Contractor's receipt of the Software Development System Acceptance Notice and ending upon the start of Contractor's performance of Maintenance and Support for the EAS and the Software Development System (as set forth in Article X. of Exhibit "A"), Contractor shall be responsible for performing Maintenance and Support for such Software Development System Software at no cost to the City. Contractor warrants that it shall provide the City with all documentation provided by the third-party owners of the Software Development System Software that sets forth how the Software Development System Software operates. However, the City acknowledges that Contractor is not obligated under this Agreement to itself develop and provide documentation setting forth the operation of the Software Development System Software.

(4) EAS Hardware. Contractor represents and warrants that it shall identify to the City all EAS Hardware that is necessary to be obtained and provided by the City in order to implement the EAS under this Agreement so that the EAS operates in accordance with the requirements of this Agreement. The Contractor is not supplying or maintaining any hardware under this Contract.

(5) MDT System Support. Contractor represents and warrants that it shall identify all hardware the City needs to obtain and all modifications the City needs to make to the MDT System in order for the EAS to provide the MDT System Support set out in this Agreement.

(6) Software Testing. Contractor shall thoroughly test all EAS Software and the Software Development System Software to verify that they meet the warranties set forth in this Agreement before providing the EAS Software or the Software Development System Software to the City.

(7) EAS Services and Maintenance and Support. Contractor warrants that none of the EAS Services or the Maintenance and Support it provides under this Agreement will modify or affect the EAS so that

(a) the EAS does not comply with the warranties set out in this Agreement;

- (b) the EAS does not perform in accordance with the requirements of this Agreement;
- (c) the EAS does not accurately record, store, process, calculate, and present all calendar dates or correctly calculate any information dependent on or relating to a calendar date or date(s);
- (d) the EAS accurately records, stores, processes, calculates, and presents all calendar dates and correctly calculates any information dependent on or relating to a calendar date or date(s), but (i) there is an impact to the functionality, data integrity, or performance of the EAS, or (ii) the City is required to obtain additional hardware, software, maintenance services, or support in order for the EAS to operate in such a manner; or
- (e) the EAS (i) loses any functionality with respect to the introduction of records containing dates or (ii) is no longer interoperable and compatible with other software the City uses that may deliver records to the EAS, receive records from the EAS, or interact with the EAS, including but not limited to back-up and archived data.

(9) Any time that Contractor's performance of EAS Services or of Maintenance and Support under this Agreement could affect the ability of the EAS to meet the warranties set forth in this Agreement, Contractor shall:

- (a) Obtain the Chief's approval before proceeding with performance of the EAS Services or of Maintenance and Support;
- (b) Upon completion of the EAS Services or of Maintenance and Support, submit a test script in a form acceptable to the Chief that
  - (i) validates that the EAS complies with the warranties set forth in this Agreement,
  - (ii) identifies the latest future calendar date that the EAS is able to accurately record, store, process, calculate, and present, and
  - (iii) demonstrates the ability of the EAS to correctly calculate any information dependent on or relating to a calendar date or date(s) without impacting the functionality, data integrity, or performance of the System(s) and related Software.

J. Liability for Loss or Corruption of Data

If as a result of Contractor's performance under this Agreement, any City data is lost or corrupted, Contractor shall restore such City data to its previous uncorrupted state, where possible or applicable.

K. Limitation of Liability

NEITHER PARTY SHALL BE LIABLE FOR CLAIMS FOR LOSS OF PROFIT OR DATA OR FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, OR FOR ANY OTHER SIMILAR CLAIMS, REGARDLESS OF WHETHER THAT PARTY HAS BEEN SPECIFICALLY ADVISED ON THE POSSIBILITY OF SUCH DAMAGES.

L. Confidentiality - Protection of City's Interest

Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Chief authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

M. Use of Work Products

(1) The City may use all EAS Software, notes, plans, computations, databases, tabulations, exhibits, photographs, reports, underlying data and other work products (collectively, the "Documents") that Contractor prepares or obtains under this Agreement. However, the use of the EAS Software and Source Code is limited to its intended purpose as outlined in this Agreement. The EAS Software or Source Code may not be used to create new derivative works without written agreement from the Contractor. The creation of new or derivative works may require additional license fees.

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

N. Software Licenses

(1) EAS Software License. All EAS Software supplied by Contractor other than the ESRI Software shall be licensed to the City under Contractor's EAS Software license agreements, which are included in Exhibit "C". In addition to the terms set forth in Contractor's software license agreements, Contractor shall provide the City with a perpetual, irrevocable license to use the EAS Software, Contractor shall provide the City with the source code for all EAS Software created by Contractor and provided to the City hereunder (except the ESRI Software), and the City shall have the right to modify all EAS

Software (other than the ESRI Software) that is provided by Contractor under this Agreement, and the provisions of this Agreement shall apply to the City's use of the EAS Software under this Agreement.

(2) Zclient32 Application Software. The EAS Software supplied by Contractor shall include Contractor's ZClient32 application software, which Contractor provided to the City prior to the start of this Agreement. Under this Agreement, the City may continue to deploy Contractor's ZClient32 application software with mapping for use by HFD to an unlimited number of fire vehicles or stations. In addition, the City may at any time recompile and redeploy the ZClient32 application software's mapping application in order to correct software anomalies (bugs) or to update map data. As part of its performance of Maintenance and Support under this Agreement, Contractor shall be responsible for performing such recompilations and redeployment of the ZClient32 application software on behalf of the City. However, should the City ever wish to recompile the ZClient32 application software in order to add additional functionality or features, then such redeployment shall require the parties to amend this Agreement or enter into a new contract in order for the City to pay additional license fees for the ZClient32 application software to Contractor. Such an amendment or contract shall set forth all of the additional license fees to be paid by the City in order to add additional functionality or features to the ZClient32 application software. The City's obligation to pay any such additional license fees shall be subject to the allocation of funds by City Council and the City Controller. To the extent that the provisions of this paragraph conflict with the provisions of the ZClient32 application software license set forth in Article II. of Exhibit "C", the provisions of this paragraph shall control.

(3) ZMap Application Software.

(a) The EAS Software supplied by Contractor shall include Contractor's ZMap application software. The ZMap application software was created by Contractor using the MapObjects Version 2.0 mapping software provided to Contractor by Environmental Systems Research Institute, Inc., or "ESRI" (the "ESRI Software") under the contract between ESRI and Contractor, ESRI contract number 2000S4574 (the "ESRI-Contractor Agreement") and the software license granted by ESRI to Contractor as set forth in Exhibit "D" (the "ESRI-Contractor Software License"). The ESRI-Contractor Software License shall be transferred from Contractor to the City as set forth in the ZMap™ Application software license set forth in Article IV of Exhibit "C". However, to the extent that the ESRI-Contractor

Software License contain terms that require the City to (1) agree to provisions or perform actions that are in violation of Texas law (including any requirements that the City indemnify any party, including Contractor or ESRI) or (2) make payments to ESRI, such terms shall be null and void with respect to the City and shall not be transferred from Contractor to the City. The City shall not be required to sign any documents in order to have the ESRI-Contractor Software License transferred from Contractor to the City.

- (b) The City may deploy the ZMap application software to any number of machines owned by the City that also operate the ZClient32 application software. In addition, the City is permitted to perform modifications and redeployment of the ZMap application software without having to pay an additional software license fee for the express purpose of correcting a software bug in the ZMap application software or to refresh the map data used by the ZMap application software. As part of its performance of Maintenance and Support under this Agreement, Contractor shall be responsible for performing such modifications and redeployment of the ZMap application software on behalf of the City.
- (c) However, once the Chief accepts the EAS by sending an EAS Final Acceptance Notice to Contractor, then the ZMap application functionality shall be considered "set" (i.e., any modifications to the ZMap application functionality following that point may be subject to the City's payment of additional license fees as set forth in this paragraph), and the functionality of the mapping clients in the MapObjects Version 2.0 mapping software provided by ESRI shall be "frozen" by Contractor so that the ESRI MapObjects software's "feature set" is fixed at the current MapObjects Version 2.0 release level. If, following the Chief's acceptance of the EAS, the City makes modifications to the ZMap application software that enhance the ZMap application software's functionality, then the parties shall either need to amend this Agreement or enter into a new contract in order for the City to pay additional license fees for the ZMap application software to Contractor in order for the City to perform such redeployment of the ZMap software application. Such additional license fees may include any additional ESRI license fees for the use of

ESRI's MapObjects mapping software to perform such redeployment of the ZMap software application. Contractor represents and warrants that the ESRI-Contractor Agreement and the ESRI-Contractor Software License shall provide the City with all rights to the ESRI MapObjects software necessary for the City to redeploy the ZMap application software in accordance with the terms set forth in this Section III. M. (4). In the event that the City and Contractor enter into an amendment to this Agreement or a separate contract under which Contractor is to perform upgrades to the ZMap application software, Contractor shall be responsible for including all additional ZMap application software license fees (including any additional ESRI license fees) for the redeployment of the ZMap application in such an amendment or contract. The City's obligation to pay any such additional license fees for the ZMap application software shall be subject to the allocation of funds by City Council and the City Controller.

(d) To the extent that the provisions of this paragraph conflict with the provisions of the ZMap application software license set forth in Article IV. of Exhibit "C", the provisions of this paragraph shall control.

(4) Software Included/Embedded in EAS Hardware. All software included with or embedded in the EAS Hardware provided by the City under this Agreement shall carry the separate software license terms applicable to such software, and shall not be licensed by Contractor under this Agreement.

(5) Software Development System Software. Contractor shall provide and install the following software in the Software Development System set forth in this Agreement (the "Software Development System Software"):

- (a) Borland Delphi 5 compiler
- (b) ESRI MapObjects Version 2.0
- (c) The following required 3rd party software libraries:
  - (i) Async Pro Version 3.06
  - (ii) SysTools Version 3.03
  - (iii) LockBox Version 2.03
  - (iv) Orpheus Version 4.00
  - (v) GTSizer

- (vi) Addict Version 3 Pro
- (vii) Indy Version 9.0
- (viii) Dtalk
- (ix) HelpScribble
- (x) ESRI MapObjects Version 2.0

Upon its receipt of the Software Development System Acceptance Notice from the Chief, Contractor shall transfer to the City the licenses for the Software Development System Software that are provided by the third-party owners of such Software, a copy of which is on file with HFD (the "Software Development System Software Licenses"). However, to the extent that such Software Development System Software Licenses contain terms that require the City to (1) agree to provisions or perform actions that are in violation of Texas law (including any requirements that the City indemnify any party, including the third-party provider of the Software Development System Software) or (2) make payments to a third-party provider of the Software Development System Software, such terms shall be null and void with respect to the City and shall not be transferred from Contractor to the City. The City shall not be required to sign any documents in order to have the Software Development System Software Licenses transferred from Contractor to the City.

O. EAS Software Source Code

Contractor shall provide at least 1 complete copy of the most current version of the executable EAS Software source code and all applicable documentation for the EAS Software (the "EAS Software Source Code"). The EAS Software Source Code delivered must be the equivalent of the compiled EAS Software object code. The EAS Software Source Codes shall not include the source code from the following software applications:

- the ESRI Software
- the Borland Delphi 5 compiler and the 3rd party software libraries that are included in the Software Development System

P. Licenses and Permits

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

Q. Compliance with Laws

Contractor shall comply with all applicable state and federal laws and regulations and the City

Charter and Code of Ordinances.

R. Compliance with Equal Opportunity Ordinance

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

S. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

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

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

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

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

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

#### IV. DUTIES OF CITY

##### A. Payment Terms

- (1) Provision of EAS Software Licenses. Following Contractor's provision of the licenses to the EAS Software and the ESRI Software to the City, as set forth in Section IX. A. of Exhibit "A", Contractor shall submit an invoice to the City for \$325,000.00.
- (2) Provision of the Software Development System. Following Contractor's receipt of a Software Development System Acceptance Notice from the Chief, as set out in Section IX. B. of Exhibit "A", Contractor shall submit an invoice to the City for \$15,500.00.
- (3) EAS Completion and Final Acceptance. Following Contractor's receipt of an EAS Final Acceptance Notice, as set forth in Section IX. G. (2) of Exhibit "A", Contractor shall submit an invoice to the City for \$349,818.00.
- (4) Maintenance and Support.
  - (a) Following Contractor's receipt of an EAS Final Acceptance Notice, as set forth in Section IX. G. (2) of Exhibit "A", Contractor shall submit an invoice for \$38,250.00 to the City for Contractor's provision of Maintenance and Support during the Initial Term.
  - (b) Within 30 days following the first day of each Renewal Term, Contractor shall submit an invoice for \$51,000 to the City for Contractor's provision of Maintenance and Support during that Renewal Term.
- (5) EAS External Interface Document. Following the Chief's acceptance of the EAS External Interface Document developed and provided by Contractor (as set forth in Article XI. of Exhibit "A"), Contractor shall submit an invoice for the EAS External Interface Document Fee, as set forth in the EAS External Interface Document Fee Notice.

##### B. Taxes

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

C. Method of Payment

The City shall pay the invoices submitted by Contractor as set forth in Section IV. A. within 30 days of the receipt and approval of the invoices, but such payments may only be made from Allocated Funds, as provided below.

D. Limit of Appropriation

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

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$172,000.00 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:

(3) The City makes a supplemental allocation by sending a notice signed by the Chief and the City Controller to Contractor and, where in excess of the amount specified in Paragraph (4) below, approved by motion or ordinance of City Council in substantially the following form:

**"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"**

TO: [Name of Contractor]  
FROM: City of Houston, Texas (the "City")  
DATE: [Date of notice]  
SUBJECT: Supplemental allocation of funds for the purpose of the "[title of this Agreement]" between the City and (name of Contractor) countersigned by the City Controller on (Date of Countersignature) (the "Agreement").

I, (name of City Controller), City Controller of the City of Houston, certify that the supplemental sum of \$ \_\_\_\_\_, upon the request of the below-signed Chief, 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.

The aggregate of all sums allocated for the purpose of such Contract, including the Original Allocation, and all supplemental allocations (including this one), as of the date of this notice, is \$ \_\_\_\_\_.

SIGNED:  
(Signature of the City Controller)  
City Controller of the City

REQUESTED:  
(Signature of the Chief)  
Chief, Houston Fire Department

(4) The City Council delegates to the Chief the authority to approve up to \$860,746.00 in supplemental allocations for this Agreement without returning to Council.

(5) 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.

E. Access to Site

Contractor may enter and leave the premises at all reasonable times without charge. Contractor and its employees may use the common areas and roadways of the premises where it is to perform the services set out in this Agreement together with all facilities, equipment, improvements, and services provided in connection with the premises for common use. This excludes parking for Contractor's personnel. Contractor shall repair any damage caused by it or its employees as a result of its use of the common areas. The City shall provide work areas for Contractor within each City Fire Station and in the City Fire Alarm Building for Contractor's performance under this Agreement.

F. Access to Data

The City shall, to the extent permitted by law, allow Contractor to access and make copies of documents in the possession or control of the City or available to it that are reasonably necessary for Contractor to perform under this Agreement.

The City does not, however, represent that all existing conditions are fully documented, nor is the City obligated to develop new documentation for Contractor's use.

G. HFD EAS Project Manager

The Chief shall designate an HFD EAS Project Manager, who shall be Contractor's primary contact for the performance of work under this Agreement.

## V. TERM AND TERMINATION

A. Contract Term

This Agreement is effective on the Countersignature Date and remains in effect for one (1) year from the date set forth in the EAS Final Acceptance Notice unless sooner terminated under this Agreement ("Initial Term").

B. Renewals

Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for five (5) successive one-year terms on the same terms and conditions ("Renewal Terms"). If the Chief or the City chooses not to renew this Agreement, the Chief shall notify Contractor of non-renewal at least 30 days before the expiration of the then-current term.

C. Termination for Convenience by City

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

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

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

D. Termination for Cause

Either party may terminate its performance under this Agreement if the other party defaults and fails to cure the default after receiving notice of it. Default occurs if a party fails to perform one or more of its material duties under this Agreement. If a default occurs, the injured party shall deliver a written notice to the defaulting party describing the default and the proposed termination date. The date must be at least 30 days after the defaulting party receives the notice. The injured party, at its sole option, may

extend the proposed termination date to a later date. If the defaulting party cures the default before the proposed termination date, the proposed termination is ineffective. If the defaulting party does not cure the default before the proposed termination date, the injured party may terminate its performance under this Agreement on the termination date. The Chief shall act on behalf of the City to notify Contractor of a default and to effect termination.

E. Effects of Termination.

In the event that this Agreement is terminated prior to the end of the Initial Term or of any Renewal Term for which the City has paid Contractor in advance for Contractor's performance of Maintenance and Support, Contractor shall refund to the City a pro-rata portion of such payment reflecting the period starting on the termination date and ending on the last day of the Initial Term or Renewal Term during which Contractor shall not perform Maintenance and Support under this Agreement.

## VI. MISCELLANEOUS

A. Independent Contractor

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

B. Force Majeure

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

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

- (a) uses due diligence to remove the effects of the Force Majeure as quickly possible; and
- (b) provides the other party with prompt written notice of the cause and its anticipated effect.

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

4. If the Force Majeure continues for more than 10 days from the date performance is affected, the Chief may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.**

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

C. Severability

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

D. Entire Agreement

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

E. Written Amendment

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

F. Applicable Laws

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

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

G. Notices

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

addressed to the other party at the address set out in the preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending party.

H. Captions

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

I. Non-Waiver

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

An approval by the Chief, 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 Chief is not authorized to vary the terms of this Agreement.

J. Inspections and Audits

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

K. Enforcement

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

L. Ambiguities

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

M. Survival

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

to, the indemnity provisions.

N. Publicity

Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Chief. Contractor may issue a press release upon City Council's approval of this Agreement stating that they have a contract with the City, but this and any other releases must first be approved in writing by the Chief, such approval being timely and not unreasonably withheld.

O. Risk of Loss

Unless otherwise specified elsewhere in this Agreement, risk of loss or damage for each EAS Software item passes from Contractor to the City upon the Chief's issuance of the EAS Final Acceptance Notice.

P. Parties In Interest

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

Q. Successors and Assigns

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

R. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Chief's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in §9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

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

S. Remedies Cumulative

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

T. Change Orders

Change orders are permitted under this Agreement. Any change orders issued by the Chief shall follow the procedures contained in Exhibit "I".

**EXHIBIT "A"**  
**SCOPE OF WORK**

**I. EAS PROJECT**

Under the EAS Project HFD's existing microwave-based fire station alerting system will be replaced with a new digital emergency alerting system (the "EAS"). The key benefits in replacing the existing microwave-based system with a digital EAS are:

- improved alerting methodology,
- elimination of the time delays associated with multi-station alerting,
- built-in alerting redundancy and adherence to F.C.C. licensing requirements.

In addition, the digital EAS system shall expand the alerting process to provide the delivery of station alerts directly to HFD's apparatus (e.g., fire vehicles) and to specific City personnel via the alphanumeric pagers used by such personnel.

Contractor has designed and shall implement the EAS System under this Agreement to provide the above benefits by operating with HFD's existing Computer Aided Dispatch ("CAD") System provided by Bull HN Information Systems, Inc. ("Bull"). Contractor has also designed and shall implement the EAS under this Agreement so that the EAS shall be adaptable to support additional operational enhancements resulting from HFD's anticipated replacement of the existing Bull CAD System.

**II. EAS OPERATION**

**A. Overview.**

- (1) The EAS shall support HFD's dispatch of resources by sending electronic messages ("Alerts") that identify requests for HFD's performance of Fire Services or Emergency Medical Services ("HFD Service Requests")
- (2) Such Alerts shall be initiated from two computer servers that shall be located at the HFD Fire Alarm Building ("EAS Servers").
- (3) Such Alerts shall be sent to and received by two types of equipment ("EAS Clients"):
  - (a) client computers located at the HFD Fire Stations ("EAS Fire Station Clients"), including ten (10) sets of spare EAS Clients that may be used in the event that an EAS Fire Station Client stops operating ("EAS Spare Clients"), and
  - (b) client computers located in HFD Apparatus - equipment, vehicles, etc. ("EAS Apparatus Clients").

- (c) Such Alerts shall also be sent to and received by pagers used by HFD personnel ("EAS Pagers"). (The transmission of Alerts to EAS Pagers shall be referred to as "EAS Pager Support".)

B. EAS Servers

- (1) When an HFD fire dispatcher dispatches a HFD Service Request call using the CAD System, the CAD System creates an electronic "dispatch record" (a "CAD Dispatch Record"), which the CAD System forwards to two "logging printers" in the HFD Dispatch Center that print out a hardcopy of the CAD Dispatch Record.
- (2) The EAS Servers shall continually monitor the flow of the electronic CAD Dispatch Records sent from the CAD System to the logging printers. The EAS Servers shall examine each CAD Dispatch Record in order to determine if that Dispatch Record represents an HFD Service Request. When the EAS Servers recognize a CAD Dispatch Record that represents an HFD Service Request, the EAS Servers shall generate and transmit an Alert as follows:
  - (a) Contained within each CAD Dispatch Record is information identifying the type of Alert, the location where HFD is requested to perform services, the HFD Fire Stations and HFD Apparatus that are to be notified of the Alert, and mapping component information that may be used by the EAS Fire Station Clients and the EAS Apparatus Clients to display the location where HFD's services are required (including the specific latitude and longitude values for that location). The EAS Servers shall retrieve such information from the CAD Dispatch Record and generate and send an Alert containing such information to the EAS Fire Station Clients and EAS Apparatus Clients identified in the CAD Dispatch Record.
  - (b) Contractor shall develop the EAS Servers so that a reference table is maintained so that certain EAS Pagers may be associated with specific HFD Fire Stations and/or HFD Apparatus. After creating and transmitting an Alert to the EAS Fire Station Clients and/or EAS Apparatus Clients, the EAS Servers shall access this reference table to determine whether any EAS Pagers are associated with the HFD Fire Stations or HFD Apparatus to which an Alert has been sent. If so, the EAS Servers shall generate and send the text of the Alert to such EAS Pagers.

(3) The EAS Servers shall transmit an Alert to an EAS Fire Station Client using diverse routing techniques in order to enhance the likelihood that the Alert is received by such the EAS Fire Station Client as quickly as possible:

(a) The EAS Servers shall send Alerts to EAS Fire Station Clients via a R.F. message conveyed over the City's R.F. Data Network supported by the Houston Police Department ("HPD") that is part of HPD's Mobile Data Terminal ("MDT") System.

(b) Additionally, the EAS Servers shall send Alerts to EAS Fire Station Clients via HFD's wide area network.

(4) The EAS Servers shall send Alerts to EAS Apparatus Clients via a R.F. message conveyed over the City's R.F. Data Network supported by HPD that is part of HPD's MDT System.

B. EAS Clients and EAS Pagers.

(1) Each EAS Client shall receive the Alert and process it based on the first valid Alert message received by that EAS Client. The EAS Clients shall reject duplicate Alerts that they receive.

(2) Upon receiving an Alert, EAS Fire Station Clients shall:

(a) activate a relay indicating that the Alert is being processed, which shall allow for the activation of house lights at the HFD Fire Station and the ability to make an audio broadcast of the Alert at the HFD Fire Station,

(b) print out the Alert on a computer printer attached to the EAS Fire Station Client,

(c) display the Alert on the terminal screen of the EAS Fire Station Client and execute an audio broadcast of the Alert over the EAS Fire Station Client to the personnel at that HFD Fire Station by performing a "text-to-speech" conversion of the Alert, and convey the audio broadcast of the Alert so that it is played over the public address system at that HFD Fire Station, and

(d) obtain all mapping component data from the Alert and display the address where the Alert requests the HFD Services on the mapping component included in the EAS Fire Station Client.

(4) Upon receiving an Alert, EAS Apparatus Clients shall:

(a) automatically display the Alert on the EAS Apparatus Client's screen,

(b) perform an audio broadcast of the Alert over the EAS Apparatus Client by

conducting a "text-to-speech" conversion of the Alert, and  
(c) obtain all mapping component data from the Alert and display the address where the Alert requests HFD services on the mapping component included in the EAS Apparatus Client.

(5) Upon receiving an Alert, a EAS Pager shall display the Alert text on that pager's screen.

C. Logging of EAS Operation. The EAS Servers shall log the operation of the EAS and note when an Alert is issued by the EAS Servers and when the Alert was acknowledged by each EAS Client. The EAS Servers shall create these log files on a daily basis and shall retain such files on the EAS Servers. However, the City system manager shall be responsible for managing and archiving these log files in a timely manner.

D. EAS Self-Check. Contractor shall implement the EAS so that it verifies that each EAS Fire Station Client is active and operational by having the EAS Servers poll each EAS Fire Station Client to ensure that such Clients are active and fully operational. If, as a result of this EAS Self-Check, the EAS Servers determine that an EAS Fire Station Client is not active and operational, the EAS Servers shall generate an alarm to notify HFD personnel of such status.

### III. EAS FUNCTIONAL REQUIREMENTS DOCUMENT

Following the Countersignature Date of this Agreement the Chief and Contractor shall determine the detailed functional requirements that the EAS must meet in order to perform as set forth in Article II of this Exhibit. The Chief and Contractor shall document such functional requirements in an "EAS Functional Requirements Document." In order to be valid and enforceable, the EAS Function Requirements Document must be in writing and signed by both the Chief and Contractor, but does not require amendment of this Agreement. Once signed by the Chief and Contractor, the EAS Function Requirements Document shall be incorporated into this Agreement, and included as part of the EAS Documentation. During the term of this Agreement, the Chief and Contractor may agree to revise the EAS Function Requirements Document by creating and signing a new version of that Document. Once such a revised version of the EAS Function Requirements Document is signed by the Chief and Contractor, the revised version of the Document is incorporated into this Agreement and included as part of the EAS Documentation, and shall replace and supplant all prior versions of that Document.

To the extent that the EAS Function Requirements Document contains terms that require the City to (1) agree to provisions or perform actions that are in violation of Texas law (including any requirements that the City indemnify any party) or (2) make payments to any party (including Contractor), such terms shall be null and void and the City shall have no obligation to perform in accordance with such terms.

#### **IV. EAS SERVERS**

- A. The City shall provide the hardware for the EAS Servers as set forth in Section III. B. of Exhibit "B".
- B. The City shall make available a suitable location in the Fire Alarm Building where Contractor shall install the EAS Servers ("EAS Servers Location"), and ensure that all required power and related facilities necessary for the installation of the EAS Servers are available at the EAS Servers Location.
- C. The City shall mount two external antennas at the Fire Alarm Building to provide communications for the VRM650 modems that are to be attached to the EAS Servers.
- D. Contractor shall be responsible for providing the EAS Software for the EAS Servers, as set forth in Section I. A. of Exhibit "B", and for providing all labor and services necessary to implement the EAS Servers in accordance with the requirements of this Agreement.

#### **V. EAS PAGER SUPPORT**

- A. The City shall be responsible for defining and obtaining the EAS Pagers and the paging system under which the EAS Pagers operate from another vendor outside of this Agreement ("Paging System Vendor"). The EAS Pagers obtained by the City shall all support the same system interface and shall use only one pager system interface.
- B. The City shall be responsible for obtaining from the Paging System Vendor and providing to Contractor the application programming interface which Contractor shall use to implement the EAS so that it transmits Alerts to the EAS Pagers ("EAS Pager API").
- C. The City shall provide Contractor with two (2) EAS Pagers for Contractor's use in testing the EAS's performance of EAS Pager Support; Contractor shall return such EAS Pagers to the City upon the final acceptance of the EAS as set forth in Section IX. G. of this Exhibit.

- D. The City recognizes that there is a possibility that the EAS Pagers may receive duplicate pages containing the same Alert, since, as implemented by Contractor, by default both of the EAS Servers shall issue an Alert to that pager. However, the HFD System Manager may resolve this problem by designating a single EAS Server to issue Alerts to EAS Pagers.
- E. Other than as set forth in this Article V, Contractor shall be responsible for implementing the EAS to perform EAS Paging Support. In the EAS Software provided by Contractor under this Agreement Contractor shall implement a utility program that the City may use to configure the EAS so that an EAS Pager is associated with one or more HFD Fire Stations or HFD Apparatuses in the EAS so that, when the EAS Servers issue an Alert to an EAS Client at those HFD Fire Stations or HFD Apparatuses, the EAS Server shall also issue an Alert to that EAS Pager.

**VI. EAS FIRE STATION CLIENTS, EAS APPARATUS CLIENTS, AND MOBILE DATA TERMINAL ("MDT") SYSTEM SUPPORT**

- A. Definition of MDT System Support. Contractor shall implement a network connection and interface between the EAS and HPD's Mobile Data Terminal System so that the EAS Servers shall transmit Alerts to the EAS Fire Station Clients and the EAS Apparatus Clients using the MDT System, as set forth in Article II of this Exhibit ("MDT System Support"). The Chief and Contractor shall document the requirements that the EAS must meet in order to provide such MDT System Support in the EAS Functional Requirements Document.
- B. City Responsibilities.
- (1) The City shall provide the hardware for the EAS Fire Station Clients and the EAS Apparatus Clients as set forth in Sections III. A. and III. D. of Exhibit "B".
  - (2) The City shall provide all hardware required to establish the network connection between the EAS Servers and the HPD MDT System (the "MDT System Network Connection Hardware"). Following the Countersignature Date of this Agreement, the Chief and Contractor shall define the MDT System Network Connection Hardware and document such Hardware in a revised EAS Functional Requirements Document. Once a revised EAS Functional Requirements Document containing such modifications has been signed by both the Chief and Contractor, the City shall proceed to obtain the MDT System Network Connection Hardware as defined in that Document.

- (3) Throughout the implementation of the EAS at the Fire Alarm Building and at the HFD Fire Stations and in the HFD Apparatus, Contractor shall identify to the Chief the modifications that the City must make to the MDT System in order for MDT System Support to be implemented. The Chief and Contractor shall document such modifications in a revised EAS Functional Requirements Document. Once a revised EAS Functional Requirements Document containing such modifications has been signed by both the Chief and Contractor, the City shall perform the modifications to the MDT System as are defined in that Document.
  - (4) The City shall provide a contact within HPD's Communications Management Division to work with Contractor in order to insure that the MDT System is configured properly to support the EAS (the "MDT System Contact").
- C. Contractor Responsibilities. Other than as set forth in this Article VI of this Exhibit, Contractor shall be responsible for providing all labor and services in order to implement MDT System Support.

## VII. MAPPING SUPPORT

- A. Contractor shall add the "ZMap" application to each copy of ZClient32 provided by Contractor under this Agreement, including the modified ZClient32 which is running inside of each City Fire Station to support of HFD's alerting process. The ZMap application shall allow users to have access to graphical information system ("GIS") data from ZClient32. The ZMap application is powered by the industry standard map engine, ESRI's MapObjects, which is part of the ESRI Software provided by Contractor under this Agreement.
- B. Contractor shall not create any map layer data for use by the ZMap application ("EAS Map Layer Data"); instead, the creation of EAS Map Layer Data shall be the City's responsibility. Contractor shall work with the Chief to identify and validate the required EAS Map Layer Data for inclusion with the EAS System, which Contractor and the Chief shall document in a revised EAS Functional Requirements Document. Once a revised EAS Functional Requirements Document containing such modifications has been signed by both the Chief and Contractor, the City shall proceed to obtain the EAS Map Layer Data as defined in that Document.
- C. The documentation in the EAS Functional Requirements Document of the required EAS Map

Layer Data to be provided by the City for inclusion in the EAS System shall include the definition of the EAS Map Layer Data to be included in the EAS Fire Station Clients and the definition of the EAS Map Layer Data to be included in the implementation of the EAS Apparatus Clients.

D. The City shall supply the EAS Map Layer Data to Contractor for inclusion in the EAS Software in ESRI shape file format utilizing the decimal degree coordinate system. However, Contractor shall be responsible for integrating the EAS Map Layer Data provided by the City into the ZMap application.

E. The ZMap application shall operate as follows:

- (1) The ZMap application shall support one or more layers of GIS information. All GIS layers are supplied by the City in ESRI shape file format. With the City-provided EAS Map Layer Data Contractor shall demonstrate mapping using the ZMap applications using the City of Houston maps supplied by HFD.
- (2) The ZMap application shall permit users to add or remove GIS layers from the view.
- (3) The ZMap application shall permit users to "pan" and "zoom" GIS layers as required.
- (4) The street layer of the ZMap application shall will display street names dynamically based upon the zoom factor of the map.
- (5) The ZMap application shall provide users with direct access to information contained within each GIS layer through the "Info" feature of the Zmap application.
- (6) The ZMap application shall permit users to do an address look-up which centers the map on the entered address.
- (7) For the EAS as implemented in each City Fire Station, the map displayed by the Z Map application shall take the X.Y coordinate supplied by the City's computer-aided dispatch (CAD) system and zoom the map to the incident. This feature shall also be available for the mobile applications integrated with the EAS.
- (8) For all mobile applications integrated with the EAS, the ZMap application will display unit's current location if a global positioning system (GPS) receiver is available to ZClient32 (GPS units can be integrated with the MW520s)
- (9) The Layer support feature of the ZMap application shall allow the display of information concerning specific locations, such as City Fire Station locations, hospital locations, fire hydrant Locations, water line locations, etc., based on the City-provided ESRI shape files.

## VIII. EAS TRAINING

As a part of this EAS Service, Contractor shall provide training to the personnel at each HFD Fire Station on the functions and use of the EAS. Contractor shall provide this training to all shifts at HFD Fire Station. The training is expected to last 2 hours per session. Each shift will receive a 2 hour training session on the EAS system. Training will be provided as soon as possible after the EAS has been activated at a City Fire Station.

## IX. EAS IMPLEMENTATION

- A. Milestone #1: Provision of EAS Software Licenses. On the Start Date, Contractor shall provide the City with the licenses to the EAS Software and the ESRI Software as set forth in Section IX. A. of this Exhibit, and copies of each EAS software item that are suitable for use to install the EAS Software on computer systems.
- B. Milestone #2: Provision of the Software Development System. As soon as practicable following the Start Date, the City shall provide the hardware set forth in Section IV. A. of Exhibit "B", and Contractor shall provide the software set forth in Section IV. B. of Exhibit "B" and perform the services set forth in Section IV. C. of Exhibit "B" in order to implement a Software Development System for the City. The Software Development System shall provide the City with the means to utilize the EAS Software Source Code provided by Contractor under this Agreement. Contractor shall implement the Software Development System at a City location specified by the Chief. Following Contractor's implementation of the Software Development System, Contractor shall demonstrate to the Chief the use of the Software Development System to recompile the ZClient32 application that is included in the EAS Software. By performing such a demonstration of the recompiling of the ZClient32 application, Contractor shall also demonstrate that it has provided the City with all EAS Software Source Code that Contractor is required to provide under this Agreement. The Chief shall accept Contractor's implementation of the Software Development System by sending Contractor a written, dated "Software Development System Acceptance Notice" once the Chief has determined that the Software Development System may be used to recompile the ZClient32 application and that Contractor has provided the City with all EAS Software Source Code.

C. Milestone #3: Start of EAS Implementation Process.

- (1) The HFD EAS Project Manager and Contractor shall meet to begin the EAS implementation process. The HFD EAS Project Manager shall designate the HFD personnel who shall work to install the EAS Clients (the "HFD Installation Personnel")
- (2) The Chief shall identify the MDT System Contact to Contractor. Contractor shall acquire a temporary EAS Server and begin work on implementing the EAS Software on that temporary EAS Server.
- (3) The Chief shall identify the Paging System Vendor to Contractor and provide Contractor with the EAS Server API for Contractor's use in implementing the EAS Servers so that the EAS Servers are able to send Alerts to EAS Pagers via the HFD Paging System.

D. Milestone #4: Identification of EAS Implementation Resources.

- (1) The Chief and Contractor shall select an initial HFD Fire Station at which the first EAS Fire Station Client shall be implemented (the "Initial EAS Fire Station Client"). The City shall obtain one set of EAS Fire Station Client Hardware for the Initial EAS Fire Station Client.
- (2) The City shall deliver the EAS Map Layer Data to Contractor, as set forth in Article VII of this Exhibit, for Contractor's integration with the EAS Fire Station Client Software for the EAS Fire Station Clients and the EAS Mobile Apparatus Client Software for the EAS EAS Apparatus Clients.
- (3) The City shall make the EAS Servers Location available to Contractor, as set forth in Section IV. B. of this Exhibit.
- (4) The City shall be responsible for providing antenna systems, as necessary.
- (5) The City shall provide Contractor with two EAS Pagers for Contractor's use in EAS Software development testing, as set forth in Section V. C. of this Exhibit.

E. Milestone #5: Implementation of Initial EAS Fire Station Client.

- (1) Contractor will complete the implementation of the EAS Server Software on the temporary EAS Server provided by Contractor.
- (2) The HFD Installation Personnel and Contractor shall install and test the EAS Fire Station Client Software on the Initial EAS Fire Station Client. Contractor shall provide the HFD Installation Personnel with all EAS Software, training, and documentation necessary for

- the City Installation Personnel to be able to install the EAS Fire Station Client Software.
- (3) The Chief shall determine if the Initial EAS Fire Station Client is suitable for the operation of the EAS as set forth in this Agreement. If the Chief finds the Initial EAS Fire Station Client to be suitable for the operation of the EAS, then the Chief shall accept the implementation of the Initial EAS Fire Station Client and the Chief shall proceed to order the remaining EAS Client Hardware for both the remaining 85 EAS Fire Station Clients as well as for the EAS Apparatus Clients. If the Chief finds that the Initial EAS Fire Station Client is not suitable for the operation of the EAS, then the Chief, at his or her sole discretion, may select one of the following options:
- (i) The Chief may terminate this Agreement at no further cost or obligation of the City, and Contractor shall refund to the City all amounts the City has previously paid to Contractor under this Agreement.
  - (ii) The Chief may work with Contractor in order to modify the specifications for the EAS Fire Station Client Hardware, as set forth in Section III. A. of Exhibit "B". In the event the Chief and Contractor modify the specifications for the EAS Client Hardware, the parties shall document such a new specification in a revised EAS Functional Requirements Document in accordance with Section III. of this Exhibit. Once such a revised EAS Functional Requirements Document is signed by both parties, then the City shall proceed to obtain the additional EAS Client Hardware required for implementation of a new Initial EAS Fire Station Client, on which the City and Contractor shall implement the EAS Fire Station Client Software so that the Chief may determine whether the Initial EAS Fire Station Client as so revised is suitable for the operation of the EAS in accordance with the above procedures set forth in this Article VIII. of this Exhibit.
- (4) If the Chief accepts the implementation of the Initial EAS Fire Station Client, then the City shall proceed to obtain the EAS Server Hardware set forth in Section III. B. of Exhibit "B", and Contractor shall complete the implementation of the EAS Servers on the City-provided EAS Server Hardware at Fire Alarm Building and remove its temporary EAS Server from the Fire Alarm Building.

Upon the conclusion of Milestone #5, the EAS Servers shall be in-place and functional, and all MDT System Support shall have been completed so that the network connection and interface between the EAS Servers and the MDT System are fully operational. However, in the event that due to circumstances beyond the control of the parties, the MDT System Support cannot be completed by the conclusion of Milestone #5, then Contractor shall temporarily implement the EAS so that upon the conclusion of Milestone #5 the EAS Servers shall send Alerts to the EAS Fire Station Clients and the EAS Apparatus Clients using the VRM650 modems included in the EAS Servers; however, in such circumstances Contractor shall then be required to complete the implementation of MDT System Support in the EAS before the completion of Milestone #6 below.

F. Milestone #6: Implementation of Remaining EAS Fire Station Clients, EAS Spare Clients, and of EAS Apparatus Clients.

- (1) Following the Chief's acceptance of the Initial EAS Fire Station Client, the City shall proceed to obtain the EAS Fire Station Client Hardware for the EAS Fire Station Clients to be implemented at the 85 remaining HFD Fire Stations and the EAS Spare Client Hardware for the EAS Spare Clients. After the City obtains such a set of such EAS Fire Station Client Hardware or EAS Spare Client Hardware, the Chief shall provide such EAS Hardware to Contractor, and Contractor shall perform all necessary "make-ready" of such EAS Hardware in order to produce a EAS Fire Station Clients or an EAS Spare Client that are ready for implementation at an HFD Fire Station. Contractor's performance of such "make-ready" shall include Contractor's installation of the EAS Fire Station Client Software on such EAS Hardware, Contractor's installation of the EAS Fire Station Client I/O Hardware (as defined in Section III. A. of Exhibit "B") in such EAS Hardware, and Contractor's testing of such EAS Fire Station Client Software and EAS Fire Station Client I/O Hardware.
- (2) Once Contractor has completed such "make ready" and created a EAS Fire Station Client or a EAS Spare Client that is ready for implementation at an HFD Fire Station, Contractor shall then provide the resulting EAS Fire Station Client or EAS Spare Client to the HFD Installation Personnel. After receiving a EAS Fire Station Client from Contractor, the HFD Installation Personnel shall proceed to install that EAS Fire Station Client at one of the remaining 85 HFD Fire Stations. After receiving a EAS Spare Client from Contractor, the

HFD Installation Personnel shall proceed to store that EAS Spare Client at a City Location for use in the event that a EAS Fire Station Client malfunctions.

- (3) Contractor shall install the EAS Fire Station Client Software on the EAS Fire Station Client Hardware and the EAS Spare Client Hardware in manner that shall permit the HFD Installation Personnel to maintain the EAS implementation schedule required by the Chief. Contractor shall coordinate its work at the secure working facility with the HFD EAS Project Manager to order to insure Contractor's adherence to the Chief's EAS implementation schedule.
- (4) The City shall supply Contractor with a secure working area on City property where Contractor can implement the EAS Fire Station Client Software on the EAS Fire Station Client Hardware and EAS Spare Client Hardware and complete all required testing of the resulting EAS Fire Station Clients and EAS Spare Clients. Contractor personnel shall work at this secure working area on a weekly basis in order to implement the EAS Fire Station Client Software on the EAS Fire Station Client Hardware and the EAS Spare Client Hardware and to complete all required testing and make ready of the resulting EAS Fire Station Clients and EAS Spare Clients. It is anticipated that the Contractor shall have personnel present at the secure working area one to two days during each week of Milestone #6, and that during each week of Milestone #6 Contractor shall produce at least six sets of EAS Fire Station Clients that are ready for installation at the HFD Fire Stations by the HFD Installation Personnel. Contractor shall complete its performance of "make ready" for all of EAS Fire Station Clients prior to beginning any performance of "make ready" for any EAS Spare Clients.
- (5) The City will obtain the EAS Apparatus Client Hardware, and the HFD Installation Personnel shall install the EAS Client Hardware on the appropriate HFD Apparatus. The HFD Installation Personnel shall then load the EAS Apparatus Mobile Client Software on the EAS Apparatus Client Hardware using the installation software provided by Contractor as part of the EAS Software. Contractor shall provide the City with all training and documentation necessary to instruct the City EAS Installation Personnel in how to install the EAS Apparatus Mobile Client Software on the EAS Apparatus Client Hardware. The City shall then test the resulting EAS Apparatus Client to ensure that it operates in

accordance with this Agreement.

- (6) In the event that the City Implementation Personnel require assistance in resolving problems in the City's implementation of the EAS Fire Station Clients, EAS Spare Clients, or EAS Apparatus Clients, Contractor shall provide the City Implementation Personnel with all consultation assistance necessary to resolve such problems.

G. Milestone #7: EAS Completion and Final Acceptance

- (1) EAS Final Acceptance Test. Following the implementation of EAS Fire Station Clients at all of the 86 HFD Fire Stations, the implementation of EAS Apparatus Clients on all HFD Apparatus, and the implementation of the EAS Spare Clients, the City shall perform a Final Acceptance Test to ensure that the EAS as a whole operates in accordance with the requirements of this Agreement.
- (2) EAS Final Acceptance Notice. Once the Chief determines that the EAS as implemented at all City Fire Stations and at the Fire Alarm Building operates in accordance with the requirements of this Agreement the Chief shall make final acceptance of Contractor's implementation of the EAS under this Agreement by sending Contractor a written, signed, and dated "EAS Final Acceptance Notice."

## X. MAINTENANCE AND SUPPORT

Ninety (90) days following the date set forth in the EAS Final Acceptance Notice, Contractor shall begin its performance of maintenance and support for the EAS and the Software Development System as set forth below:

- A. EAS Software. As part of its performance of Maintenance and Support, Contractor shall be responsible for maintaining the EAS Software just as if the EAS Software were still under warranty by Contractor, as set forth in Section III. I. (2) in the main body of this Agreement.
- B. Software Development System Support. As part of its performance of Maintenance and Support, Contractor shall be responsible for providing all maintenance and repair of the Software Development System Software set forth in Section IV. B. of Exhibit "B" that are included in the Software Development System in order to ensure that the Software Development System operates in accordance with the requirements of this Agreement at all times during the term of this Agreement. However, the City, and not Contractor, shall be responsible for maintaining and

repairing the hardware set forth in Section IV. A. of Exhibit "B" that is included in the Software Development System.

- C. Cooperating with City Personnel and Contractors. In performing Maintenance and Support, Contractor shall work cooperatively with all City personnel or contractors in order to resolve all problems and malfunctions with the EAS or the Software Development System and to restore the EAS or the Software Development System to a fully functional condition.

#### **XI. EAS EXTERNAL INTERFACE DOCUMENT**

As of the Countersignature Date of this Agreement, the City intends to implement a new computer-aided dispatch ("CAD") system provided by PRC for use by HFD in its dispatch and alerting operations (the "PRC CAD System"). In order to ensure that the EAS developed and implemented under this Agreement is capable of performing and functioning with the PRC CAD System (including, but not limited to, the ability for the EAS and the PRC CAD System to perform "bidirectional operation", by which both the EAS and the PRC CAD System may submit data to the other for use), Contractor shall develop and provide the Chief with an "EAS External Interface Document" that shall set forth a complete written description of the interface implemented in the EAS that may be used to connect the EAS to the PRC CAD System. Contractor's fee to develop such an "EAS External Interface Document" for the City ("EAS External Interface Document Fee") shall be determined by the Chief and Contractor following the Start Date. The Chief and Contractor shall record the EAS External Interface Document Fee in an "EAS External Interface Document Fee Notice", which both the Chief and Contractor shall sign. However, in no event shall the EAS External Interface Document Fee agreed to by the parties under this Agreement exceed \$140,000.00.

**EXHIBIT "B"**  
**EAS HARDWARE, SOFTWARE, SERVICES, AND SUPPORT**

**I. EAS SOFTWARE PROVIDED BY CONTRACTOR <sup>1</sup>**

QTY	DESCRIPTION	COST
<b>A. EAS Server Software License</b>		
1	EAS Server Software License (as shown in Article I of Exhibit "C")	\$75,000.00
<b>B. EAS Fire Station Client Software (for implementation on EAS Fire Station Clients and EAS Spare Clients) - Site License</b>		
1	Fire Station Alerting Software - Site License (as shown in Article II of Exhibit "C")	\$35,000.00
1	Optional Mapping Support - license per deployed application <sup>2</sup> (as shown in Article IV of Exhibit "C")	\$25,000.00
1	CLD, Inc. Source Code License (as shown in Article III of Exhibit "C")	\$0.00
<b>Subtotal, EAS Client Software Site License</b>		<b>\$60,000.00</b>
<b>C. EAS Apparatus Mobile Client Software (for implementation on EAS Apparatus Clients) - Site License</b>		
1	ZClient32 application software with AVL Support - Site License (as shown in Article II of Exhibit "C")	\$150,000.00
1	Optional Mapping Support - deployment site license for mapping <sup>2</sup> (as shown in Article IV of Exhibit "C")	\$40,000.00
1	CLD, Inc. Source Code license (as shown in Article III of Exhibit "C")	\$0.00
<b>Subtotal, Apparatus Mobile Client Software For Use by EAS Apparatus Clients - Site License</b>		<b>\$190,000.00</b>
<b>TOTAL, EAS SOFTWARE LICENSES:</b>		<b>\$325,000.00</b>

**Notes:**

<sup>1</sup> All EAS Software supplied by Contractor shall be designed to operate on Intel based hardware platforms supporting the Microsoft Windows™ Operating System, Windows 98 SE, NT4.0 Spk4, and Win2000 Spk 2.

<sup>2</sup>For a description of such "Mapping Support" see Article VII of Exhibit "A".

**II. EAS SERVICES PERFORMED BY CONTRACTOR**

**A. EAS Services At the Fire Alarm Building:**

(1)	Installation and Setup of EAS Servers	\$15,000.00
(2)	EAS Server Project Management plus development of interface to the HPD MDT System	\$40,000.00
(3)	Finalization of production EAS Software (Adds EAS Pager Support) <sup>1</sup>	\$45,000.00

**Subtotal, EAS Services at the Fire Alarm Building:** \$100,000.00

**B. EAS Services for HFD Fire Stations:**

**(1) EAS Services Performed At Each HFD Fire Station:**

(a)	Software and IO hardware integration, install, and test ("make ready")	\$422.00
(b)	Training for each shift at each station (2 hour session for each shift) <sup>2</sup>	\$1,476.00

**Subtotal, EAS Services Performed at Each Fire Station:** \$1,898.00

**Subtotal, EAS Services Performed at All 86 HFD Fire Stations (\$1,898.00 x 86):** \$163,228.00

**(2) Fire Station Project Management - Problem Resolution Assistance** \$86,590.00

**Subtotal, EAS Services for HFD Fire Stations:** \$ 249,818.00

**TOTAL, EAS SERVICES:** \$ 349,818.00

**Notes:**

<sup>1</sup> For a description of such "EAS Pager Support", see Article V of Exhibit "A".

<sup>2</sup> For a discussion of such training, see Article VIII. in Exhibit "A".

**III. EAS HARDWARE PROVIDED BY THE CITY**

**A. EAS Fire Station Client Hardware**

Each HFD Fire Station shall have a PC that meets the following requirements:

- Intel Pentium III 650Mhz performance or greater
- 256Mb of RAM Memory
- Video card support of 1024x768 with 16Mb video memory
- SoundBlaster Live quality audio card support with external audio ports
- Local audio speakers with ability to interconnect to a local PA
- 15" Flat Panel TFT Color monitor
- CD-ROM minimum of 16x
- 10/100 Ethernet card
- CyberResearch CYPDISO 8P I/O Relay Card with Windows 2000 Drivers with CYPDISO interconnect cable harness and terminal box
- Windows 2000 Professional Operating system with latest service pack
- PC Anywhere software for Contractor's performance of remote Maintenance and Support<sup>1</sup>
- VRM650 Modem
- Interior mounted antenna and coax
- HP Laser Printer - 1200SE
- 12 v DC power supply
- uninterrupted power system (UPS) sized to provide the desired level of protection (as determined by the Chief)

Note : the "10/100 Ethernet card" and the "CyberResearch CYPDISO 8P I/O Relay Card" specified above shall be collectively referred to as the "EAS Fire Station Client I/O Hardware" as referenced in the main body of this Agreement.

### B. EAS Server Hardware

The Fire Alarm Building shall have two (2) redundant EAS Servers. Each EAS Server shall meet all of the requirements for the PCs at each HFD Fire Station (as set forth in Section III. A. of this Exhibit) as well as the following requirements:

- Installation rack cabinet with doors, 72"
- Dual rack mounted TFT Displays and keyboard in sliding drawing in cabinet.

Additionally, the City shall provide equipment required to provide the network connection between the EAS Servers and the HPD Mobile Data Terminal (MDT) System (the "MDT Network Connection Equipment.") Such Equipment shall be documented in the EAS Servers Functional Requirements Document as set forth in Section III. of Exhibit "A".

### C. EAS Spare Client Hardware

Ten (10) PCs each of which shall meet the requirements set forth in Section III. A. of this Exhibit.

### D. EAS Apparatus Client Hardware

There shall be 370 EAS Apparatus Clients, each of which shall be a Motorola MW520 Mobile Workstation, configured as follows:

Model Number	Description
F5205	Mobile Workstation 520, 500MHz w/ 6.0 GB Hard Drive
V685	Radio Modem
V311	Color Display MW520 350 NIT TS
Option for WIN 2000	Windows 2000 Software on MW520's
V140	35W 800MHz
V662	128MB SDRAM
V308	Top Lit Keyboard
V591	Cable 4.5ft for display
DSDPNUSB001	Floppy Disk Drive USB

### E. EAS Pagers - To be determined (see Article V of Exhibit "A")

#### Notes:

<sup>1</sup> This software shall be used by the City to provide an Internet based communications pathway to each City computer in the EAS for which Contractor is to provide Maintenance and Support, so that Contractor may remotely access the EAS Software on such a computer. Such remote access shall be accomplished via the PC Anywhere software utilizing the built-in VPN functionality. The VPN connection will provide operational security.

**IV. SOFTWARE DEVELOPMENT SYSTEM**

**A. Software Development System Hardware Provided by the City**

QTY	DESCRIPTION
1	Intel PIII 933Mhz System with 256mb memory, 20Gb hard drive, and 17" monitor

**B. Software Development System Software Provided by Contractor**

QTY	DESCRIPTION	PRICE
1	Borland Delphi 6 Enterprise Edition compiler	\$2,999.00
1	Async Pro Version 3.06	\$349.00
1	SysTools Version 3.03	\$249.00
1	LockBox Version 2.03	\$349.00
1	Orpheus Version 4.00	\$349.00
1	GTSizer	\$124.95
1	Addict Version 3 Pro	\$199.00
1	Indy Version 9.0	\$0.00
1	Dtalk	\$249.00
1	HelpScribble	\$99.00
1	ESRI MapObjects Version 2.0	\$5,000.00
Less Software Development System Software Discount:		(\$466.95)
<b>Total, Software Development System Software Provided by Contractor</b>		<b>\$9,500.00</b>
<b>C. Software Development System Services Provided by Contractor (Labor Costs)</b>		<b>\$6,000.00</b>

**V. MAINTENANCE AND SUPPORT PERFORMED BY CONTRACTOR**

<b>A. Maintenance And Support During The Initial Term:</b>	<b>\$38,250.00</b>
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<b>B. Maintenance And Support During Each Renewal Term:</b>	
(1) Fire Station Application w/mapping	\$13,000.00
(2) ZClient32 w/mapping (apparatus software)	\$18,000.00
(3) EAS Server Support	\$20,000.00
<b>Total, Maintenance And Support During Each Renewal Term:</b>	<b>\$51,000.00</b>

**EXHIBIT "C"**  
**EAS SOFTWARE LICENSES**  
**I. EAS Server Software License**  
**(see attached)**

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**EAS Server Application**

Two (2) Units

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**II. ZCLIENT32™ Fire/EMS ~ Site License**  
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Unlimited deployment for the Houston Fire Department

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# Software License Certificate Custom Logic Design Inc.

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ZCLIENT32™ ~ City of Houston Fire Department  
Source Code License

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Authorized by: M. G. Zeringue  
Issued:

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#### IV. ZMAP™ APPLICATION

(See Attached.)

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ZMap<sup>tm</sup> Application

Site License Deployment with ZClient32<sup>tm</sup>

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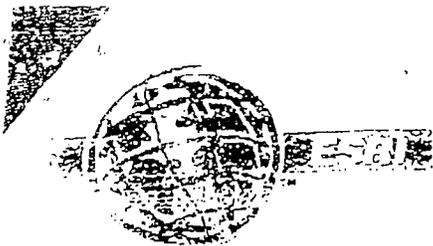
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3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "F"

DRUG POLICY COMPLIANCE AGREEMENT

I, \_\_\_\_\_ as an owner or officer of  
(Name) (Print/Type) (Title)  
\_\_\_\_\_  
(Name of Company) (Contractor)

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 "G"

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

I, \_\_\_\_\_,  
(Name) (Title)

as an owner or officer of \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.17 of Executive Order No. 1-31, that will be involved

in performing \_\_\_\_\_  
(Project)

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

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

EXHIBIT "H"

DRUG POLICY COMPLIANCE DECLARATION

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

\_\_\_\_\_ (Contractor)  
(Name of Company)

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

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_ 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)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
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)

\_\_\_\_\_  
(Title)

**EXHIBIT "I"**  
**CHANGE ORDERS**

(1) At any time during the Agreement Term, the Chief 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.

(2) The Chief 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 Chief]

- (3) The Chief may issue more than one Change Order, subject to the following limitations:
- (a) Council expressly authorizes the Chief to approve a Change Order of up to \$25,000. A Change Order of more than \$25,000 must be approved by the City Council.
  - (b) 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.
  - (c) The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.

(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 Chief's decision regarding a time extension is final.

(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) Change Orders are subject to the Allocated Funds provisions of this Agreement.