

ASSIGNMENT

THIS AGREEMENT is made and entered into by and between Fort Bend County (hereinafter "Assignor"), a body corporate and politic under the laws of the State of Texas, and the Houston Downtown Management District (hereinafter "Assignee").

WITNESSETH

WHEREAS, Assignor and PIER Systems, Inc. executed and accepted that certain PIER Standard Customer Agreement on January 8, 2008, for a fully paid subscription for an additional 30 PIER Centers and as amended on January 26, 2010, for a fully paid subscription for an additional 20 PIER Centers (hereinafter "2010 Additional Centers"), attached hereto as Exhibit A;

WHEREAS, pursuant to Section 14.5 of the PIER Standard Customer Agreement, Assignor is expressly authorized to assign all of its responsibilities related to the 2010 Additional Centers to members of the Houston UASI Region as long as such members agree in writing to be bound to all terms of this PIER Standard Customer Agreement;

WHEREAS, Assignee is a member of the Houston UASI Region that desires to obtain a fully paid subscription for one (1) 2010 Additional Center; and

WHEREAS, Assignor and Assignee have executed a Governor's Division of Emergency Management State Administrative Agency Homeland Security Grant Program Property Transfer Record Agreement, attached hereto as Exhibit B and incorporated herein by reference for all purposes, for one (1) 2010 Additional Center;

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

A. Assignor assigns to Assignee all of Assignor's interest in one (1) 2010 Additional Center identified in the PIER Standard Customer Agreement.

B. Assignor assigns to Assignee all of Assignor's interest in 20 hours of Provisioning Services prepaid by Assignor under Section 5(j) of the PIER Standard Customer Agreement. The prepaid Provisioning Services hours must be used prior to December 31, 2012.

C. Assignee assumes all responsibilities under the PIER Standard Customer Agreement related to the one (1) 2010 Additional Center assigned to Assignee including, but not limited to, payment of any and all Annual Hosting, Upgrade, and Support fees; Provisioning services fees, and Training services fees related to the one (1) 2010 Additional Center(s). Assignee is not responsible for the one-time, up front payments identified in Sections 5(h), 5(j), and 5(k) or the year one Annual Hosting, Upgrade and Support fees identified in Section (i) of the PIER Standard Customer Agreement.

D. Assignee agrees to be bound by all terms of the PIER Standard Customer Agreement with regards to the 2010 Additional Center and shall to the extent allowed by law indemnify, defend, and hold Assignor harmless from any loss, attorney's fees, expenses, or claims resulting from

Assignee's breach of the terms of the PIER Standard Customer Agreement or the attached Governor's Division of Emergency Management State Administrative Agency Homeland Security Grant Program Property Transfer Record Agreement.

E. Assignee agrees that all written notices, demands, and other papers or documents to be delivered to Assignee under the Assignment and/or the PIER Standard Customer Agreement shall be delivered to the Houston Downtown Management District, 1119 Milam, Houston, Texas 77002, or such other place or places as Assignee may designate by written notice delivered to PIER Systems, Inc.

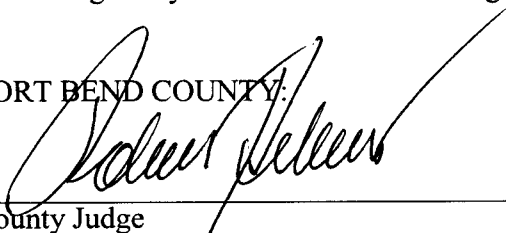
F. Assignee acknowledges that Assignor's initial purchase of the 2010 Additional Center involved the use of Homeland Security Grant Program funds. As such, Assignee agrees to use the 2010 Additional Center identified in this Assignment solely to provide law enforcement and emergency response communities with enhanced capabilities for detecting, deterring, disrupting, preventing, and responding to potential threats of manmade, natural disasters and acts of terrorism as described in the federal program guidelines, specifically: planning, equipment, training and exercise needs.

G. Assignee represents and warrants to Assignor that Assignee has the requisite authority to enter into the PIER Standard Customer Agreement, the Governor's Division of Emergency Management State Administrative Agency Homeland Security Grant Program Property Transfer Record Agreement, and Assignment.

H. Assignor and Assignee bind themselves and their successors, executors, administrators and assigns to the other party of this Assignment and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Assignment.


IN WITNESS HEREOF, Assignor and Assignee intending to be bound as of the date of the last signatory hereto execute this Assignment by their duly authorized representatives.

FORT BEND COUNTY:

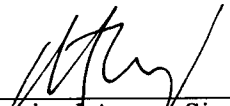

County Judge

11-6-2012
Date

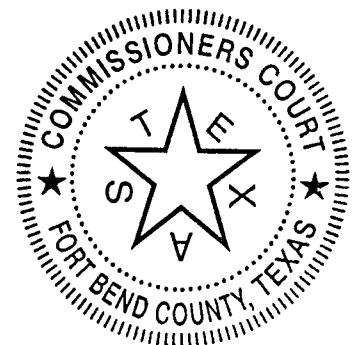
ATTES:


Dianne Wilson, County Clerk

ASSIGNEE:


Authorized Agent Signature

Oct 19, 2012
Date



Authorized Agent- Printed Name

Authorized Agent- Title

EXHIBIT A

**Addendum # 1 to PIER Standard Customer Agreement
between PIER Systems, Inc. and Fort Bend County
dated January 8, 2008**

The purpose of this Addendum is to add 20 Fully Paid Subscriptions (the "2010 Additional Centers"), Year 1 Hosting Upgrade and Support for those centers, and Provisioning and Training Services to that certain agreement captioned above.

Addition to Section 5: Fees.

(h) One-time, upfront payment in the amount of \$365,000 for the 2010 Additional Centers invoiced on the date of final execution of this Addendum. Customer shall pay such invoice within thirty (30) days of receipt.

(i) Annual Hosting, Upgrade and Support fees in the amount of \$48,000 (\$2,400 per center per year) for the 2010 Additional Centers invoiced on the date of final execution of this Addendum. Customer shall pay such invoice within thirty (30) days of receipt. Annual Hosting, Upgrade and Support Fees service period will begin at site launch. Annual Hosting, Upgrade and Support fees for year two and beyond shall be paid by participating agencies as identified in existing Assignments between Fort Bend County and participating agencies, the total for which shall not be less than \$2,400 per center per year.

(j) Provisioning services in the amount of \$60,000 (400 hrs @ \$150/hr) will be invoiced on the date of final execution of this Addendum. Customer shall pay such invoice within thirty (30) days of receipt.

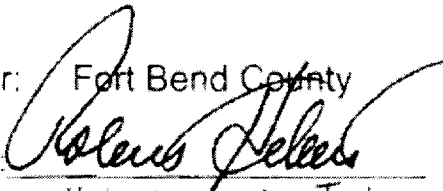
(k) Training services in the amount of \$9,600 to (48 hrs @ \$200/hr) will be invoiced on the date of final execution of this Addendum. Customer shall pay such invoice within thirty (30) days of receipt.


Prior to the execution of this Addendum, we have been advised by Customer, and clearly understand and agree, such understanding and agreement being the absolute essence of this Agreement, that Customer shall have available, the total maximum of \$482,600 specifically allocated to fully discharge any and all costs related to the services described above, which may be incurred by Customer, irrespective of the nature thereof, and notwithstanding any word, statement, or thing contained or inferred from the provisions of this Addendum which may in any light by any person be interpreted to the contrary.

All other terms and conditions of the original agreement shall remain in force.

Customer: Fort Bend County

PIER Systems, Inc.

Signature: 

Signature: 

Title: Robert Hebert, County Judge

Title: Vice President

Date: 1-26-2010

Date: 1/22/10



PIER Systems, Inc.
PIER Standard Customer Agreement
(Fully Paid Subscription)

This PIER S. Customer Agreement, dated as of _____, 2007, is between PIER Systems, Inc., a Washington corporation ("we," "our" or "Provider"), and the customer who signs this Agreement ("you" or "Customer").

1. Background

Pursuant to the License Agreement between you and PIER Systems (formerly AudienceCentral) dated August 8, 2006 and the License Agreement between you and PIER Systems (formerly AudienceCentral) dated May 8, 2007 (collectively the "Initial Agreements"), PIER granted you a fully paid subscription for a total of five (5) PIER Centers (the "Initial Centers"). This Agreement amends and fully restates the Initial Agreements and shall govern the relationship between the parties as to the Initial Centers.

We will also provide a fully paid subscription for an additional thirty (30) PIER Centers (the "Additional Centers") in accordance with the Terms and Conditions of this Agreement.

2. How This Agreement Works

To initiate Services for the Additional Centers, you must execute this Agreement. The cover page of this Agreement describes the Services you have ordered, and we have agreed to provide. You may request additional Services by executing a Services Order, which will become effective when we execute it. When you execute this Agreement or a Services Order, you are agreeing to be bound by the terms set forth below and in the Services Order and the PIER General Terms, a copy of which is attached or has otherwise been provided to you. The PIER General Terms incorporate our Hosting, Upgrade and Support Terms. The documents described above and referred to in the PIER General Terms are collectively referred to as this "Agreement." Capitalized terms used in this Agreement are defined in the PIER General Terms.

3. Description of Services. We will provide the following Services to you:

- (a) Use of the PIER Standard System for up to 35 PIER Center(s);
- (b) Hosting, Upgrade and Support Services as described in the Hosting, Upgrade and Support Terms (Exhibit C); and
- (c) Planning, Provisioning, and Training Services as described in the Planning, Provisioning and Training Terms (Exhibit D).

4. Duration of the Subscription

Upon payment of the subscription fee, you will have a fully paid, lifetime subscription to use the PIER Standard System. However, you will still be required to purchase Hosting, Upgrade and Support Services.

5. Fees. You will pay the following fees for the Services described above:

- (a) One-time, upfront payment in the amount of \$397,200.00 for the Additional Centers invoiced on the date of final execution of this Agreement. Customer shall pay such invoice within thirty (30) days of receipt.
- (b) Annual Hosting, Upgrade and Support Services fees in an amount not to exceed \$36,000.00 (\$1,200.00 per center per year) for the Additional Centers. We will invoice you for the number of Additional Centers requested on the date the Additional Centers are requested. Customer shall pay such invoice within thirty



(30) days of receipt. Annual Hosting, Upgrade and Support Services fees for year two and beyond will be paid by participating agencies as identified in Service Orders.

- (c) Prorated Annual Hosting, Upgrade and Support Service fees in the amount of \$500.00 (5 months at \$1,200.00 per center per year) for the Initial Center originally subject to the August 8, 2007 Initial Agreement and \$3,200.00 (8 months at \$1,200.00 per center per year) for the four (4) Initial Centers originally subject to the May 8, 2007 Initial Agreement invoiced on the date of final execution of this Agreement. Customer shall pay such invoice within thirty (30) days of receipt. The remaining Hosting, Upgrade and Support Service fees for the Initial Centers have been paid under the Initial Agreements.
- (d) Planning, Provisioning, and Training Services in the amount of \$104,400 will be invoiced on the date of final execution of this Agreement. Customer shall pay such invoice within thirty (30) days of receipt.
- (e) Variable fees (based on your use) for phone calls, faxes, excess bandwidth and similar items per the Fee Schedule (Exhibit B)
- (f) Professional services (based on your use) fees per the rates set forth in the Fee Schedule (Exhibit B).
- (g) The variable fees and professional services fees identified in sections 5(c) and 5(f) shall not exceed \$45,000.00.

Prior to the execution of this Agreement, Provider has been advised by Customer, and clearly understands and agrees, such understanding and agreement being the absolute essence of this Agreement, that Customer shall have available the total maximum of \$586,300.00 specifically allocated to fully discharge any and all liabilities which may be incurred by Customer, irrespective of the nature thereof, and notwithstanding any word, statement, or thing contained or inferred from the provisions of this Agreement which may in any light by any person be interpreted to the contrary.

CUSTOMER:

Fort Bend County

By: 

Name: Robert Hebert

Title: County Judge

Address: _____

Fax: _____

PROVIDER:

PIER Systems, Inc.

By: 

Name: Gerald Baron

Title: CEO

Address: 1319 Cornwall Avenue, Ste 200
Bellingham, WA 98225

Fax: (360) 647-5351

ATTEST: 

Dianne Wilson, County Clerk

1-8-08

Date



AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$586,300.00 to accomplish and pay the obligation of Fort Bend County under this Agreement.



Robert Edward Sturdivant, County Auditor

PIER Systems, Inc.
PIER GENERAL TERMS

These PIER General Terms are incorporated into and constitute a material part of the PIER Customer Agreement between PIER Systems, Inc. ("we," "our" or "Provider") and the customer identified on the cover page of this Agreement ("you" or "Customer").

Section 1. Definitions

"**Acceptable Use Policy**" means the Acceptable Use Policy attached as **Exhibit A**, which we may revise as provided in Section 2.4.

"**Confidential Information**" means any nonpublic information, whether of a technical, business or other nature that (a) is disclosed to or otherwise received by the other party in connection with this Agreement, and (b) the recipient knows or has reason to know is confidential or proprietary information of the other party or a third party. Confidential Information does not include any information that (i) was known to the recipient before receiving the same from the discloser; (ii) is independently developed by the recipient without reliance on any Confidential Information of the discloser; (iii) is acquired by the recipient from another source without restriction as to use or disclosure; or (iv) is or becomes generally known to the public through no fault or action of the recipient.

"**Content**" means data, information, images, text, graphics, video or other content.

"**Customer Content**" means Content that you upload to the PIER Standard System or furnish to us for use in connection with this Agreement.

"**Documentation**" means all user guides, operating instructions and other documentation we provide to you for the PIER Standard System.

"**Fee Schedule**" means the fee schedule attached as **Exhibit B**, which we may revise as provided in Section 5.1.

"**Hosting, Upgrade and Support Services**" means the hosting, upgrade and support Services we provide to you in accordance with the Hosting, Upgrade and Support Terms.

"**Hosting, Upgrade and Support Terms**" means the Hosting, Upgrade and Support Terms attached as **Exhibit C**.

"**Launch Date**" means the date we provide or provided the access codes that enable you to access the PIER Standard System.

"**PIER Center**" means a single dashboard and management interface for all communications including content creation and distribution, contacts and inquiries, controlling a single website (internal or external).

"**PIER Standard System**" means our hosted proprietary web-based application for managing communications as further described in attached **Exhibit E**.

"**Planning, Provisioning and Training Services**" means the services described in attached **Exhibit D**.

"**Proprietary Rights**" means patents, copyrights, trademarks, trade secrets or other intellectual property rights.

"**Service Period**" means the time period during which we are obligated to host, upgrade and support the PIER Standard System under this Agreement as specified on the cover page of this Agreement.

"**Services**" means the services we provide under this Agreement, which may include development, hosting, planning, provisioning, implementation, support, training and professional services.

"**Services Order**" means an order for additional Services in the form provided by us. A Services Order is not effective until signed by both parties.

Section 2. Our Obligations

2.1 We will host and support the PIER Standard System for the number of PIER Centers for which you have paid applicable fees. Our specific hosting and support obligations are described in the Hosting, Upgrade and Support Terms.

2.2 Beginning on the Launch Date and during the rest of the Service Period, we will allow you and your authorized users to use the PIER Standard System for the number of PIER Centers for which you have paid applicable fees.

2.3 We will use best commercially reasonable efforts to provide the Services in a timely and professional manner and to achieve the service levels set forth in the Hosting, Upgrade and Support Terms.

2.4 We will notify you in writing or by email of any changes to the Acceptable Use Policy. We may change the Acceptable Use Policy to meet legal requirements or requirements of our third-party service providers.

2.5 We will promptly respond to your questions or concerns about the Services.

Section 3. Your Obligations

3.1 You will access and use the PIER Standard System in accordance with the Documentation. You will not use the PIER Standard System to provide services to third parties other than to your clients in the ordinary course of your business.

3.2 You will provide all equipment, software, networks, internet access and other items necessary to access the PIER Standard System. Such items must meet the requirements in attached **Exhibit F**. We may change the requirements in attached **Exhibit F** to keep up with standard levels of a web-based technology. We will notify of any changes by email.

3.3 You will be responsible for your users' compliance with this Agreement, including the Acceptable Use Policy. We may restrict or deny access to any user who violates this Agreement, engages in any activity detrimental to us or our service providers, or uses the PIER Standard System in violation of applicable laws.

3.4 You will be responsible for the security of passwords and access codes we issue to you and any activities that occur under such passwords and access codes. You will immediately notify us of any unauthorized use or disclosure of such passwords or access codes.

3.5 You are responsible for the accuracy of the Customer Content and ensuring that the Customer Content does not infringe or violate any Proprietary Rights. We will have the right, but not the obligation, to remove any Customer Content that we believe violates any applicable law or the rights of others.

Section 4. Changes

4.1 You may request additional Services or PIER Centers by submitting a signed Services Order. If we agree to provide such Services or PIER Centers, we will sign the Services Order and return a copy to you. The Services Order will become part of this Agreement when we sign it. The fees for such additional Services or PIER Centers will be set forth in the Services Order.

4.2 We may change the PIER Standard System from time to time provided that our changes do not significantly diminish any features or functions of the PIER Standard System.

Section 5. Fees

5.1 You will pay the fees specified on the cover page of this Agreement and in any Services Orders. We may increase the fee for Hosting, Upgrade and Support Services upon 30 days' notice by e-mail to site administrator, which increase will become effective at the time of renewal. Hosting, Upgrade and Support Services fees shall not increase more than 5% per year. For any other Services, we may increase our fees upon 30 days' notice by e-mail to site administrator.

5.2 You will reimburse us for all reasonable travel and other out-of-pocket expenses we incur in the performance of the Services in accordance with the Travel Reimbursement Requirements for Fort Bend County Vendors.

5.3 We will invoice you according to the schedule on the cover page of this Agreement or in a Services Order. If no schedule is specified for a particular Service, then we will invoice you on a monthly basis for Services performed in the prior month. Unless otherwise specified on the cover page of this Agreement or in a Services Order, each invoice will be due within 30 days after receipt.

5.4 If you fail to pay any invoice when due, the past due amount will bear interest at 1.5% per month or the maximum rate permitted by applicable usury law, whichever is less, computed and compounded daily from the date due until the date paid.

5.5 The fees do not include any sales, use or similar taxes or other charges assessed or imposed by any governmental

authority. Customer is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.

5.6 If you fail to pay any amount when due, we may suspend the performance of any Services and/or restrict access to the PIER Standard System.

5.7 We have the right to assess a 3% processing fee on any payment made pursuant to credit card.

Section 6. Proprietary Rights

6.1 We retain ownership of all right, title and interest (including all Proprietary Rights) in the PIER Standard System, excluding the Customer Content. We will also own all software and other technology we develop under this Agreement.

6.2 You will not authorize or encourage anyone to (a) reverse engineer, decompile or disassemble any source code or otherwise attempt to discover any source code or trade secrets related to the PIER Standard System; (b) modify or create derivative works based on the PIER Standard System; or (c) access or use the PIER Standard System except as expressly permitted hereunder.

6.3 You will not use any of our trademarks without our prior written approval. If we approve, you will use our trademarks solely to identify yourself as a user of the PIER Standard System and in accordance with our trademark use guidelines. We may terminate your right to use any trademark if you violate this Agreement or your use is detrimental to us.

6.4 You retain ownership of all right, title and interest in the Customer Content. You grant us a license to use, display, publish, transmit and otherwise use the Customer Content to perform our obligations under this Agreement.

Section 7. Confidential Information

The recipient will protect the Confidential Information of the discloser against any unauthorized use or disclosure to the same extent that the recipient protects its own Confidential Information of a similar nature against unauthorized use or disclosure, but will not use less than reasonable efforts. The recipient will use Confidential Information of the discloser solely for the purposes for which it is provided by the discloser. The parties agree that this Section 7 will not prohibit (a) any use or disclosure that is necessary for the recipient's performance of its obligations under this Agreement; (b) any use or disclosure required by applicable law; provided, that the recipient uses reasonable efforts to give the discloser reasonable advance notice thereof; or (c) any use or disclosure made with the prior written consent of the discloser.

Section 8. Term and Termination

8.1 The term of this Agreement begins on the date of this Agreement and continues for the Service Period unless sooner terminated as provided below. At the end of the initial Service Period, this Agreement will automatically renew for successive one-year periods unless a party gives

the other notice of nonrenewal at least 30 days before the end of the then-current Service Period.

8.2 You may terminate this Agreement by giving us at least 60 days' prior written notice of termination. If you terminate this Agreement under this Section 8.2, we will refund you the unused portion of Hosting, Upgrade and Support Service fees or Planning, Provisioning or Training fees paid hereunder.

8.3 Beginning 36 months after the Launch Date, we may terminate this Agreement upon at least 60 days' notice. If we terminate this Agreement under this Section 8.3, we will refund you the unused portion of any fees paid hereunder.

8.4 Either party may terminate this Agreement upon notice if the other party breaches this Agreement and fails to cure the breach within 30 days after receipt of notice of the breach.

8.5 Upon termination of this Agreement you will no longer have access to the PIER Standard System, we will have no obligation to provide any further Services, and each party will return to the other all Confidential Information of the other party in its control or possession.

8.6 Upon termination of this Agreement we will destroy or erase all Customer Content unless you sign and submit a Services Order for archival Services within 10 days after the effective date of termination. If you submit such a Services Order, we will archive your PIER Center for the period specified in the Services Order; provided, that you timely pay us for such Services.

Section 9. Insurance

9.1 Provider shall obtain and maintain, throughout the term of this Agreement, insurance of the types and in the minimum amounts set forth below. Provider shall furnish certificates of insurance to Customer evidencing compliance with the insurance requirements hereof. Certificates shall indicate Provider's name, name of insurance company, policy number, term of coverage and limits of coverage. Provider shall cause its insurance companies to provide Customer with at least thirty (30) days prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation or non-renewal of the insurance coverage required under this Agreement. Provider shall obtain such insurance from such companies having a Bests rating of A-/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

9.1.1 Workers' Compensation insurance in accordance with the laws of the State of Texas.

9.1.2 Commercial General Liability insurance including coverage for Products/Completed Operations, Blanket Contractual, Contractors' Protective Liability Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than:

\$2,000,000 annual aggregate limit
\$1,000,000 each occurrence, combined single limit

9.1.3 Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

9.1.4 Employers' Liability insurance with limits not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

9.1.5 Excluding Workers' Compensation coverage, County and the County Commissioners shall be named as additional insureds to all coverages required above. All policies written on behalf of Provider shall contain a waiver of subrogation in favor of County and the County Commissioners.

Section 10. Indemnity

PROVIDER SHALL SAVE HARMLESS CUSTOMER FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM ACTIVITIES OF PROVIDER, ITS AGENTS, SERVANTS, OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENCE, ACT, ERROR, OR OMISSION OF THE PROVIDER OR ANY OF PROVIDER'S AGENTS, SERVANTS, OR EMPLOYEES.

Section 11. Warranty and Disclaimer

11.1 We warrant to you that the PIER Standard System will operate substantially in accordance with the Documentation for a period of ninety (90) days after the Launch Date. We will use best commercially reasonable efforts to correct the PIER Standard System if it fails to conform to our warranty if you give us written notice of any noncompliance within the warranty period. If we cannot correct the PIER Standard System within 30 days of the date of your notice, you will have the right to terminate this Agreement and receive a refund of all amounts you have paid. These are your sole remedies for breach of warranty.

11.2 EXCEPT FOR THE WARRANTY STATED IN SECTION 11.1, WE DO NOT MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ERROR, DEFECT, DEFICIENCY OR NONCOMPLIANCE IN THE PIER STANDARD SYSTEM, THE SERVICES OR OTHER ITEMS FURNISHED BY OR ON BEHALF OF US UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE). WE DO NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE, ALWAYS AVAILABLE, MEET YOUR REQUIREMENTS OR BE COMPLETELY SECURE.

11.3 Our warranty in Section 11.1 does not apply to any failure resulting from misuse of the PIER Standard System.

Section 12. Intellectual Property Infringement

If a third party sues you claiming that your use of the PIER Standard System infringes a United States patent, copyright, trademark or other intellectual property right, we will defend you from the claim and pay any damages award imposed on you or any settlement amount we agree to as a result of the claim. We may modify the infringing or allegedly infringing components of the PIER Standard System so that it is noninfringing. We will have no obligation under this Section 12 to the extent the claim arises out of the Customer Content or any misuse of the PIER Standard System. In order to obtain the benefit of this Section 12, you must (a) give us prompt written notice of the claim; (b) permit us to control the defense and settlement of the claim; and (c) cooperate with us (at our expense) in the defense and settlement of the claim.

Section 13. Limitations on Provider's Liability

13.1 WE WILL NOT BE LIABLE TO YOU, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR STRICT LIABILITY) OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT NECESSARILY LIMITED TO, LOSS OF PROFIT, REVENUE OR USE) ARISING OUT OF ANY PERFORMANCE, NONPERFORMANCE OR BREACH UNDER THIS AGREEMENT, OR THE USE OF OR INABILITY TO USE THE PIER STANDARD SYSTEM OR ANY SERVICES.

13.2 OUR LIABILITY TO YOU FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED, IN THE AGGREGATE, THE FEES ACTUALLY PAID BY YOU TO US UNDER THIS AGREEMENT.

13.3 We will not be liable for any delay or failure as a result of any cause beyond our reasonable control, including, without limitation, fire, explosion, earthquake, storm, flood, wind or the elements; court order, act or delay or failure to act by any civil, military or other governmental authority; riot, insurrection, sabotage or war; unavailability of required equipment, supplies, goods, utilities, services or items to be provided by any third party; or any act, delay or failure to act by you or any third party.

Section 14. Miscellaneous

14.1 Each party will comply with all applicable laws, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental authorities having jurisdiction in connection with its activities under this Agreement.

14.2 Each party is an independent contractor and not a partner or agent of the other. We are in the business of developing and hosting applications for others, and we will have the right to provide to third parties services that are the same or similar to the Services.

14.3 Unless otherwise set forth in the Agreement, any notices permitted or required under this Agreement will be in writing and given in person or by courier, mailed by registered mail (return receipt requested and postage prepaid), or transmitted by facsimile (with confirmation) at the respective address or facsimile number on the cover page of this Agreement (or a substituted address or facsimile number a party may inform the other of by notice hereunder). Notice will be deemed effective upon the earlier of (a) actual delivery to the party; (b) five days after the date the notice was postmarked within the United States; or (c) receipt by facsimile transmission with confirmation. All notices given by facsimile will be immediately followed by delivery in person or mailed by first-class mail.

14.4 If any provision of this Agreement is held by a court to be illegal, invalid or unenforceable, the rest of this Agreement will be legal, valid and enforceable to the fullest extent possible.

14.5 Neither party may assign its interests in this Agreement without the prior written consent of the other. We expressly consent to the assignment of all responsibilities related to the Additional Centers to members of the Houston UASI Region (the "Members") as long as such Members agree in writing to be bound to all terms of this Agreement (except for financial obligations not related to the Additional Centers) and we are provided a copy of such agreement to be bound along with all reasonably necessary contact information for such Member. No assignment to a Member shall be effective until we receive the written agreement to be bound and the contact information.

14.6 This Agreement shall be governed and construed in accordance with the laws of the State of Texas. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas for all disputes arising hereunder and waive the right to sue or be sued elsewhere.

14.7 This Agreement (including the attached or referenced Exhibits) constitutes the entire agreement, and supersedes any and all prior agreements, between us and you with respect to the subject matter hereof. No amendment, modification or waiver of any provision of this Agreement will be valid unless set forth in a written instrument signed by the party to be bound thereby.

EXHIBIT A

Acceptable Use Policy

The Services may only be used for lawful purposes. You agree to comply with this Acceptable Use Policy ("AUP") and all applicable laws and regulations. Uses of the Services in violation of this AUP or any applicable law or regulation are prohibited and shall constitute a material breach of the Agreement and may result in termination of the Agreement and your right to use the Services.

1. Improper uses of the Services include, but are not limited to:

- a. Attempting to accomplish any unlawful purpose, including but not limited to storing, sending, or disseminating any material by uploading, posting, email or other means ("Transmission") that is in violation of any local, state, or federal law or regulation, that is libelous, obscene, threatening, defamatory, which infringes upon the intellectual property rights of another, or which constitutes or encourages conduct constituting a criminal offense or gives rise to civil liability;
- b. Transmission of any material which a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, or otherwise inappropriate, whether or not Transmission of the material is unlawful;
- c. Transmission of any material that you do not have a right to make available under any law or under any contractual or fiduciary relationship (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under non disclosure agreements);
- d. Transmission of any material that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- e. Transmission of any material that contains software viruses or any computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or which impedes others' ability to use the Services;
- f. Impersonating any person or entity, or falsely stating or otherwise misrepresenting your affiliation with a person or entity, and/or forging headers or otherwise manipulating identifiers in order to disguise the origin of any material transmitted through the Services;
- g. Transmission of unsolicited commercial email or the collection of responses from unsolicited messages;
- h. Transmission of chain letters;
- i. Attempting to probe, scan or test the vulnerability of a system or network in any form;
- j. Using any method to breach security or authentication measures;
- k. Engaging in hacking, denial of service attacks, malicious or destructive behavior in any form.

2. We shall have the right, but not the duty, to deny or disable any PIER Center, which in our discretion, is found to contain pornographic or obscene material or material that violates the terms of this AUP.

EXHIBIT B

Fee Schedule

The following fees are rates for additional services you may request above and beyond what is stated in this agreement, and fees for services that are based on your usage throughout the term of this agreement, e.g. SMS Text Messaging, or phone notifications.

PIER SYSTEMS, INC. SERVICES

Planning and Client Consultation:	\$250/hour
Provisioning services:	\$150/hour
Telephone training:	\$150/hour
On-location group training:	\$200/hour
JIC training:	\$200/hour
Drill or Exercise attendance:	\$200/hour
Custom Programming:	\$250/hour

USAGE FEES

Fax Messages:	\$0.12 per minute for faxes distributed through the PIER Standard System.
Phone:	\$0.35 per minute for phone calls made through the PIER Standard System.
SMS Text Messaging:	\$0.03 each for SMS text messaging made through the PIER Standard System.
Archiving and Reactivating:	\$975 per PIER Center with an annual storage fee of \$250.
Reactivating PIER Center:	\$1,500 per PIER Center (includes 2 weeks of access and subsequent re-archiving).
Additional Data Transfers:	\$6.00 per GB per PIER Center

EXHIBIT C

Hosting, Upgrade and Support Terms

A. HOSTING

We will host operation of PIER on servers allowing a data transfer capability of 100 Mbps. Every PIER Center visitor request entails a transfer of data over the internet. All data transfer incurs a fee for bandwidth usage. As part of the annual hosting fee, we provide the following specific bandwidth allowances for your data transfer.

Baseline Data Transfer: 20 GB data transfer per month.

Incident Reserve Allowance: 200 GB data transfer per calendar year in reserve to cover incident use. Pro-rated first year of contract, refreshed on January 1 of subsequent calendar years.

We will assess a fee to you for data transfer beyond the baseline or incident allowances at \$6.00 per GB per PIER Center, or at the current published rate.

For each hour of downtime in excess of one (1) hour, and as the sole and exclusive remedy for such incidents, we will credit you one day's hosting fee. For purposes of this Agreement, "downtime" means any programming, equipment or network event resulting in an outage during which you cannot pass traffic through a PIER Center for a period in excess of thirty (30) minutes.

Definitions:

1. Baseline Data Transfer: Amount of data that can be transferred per month without additional data transfer fees.
2. Additional Data Transfer: Data transfer beyond baseline or incident allowances will be charged per GB per PIER Center at the rate specified in Exhibit C, or the current published rate.

B. UPGRADES

We will continue to make upgrades to the PIER Standard System and will notify your designated PIER site administrator in advance of all upgrade-related outages.

C. SUPPORT

In the event that we discover or are notified by you that you are experiencing a problem with the performance of the hosting capacity or the PIER Standard System, we will take all actions necessary to determine the source of the performance problem and to effect repairs. We will be available 24/7/365 for notification from you of performance problems. As soon as reasonably possible in the event of downtime or a performance problem (and no later than two (2) hours after its awareness of the event), we will notify by phone, pager or e-mail the designated PIER site administrator, but will not be required to notify anyone other than the designated PIER site administrator. At the time of notification, we will provide a best estimate of time needed to effect repairs. Upon execution of this Agreement, you will advise us in writing of the name and contact information for the PIER site administrator and will notify us of any changes to the PIER site administrator in writing.

EXHIBIT D

Planning, Provisioning and Training

A. Description

Planning: We will meet with you to determine initial application of the PIER Standard System, determine who is your project lead and gather specific information that will impact the implementation of the PIER Standard System functionality. Also, we will determine initial implementation objectives, time lines and accountability.

Provisioning: Preparation of the PIER Standard System for use. From objectives and definitions set during the planning process, the actual PIER Standard System is structured and populated to accommodate determined use. This process includes document structure, template creation and approval lists, database structure, inquiry categories, homepage design/build and adding identified users.

Training: We work with your key contacts to plan the training experience. By working closely with your project lead, building the initial PIER Standard System application with him or her and identifying users and their roles, we can create a training plan tailored to your users and uses. Training can be offered in a large group setting, in small groups or 1:1.

Ongoing Support: We budget 6 hours per year for ongoing telephone support, and track it to determine if you evidence a need for additional training. Other support services we can offer range from policy and site reviews to contact database generation, custom homepage design, exercise support and event support.

B. Fees

We have agreed to provide you initial planning, provisioning and training services at a price of \$104,400. All initial planning, provisioning and training services will be charged against this amount at the rates set forth in Exhibit B. Any travel expenses will be charged against this amount in accordance with the Travel Reimbursement Requirements for Fort Bend County Vendors.

We will meet with you to allocate this resource between PIER Centers for the following:

- a. Planning and Provisioning:
 - i. initial planning with you to determine site use strategy and implementation process
 - ii. initial center launch and set up, to include center design and structure, overall document and file population and
 - iii. assistance with the initial load of your data, which you shall provide in the electronic form as specified by us.
- b. Training:
 - i. Instruction on day-to-day use and preparation for PIER center use
- c. Additional Planning, Provisioning and Training Fees: Planning, provisioning and training services provided beyond the hours itemized above will be provided pursuant to a Services Order and billed at rates determined from the rate schedule attached as Exhibit B.

EXHIBIT E

Description of PIER Standard System

Public Information and Emergency Response (PIER) integrates communication functions, including hosted and branded web sites for PIER users. PIER stores text documents and multimedia files for use in posting and distribution to predefined contacts on the system. Subject to the terms of this Agreement, PIER users are able to (a) perform communications on PIER without reference to other traditional applications and (b) respond to inquiries from media and other designated stakeholders with activity logged for selective recall and reporting. PIER supports a survey function that allows periodic query of stakeholder audiences.

Additional PIER features include:

- Web browser accessible anywhere in the world
- Individualized system permissions for each user member
- Password encryption and secure access via SSL protocol
- Logging of system activity by all users with reporting options
- Logging of activity related to specific documents and inquiries
- Online help and telephone support

EXHIBIT F

Minimum Requirements

For users of PIER's administrative interface:

- A PC running Windows 98, 2000, or XP, using Internet Explorer 5.5+, Firefox 1.0+, Mozilla 1.3+, or Netscape 7+.
- A Mac running OS X, using Firefox 1.0+. Firefox 1.5 is not supported at this time.
- A Linux/UNIX machine running Firefox 1.0.x. Firefox 1.5 is not supported at this time.
- For all platforms, Cookies, JavaScript, and CSS must be enabled.
- Use of the "Grid Format" bulk content editor requires Java 2 installed on your system and configured as a browser plug-in.

For visitors to PIER's public site:

- A PC running Internet Explorer 5+, Firefox 1.0+, Mozilla 1.2+, or Opera 8+.
- A Mac running OS X with Safari 1.2, Firefox 1.0+, Opera 8+, or any other Gecko-based browser.
- A Linux/UNIX machine running Firefox 1.0+ or any other Gecko-based browser.
- Modern screen readers are also supported.
- JavaScript and CSS are highly recommended, but are not required.
- Cookies are required for certain operations.

EXHIBIT B

**Governor's Division of Emergency Management
State Administrative Agency
Homeland Security Grant Program
Property Transfer Record Agreement**

Transferred From: Fort Bend County
Name of Organization (Homeland Security Grant Sub-Recipient)

301 Jackson Street, Richmond, Fort Bend County, 77469
Street/Mailing Address, City, County, Zip

Robert E. Hebert, County Judge
Printed Name and Title

Signature Date

Transferred To: _____
Name of Organization (Homeland Security Grant Sub-Recipient)

Street/Mailing Address, City, County, Zip

Printed Name and Title

Signature Date

This is to certify that the property described below was acquired by the expenditure of 2009 Homeland Security Grant Program funds awarded to the above named Homeland Security Grant Sub-Recipient (Grantor). The jurisdiction/organization receiving the property (Grantee) certifies that they have knowledge of the laws, rules and regulations of the aforementioned grant for the year of the award. The Grantee further certifies that they agree to be bound by all the contract covenants and exhibits to the Grantor's Sub-Recipient agreement and any modifications or amendments to that agreement as if they were written here. The Grantor and Grantee further certify that they are duly authorized and empowered by their governing body to enter into this agreement. The Grantor further certifies that the Grantee has complied with all State and Federal eligibility requirements.

Property being Transferred:

Item description:	PIER Center
Quantity:	1
Model Number:	Not Applicable
Acquisition Date:	Upon request under January 8, 2008 PIER Purchase Agreement as amended on January 26, 2010
Unit Cost:	\$24,130.00