



CITY COUNCIL ACTION REPORT

October 12, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
Susan A. Leirstein, Purchasing Director

SUBJECT: Contract Extension: MITN Purchasing Cooperative – Paging Services

BACKGROUND

Since November 2003, the City of Troy and other MITN Cooperative members have been authorized to utilize the services of American Messaging (formerly Verizon Wireless) for paging services through December 1, 2009. {CC Res #2006-05-202-E4b / 2003-11-559-E21} After an extensive market research, only two major suppliers have the capability to provide services at a national level, American Messaging (AM) and USA Mobility. The attached survey details the difference in contract pricing. {See Attachment A} Although USA Mobility holds the state of Michigan contract, American Messaging negotiated pricing, which is lower than the state's, including favorable terms and conditions to continue its relationship with the cooperative agencies it serves, which has over a 1000 units currently in use.

The value of all wireless devices rests on coverage. Engineering maps for coverage received by Livingston County from both AM and USA Mobility found that USA Mobility would have to put up an antenna in the northern part of the county to support their emergency responders. The City of Troy and other participating cooperative entities have not experienced any major coverage issues with American Messaging.

In addition, there are labor costs associated with changing systems/carriers. Gathering and returning all pagers, obtaining and deploying new cap codes, obtaining and deploying new programming software and cables, programming new pagers, re-programming the computer aided dispatch (CAD) system for the new carrier, changing all pager numbers in existing Codespear and Infoview databases, and pager lists, as the current numbers will not port to the new carrier. Then, there is the trickle down effect with Clawson, since their fire department also uses American Messaging pagers for notification from our CAD.

FINANCIAL CONSIDERATIONS

- Funds for this contract are currently available in various departmental operating budgets under Communications-Pagers.
- The number of pagers in our fleet has declined from 466 in 2003 to 312 today; and used primarily by volunteer firefighters and on-call personnel.
- Rates for the alpha-numeric pagers Troy has in-house have dropped 20%, from \$4.95 to \$3.95 per month. See Attachment A for proposed contract pricing.

LEGAL CONSIDERATIONS

- In accordance with the American Messaging Customer Agreement and Attachments incorporated herein for reference.

October 12, 2009

To: John Szerlag, City Manager
Re: Contract Extension – Paging Services

MARKET SURVEY

- A market survey conducted by the Purchasing Department indicates the MITN contract continues to be the best value when compared to others in the marketplace.

RECOMMENDATION

- City management requests authorization to extend the current contract for paging services with American Messaging, in accordance with the customer agreement attached for the City of Troy and participating Michigan Intergovernmental Trade Network (MITN) Cooperative members for an estimated annual cost to Troy of \$19,000.00 expiring December 1, 2014.

Reviewed as to form and legality:

Lori Grigg Bluhm, City Attorney

	ATTACHMENT A		
Market Survey for Pagers - September 29, 2009			
PAGER CONTRACTS			
	CURRENT	PROPOSED	
	MITN Cooperative	MITN Cooperative	State of Michigan
Contract	Yes	Yes	Yes
Expiration	12/1/2009	12/1/2014	5/31/2010
Vendor	American Messaging (formerly Verizon)	American Messaging (formerly Verizon)	USA Mobility
Contact	Gena Sprow	Gena Sprow	Barbara Williams
Phone #	313.274.2822	313.274.2822	616.257.9468
<u>Contract Rates:</u>			
Number Pagers	\$2.95/month	\$1.85/month	\$2.25/month
Alpha-Numeric (State)	\$4.95/month	\$3.95/month	\$4.50/month
Alpha-Numeric (Nation)	\$18.90/month	\$17.95/month	\$14.95/month
Two-Way Pagers	\$17.95/month	\$17.95/month	\$19.95/month
Key Note (Tone/Voice)	None	None	
Blackberry Wireless	None	None	None
Group Capcode	No Charge	No Charge	\$3.75
*Batteries	Free	Free	Not Included
<u>Replacements:</u>			
Numeric	\$27.00 each	\$19.95 each	\$15.00 each
Alpha-Numeric	\$55.00 each	\$39.95 each	\$30.00 each
Two-Way Pagers	\$119.00 each	\$99.95 each	\$45.00 each
*one battery per pager per month			
MICTA - REMC - US Communities do not have pager contracts.			
Oakland County utilizes the services of USA Mobility			
G:/Bid Award 08-09 New Format/Regular Business -Contract Amendment - Pagers- MarketSurvey 09.09.xls			

This Account Agreement (“Agreement”) is made and entered into as of the date of execution by Customer (“Effective Date”) by and between American Messaging Services, LLC with its headquarters located at Lewisville OPS Center, 1720 Lakepointe Drive, Suite 100, Lewisville, TX 75057 (“Carrier”) and Cooperative Cities, with a billing address located at <Address> (“Customer”). All eligible agencies as listed under <http://www.govbids.com/scripts/mitn/public/ParticipatingAgency.asp> have the ability to purchase from this agreement by completing a Subscriber Form (example included as Attachment 2).

1. **Services to be Performed by Carrier:** Carrier and/or its affiliates shall provide services and may provide equipment to Customer subject to the terms and conditions of this Agreement and Attachment 1, and all applicable federal, state and local laws, rules and regulations.
2. **Term:** The term of this Agreement shall begin on the Effective Date and continue for a period of five (5) years unless earlier terminated pursuant to the terms of this Agreement (“Term”).
3. **Pricing:** Equipment and services provided under this Agreement shall be provided in accordance with the Pricing set forth on this Agreement and Paging plans. Carrier reserves the right to increase pricing equal to the consumer price index of the preceding year, one time per Calendar year, with mutual consent of both parties. Optional offerings may be referenced in this agreement and/or may be offered to Customer and all such offerings shall be governed by this Agreement and by the terms provided to customer that are associated with such offerings. The optional offerings include but are not limited to: Pager Replacement Program, Automatic Payment Plan, Pager Exchange Program, and Employee Pager Program.
4. **Billing and Payments:** Customer will be billed on a monthly basis or according to Customer’s Billing Cycle, and Customer’s bill will reflect the rates in effect under the applicable price plan at the time charges are incurred, plus any other charges that apply. Any unused call/packet counts from one month may not be transferred to another. Call/packet counts may not be aggregated as between wireless devices on the same account. Payment is due thirty (30) days from the date of invoice. Customer waives any billing errors if Customer does not notify Carrier of such errors within sixty (60) days from date of the invoice containing such error. If Customer defaults, Carrier may: (a) require Customer to return all Carrier owned equipment to Carrier, and/or (b) be entitled to a judgment against Customer. A LATE FEE PAYMENT OF THE GREATER OF UP TO ONE AND ONE-HALF PERCENT (1.5%) PER MONTH (18 PERCENT ANNUALLY) OR ONE DOLLAR AND 50 CENTS (\$1.50) PER ACCOUNT APPLIES TO BALANCES THAT REMAIN UNPAID. HOWEVER, IF THIS LATE FEE EXCEEDS THAT ALLOWED BY APPLICABLE LAW, THEN THE MAXIMUM FEE ALLOWED BY LAW SHALL APPLY (In California, Customer will be charged at 1.5%). Customer shall pay all reasonable costs of collection, including payment of attorneys’ fees and court costs. These remedies shall be cumulative and in addition to any other remedies Carrier has at law or in equity. If service is interrupted due to non-payment, and Carrier reactivates Customer account, Customer will be required to pay a reconnection fee.
5. **Wireless Equipment:** Customer bears the risk of loss or damage to wireless equipment, whether leased or purchased, once received. If Customer has purchased the equipment the same shall be deemed accepted within fifteen (15) days of receipt or when the equipment is activated and provided with service, whichever occurs earlier. Acceptance of the equipment shall be deemed a complete discharge of Carrier’s obligations as it concerns the purchased equipment. However, Customer shall have thirty (30) days from the date the equipment is received to discover alleged defects in such equipment and to return the equipment to Carrier for a replacement of similar type. Leased equipment remains the property of Carrier. If this Agreement is terminated, Customer will return all leased wireless equipment and accessories provided under this Agreement in reasonably good condition or reimburse Carrier at current retail rates for similar equipment and/or accessories. Lease charges will continue to accrue until all wireless equipment is returned or paid for by Customer.
6. **Relationship of the Parties:** Both parties agree and understand that the services performed under this Agreement are performed by Carrier as an independent contractor and not as an employee of the Customer.
7. **Limitation of Liability:** Carrier shall not be liable to Customer, its employees, agents, or any third party for injuries to persons or property arising from Customer's use of the services, the wireless equipment or related equipment, or for any defect in the services or equipment. Furthermore, Carrier shall not be liable for the installation, repair or maintenance of the services or equipment by any parties who are not employees of Carrier, or subcontractors of Carrier. Carrier’s performance hereunder shall be excused if affected by equipment failure, acts of God, strikes, severe weather conditions, fire, riots, war, earthquakes, equipment or facility shortage or any other event or causes beyond Carrier’s reasonable control. **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHICH ARE INCURRED BY THE OTHER PARTY AND WHICH ARISE OUT OF ANY ACT OR FAILURE TO ACT RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE CLAIM OR POTENTIAL CLAIM OR OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CARRIER BE LIABLE FOR LOSSES, DAMAGES, OR CLAIMS ARISING OUT OF THE USE OR ATTEMPTED USE OF EMERGENCY SERVICES, NOR SHALL CARRIER BE LIABLE FOR THE INABILITY TO ACCESS EMERGENCY SERVICE.**

AMERICAN MESSAGING SERVICES, LLC
CUSTOMER AGREEMENT

8. **INFORMATION REGARDING WARRANTIES:** Carrier agrees to assign to Customer any of the manufacturers' consumer warranties received by Carrier and intended for the end user with respect to the wireless equipment. CUSTOMER ACKNOWLEDGES THAT CARRIER IS NOT THE MANUFACTURER OF THE WIRELESS EQUIPMENT AND CUSTOMER AGREES THAT CARRIER HAS NOT MADE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION OR QUALITY OF THE WIRELESS EQUIPMENT. WITH RESPECT TO CARRIER, CUSTOMER PURCHASES OR LEASES THE WIRELESS EQUIPMENT "AS IS". CARRIER SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY THE WIRELESS EQUIPMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE OF THE WIRELESS EQUIPMENT, OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED UNLESS LOSS OR DAMAGE IS DIRECTLY CAUSED BY CARRIER'S WILLFUL MISCONDUCT. CUSTOMER ACKNOWLEDGES THAT DISSATISFACTION WITH THE WIRELESS EQUIPMENT WILL NOT RELIEVE CUSTOMER OF ANY OBLIGATION UNDER THIS AGREEMENT. NOT WITHSTANDING THE ABOVE, CUSTOMER MAY RETURN THE EQUIPMENT PER THE TERMS OF SECTION 5 HEREIN.
9. **Intellectual Property:** Carrier shall have no liability for violation of any patent, copyright, trademark or trade secret or for violation of any license or franchise arising out of or resulting from (a) the use of the services or wireless equipment in combination with any other product or service not supplied by Carrier, or (b) modification of the services or wireless equipment by, or on behalf of, Customer.
10. **Indemnity:** Each party agrees to be responsible for any personal injury or property damage caused by negligent acts or negligent omissions by or through itself or its agents, employees and contracted servants and each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one to the other.
11. **Confidential Information:** Customer shall hold in strictest confidence information provided to it by Carrier that is marked confidential or proprietary ("Confidential Information") for the Term of this Agreement and for a period of two years following the expiration or termination of this Agreement. Carrier acknowledges that Customer is subject to release of public records under the Freedom of Information Act. Customer will make a good faith effort to inform Carrier immediately of any third party requests for access to information defined as confidential under the this Agreement. Carrier acknowledges that the Freedom of Information Act requires a five (5) day response to a request for information. Carrier agrees to provide a response to Customer within three (3) days as to its position regarding the release of the requested information. If Carrier requests that the information not be released, Carrier agrees to specify in writing to Customer, the applicable exception to release of the information in the Freedom of Information Act. If it is Customer's decision to release the information to the third party, Customer will notify Carrier prior to its release and may exercise its options under law. Carrier agrees that is shall not initiate any action against Customer based upon Customer's release of information under the Freedom of Information Act. Nothing herein is intended to preclude Carrier from seeking an injunction for any other relief to prevent release of such information. Customer acknowledges that Carrier would suffer irreparable damage in the event of any material breach of these provisions. Accordingly, in such event, Carrier would be entitled to obtain preliminary and final injunctive relief, as well as any other applicable remedies at law or in equity as the result of a breach or threatened breach of this section.
12. **Termination:** Customer has the option to terminate this agreement during the first 30 days of service without penalty. A non-breaching party may terminate this Agreement if the other party commits a material breach of any term or condition of this Agreement and fails to cure such breach within a thirty (30) day period after receiving notice of such breach. Except as provided above, if Customer has less than ten (10) wireless devices in service and terminates service to any wireless devices within the Term of this Agreement or Carrier terminates Customer's service for good cause, then Customer shall pay \$75.00 per unit to Carrier for each such termination as an early termination fee. If Customer has ten (10) or more wireless devices in service and at any time terminates service on twenty (20) percent of the contracted units in service, then Customer shall pay Carrier the monthly fee for each terminated device multiplied times the number of months remaining in the Term of this Agreement. Furthermore, if Carrier determines that Customer is misusing the equipment or service in a manner that negatively impacts Carrier's network, then Carrier may terminate and/or suspend service without notice to Customer.
13. **Availability of Service:** Messaging and paging services use radio transmissions, so Carrier cannot provide service when Customer's wireless equipment is not in range of one of our transmission sites, or a transmission site of another company that has agreed to carry Carrier's service, or if there is not sufficient network capacity available at the moment. Also, there are places, particularly in remote areas, with no service at all. Weather, topography, buildings, Customer's wireless equipment, and other conditions Carrier does not control may also cause missed pages or other problems.
14. **Response Procedure:** If service is unavailable in Carrier's service area for more than twenty-four (24) continuous hours due to Carrier's fault, Carrier will give Customer a pro rata daily credit for the period Customer is without service. To receive such

AMERICAN MESSAGING SERVICES, LLC
CUSTOMER AGREEMENT

credit, Customer must notify Carrier in writing within thirty (30) days after the first bill is received for the period during which the interruption started.

15. **Assignment:** Neither Party may assign this Agreement, except in the case of a merger or sale of all or substantially all its assets, without the prior written consent of the other party, which shall not be unreasonably withheld. Subject to these restrictions, this Agreement shall apply to, inure to the benefit of, and be binding upon the successors and assignees of the respective parties.
16. **Notices:** All notices required or permitted to be given hereunder shall be in writing and shall be valid and sufficient if dispatched by (a) registered or certified mail, postage prepaid, in any Post Office in the United States; (b) hand delivery; (c) overnight courier; or (d) facsimile transmission upon confirmation of receipt by the recipient.

If to Carrier:
Contract Support Group
American Messaging Services, LLC.
1720 Lakepointe Drive, Suite 100
Lewisville, TX 75057

If to Customer:
To the billing address of record maintained by
Carrier.

17. **Severability:** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement shall be held by a court of competent jurisdiction or by a duly appointed arbitrator to be invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of its invalidity or unenforceability, and the remainder of such provision and the remaining provisions of this Agreement shall remain in full force and effect.
18. **Wireless Number And/Or Internet Address:** Carrier will assign one wireless telephone number (also referred to as an “access number”, “pager number”, or “wireless number”), cap code and/or internet address, if applicable, to each unit in service. Customer agrees that it does not have any property right or ownership in the wireless number, cap code or Internet address or in the personal identification number (“PIN(s)”) the Customer or Carrier may establish. Carrier may change the Customer’s wireless number if Carrier determines it is necessary to comply with regulatory and/or commercial requirements; however, Carrier shall not arbitrarily change Customer’s wireless number and in the event of change Carrier shall specifically advise Customer of the reason for such change.
19. **Charges:**
- 19.1. **Charges:** Refer to Attachment 1 – Pricing for Cooperative Cities
- 19.2. **Tax:** If any federal, state or local government tax, fee, duty, or surcharge (collectively referred to as a “Tax”) is required by applicable law to be collected from Customer by Carrier, then (a) Carrier shall bill Customer for such Tax, (b) Customer shall timely remit such Tax to Carrier, and (c) Carrier shall, where applicable, remit such collected Tax to the appropriate taxing authority. If Carrier does not collect a Tax because Customer has provided Carrier with evidence of exemption, and if such as an exemption is later determined to be inadequate, then, as between Carrier and Customer, Customer shall be liable for such uncollected Tax and for all interest, penalties and additions to Tax which are determined to be due with respect to such uncollected Tax.
20. **Authority:** The parties hereby represent that they have full power and authority to enter into and perform this Agreement and know of no contracts, agreements, promises or undertakings that would prevent the full execution and performance of this Agreement.
21. **Reservation of Rights:** Either party's waiver of any of its remedies for a breach by the other party shall not operate to waive any other remedies available to it, nor shall such waiver operate to waive rights to any remedies for a future breach, whether of a like or different character.
22. **Entire Agreement:** This Agreement, together with the Attachment 1 and the Renewal Form, if applicable, contains the full and complete understanding between the parties, supersedes all prior agreements and understandings, whether written or oral pertaining to the services and cannot be modified except by a written instrument signed by both parties.
23. **Governing Law:** Except as provided below, this Agreement shall be governed by the laws of the State of Michigan regardless of any conflicts of laws or rules that would require the application of the laws of another jurisdiction. Disputes requiring arbitration shall be resolved in the State of Michigan.
24. **Execution of Agreement:** This Agreement may be executed in several counterparts, a copy of which shall be considered an original for all purposes whatsoever.

**AMERICAN MESSAGING SERVICES, LLC
CUSTOMER AGREEMENT**

25. IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of signature by Customer.

CUSTOMER:

Cooperative Cities

By: _____

Name:

Its Authorized Representative

Title:

Dated:

("Effective Date")

CARRIER:

American Messaging Services, LLC

By: _____

Name:

Its Authorized Representative

Title:

Dated:

**AMERICAN MESSAGING SERVICES, LLC
CUSTOMER AGREEMENT**

**Attachment 1
PRICING for Cooperative Cities**

This is Attachment number 1 to the American Messaging Services, LLC Agreement and it is incorporated into and made part of that Agreement. The pricing set forth below is applicable during the initial term of the Agreement and any subsequent terms unless the parties agree to change or modify such pricing.

ACTIVATION INFORMATION

Contracted Units in Service	
------------------------------------	--

ALPHA AND NUMERIC ONE-WAY PRICING

NUMERIC	Service	Access Fee (Includes Lease Fee)	Page Allowance (Per Month)	Charge per page over Allowance
		Statewide*	\$ 1.85 per month	Unlimited
ALPHA	Service	Access Fee (Includes Lease Fee)	Page Allowance** (Per Month)	Charge per page over Allowance
	Statewide*	\$ 3.95 per month	Unlimited	N/A
	Nationwide	\$ 17.95 per month	Unlimited	N/A
*Local service includes one or more Metropolitan Statistical Areas (MSAs), Statewide service includes major MSAs within a State. **Two hundred forty (240) character limit per page.				

TWO-WAY PRICING

Two-Way P900 Leased	Service	Access Fee (Includes Lease Fee)	Packet Allowance (Per Month)	Charge per packet over Allowance
		Nationwide	\$17.95 per month	500

Third Party Carrier Pricing

In certain instances, American Messaging may utilize third party carriers to provide paging services. The pricing contained herein is based on services provided directly by American Messaging. If we determine that the use of a third-party carrier is necessary, our customer's associated service costs will be negotiated separately.

ENHANCED SERVICE OPTIONS

Secondary 800/888/877 Number	\$ 3.95 per month
Group Calls	No Charge
Voice Mail Pkg. D (20/60/72)	\$ 1.50 per month
Custom Greeting	No Charge
Operator Dispatch	To be determined based on needs of customer.
Page Saver SM Numeric Retrieval	No Charge
Page Forwarding	No Charge
Alpha Software	No Charge – limited quantity based on total units
Batteries (ordered quarterly)	1 battery per pager per month at No Charge (includes free shipping)

AMERICAN MESSAGING SERVICES, LLC
CUSTOMER AGREEMENT

PAGER REPLACEMENT PROGRAM (PRP)

American Messaging will exchange leased paging units at no additional charge that are defective or stop working due to normal wear and tear. The optional Pager Replacement Program will protect you against theft, loss or damage to your pager. Without PRP, you are responsible for the full pager replacement charge. With PRP, any repairable damage is covered 100% and if your pager is lost, stolen or damaged beyond repair, it will be replaced with a comparable one (see fee schedule).

Service	Fee	Loss Fee with PRP	Note: American Messaging Services, LLC reserves the right to change or discontinue models during this agreement.
Numeric	No Charge	\$19.95	
Alpha	No Charge	\$39.95	
Two-Way	No Charge	\$99.95	

SHIPPING CHARGES AND MISC. CHARGES

SHIPPING CHARGES

American Messaging Services, LLC provides automated order fulfillment. By contacting Major Account Customer Service, a representative can initiate the shipping order and prioritize it to meet Cooperative Cities' needs for the pager(s) to arrive at the location and by the time specified by Cooperative Cities. American Messaging Services, LLC will pass onto Cooperative Cities any charges that are incurred for expedited shipping and handling. **American Messaging will provide UPS Ground shipments at No Charge to the Cooperative Cities.**

TAXES AND FEES

Prices do not include state and local sales tax, and other applicable taxes, fees, charges, or pass through assessments.

AMERICAN MESSAGING'S EXPLANATION OF USE FEES

*The Telecommunications Act of 1996 requires American Messaging Services, LLC to support the Federal Universal Service Fund. American Messaging will separately list the Federal Universal Service Charge (FUSC) and Regulatory Charge (RC) on our customer's bill. All accounts will be assessed a monthly charge. The actual amount of the FUSC charge may vary monthly; the history is listed below. The Regulatory Charge is \$0.06 per line per month as of January 1, 2009.

Assessment Rate History:

- (3Q) July 1, 2009 – September 30, 2009 FUSC rate: 1.55%
- (2Q) April 1, 2009- June 30, 2009 FUSC rate: 1.36%
- (1Q) January 1, 2009 – March 31, 2009 FUSC rate: 1.14%
- (4Q) October 1, 2008 – December 31, 2008 FUSC rate: 1.368%

Some states have developed their own Universal Service programs and the USF rate is determined by the individual state. American Messaging Services, LLC will provide more information regarding this State Universal Service Fund upon request from Cooperative Cities.

RESTOCKING FEE

Pagers returned between the 46th and the 180th day will be charged a \$10.00 restocking fee. (No line item will appear on the invoice for the restocking fee, the credit issued will be \$10.00 less that what was charged for the equipment.) Pagers returned after the 180th day will not receive an equipment credit. Lost pagers will follow the same process. If returned prior to the 45th day, a full credit will be issued.

INVOICE FEE

Customers will be charged an invoice fee of \$4.95. The fee will appear on invoices for customers with 1 to 99 UIS that are not paperless. By going paperless, they can avoid this fee. **This fee will be waived for Cooperative Cities.**

NETWORK ADMINISTRATION FEE

Customers will be charged a network administration fee of up to 9.95% per account. The fee is applied to recurring charges including overcalls if applicable, and is not applied to the Universal Service Fund charges or taxes.

AMERICAN MESSAGING SERVICES, LLC
CUSTOMER AGREEMENT

Attachment 2

Subscriber Agreement

American Messaging Services Subscriber Agreement for Cooperative Cities Eligible Entities

This Account Agreement is made and entered into as of _____, 20__ by and between American Messaging Services LLC d/b/a American Messaging and _____, with a billing address of _____.

- A. American Messaging entered into a five (5) year Services Agreement with Cooperative Cities dated _____ and any and all related Amendments, (collectively the "Service Agreement") to provide wireless paging service and equipment ("Services").
- B. Whereas, the undersigned represents that it is a Cooperative Cities affiliate or location entitled to participate in the Service Agreement and desires to purchase materials/services from American Messaging under the same terms, conditions, specifications, and pricing as set forth in the Agreement;
- C. Therefore, the undersigned hereby agrees to the terms and provisions of the Service Agreement and agrees to participate in the Service Agreement to purchase Services from American Messaging.

ELIGIBLE AGENCY: _____

Name: _____ Signature: _____

Title: _____ Date: _____

ORDER SUMMARY (add lines as needed)		or EXISTING ACCOUNT (account #) _____	
# of units	Type of equipment	Coverage	Enhanced Services

The following employee(s) are authorized to access the account, purchase equipment, add lines of service, cancel service, make changes to the account and to sign an American Messaging customer service order for the Eligible Agency indicated above for lines of wireless and paging service:

AUTHORIZED CONTACT PERSON(S):	
Name: _____	Title: _____
Employee I.D No.: _____	Signature: _____
Mailing Address: _____	
Telephone: _____	Fax: _____
Email: _____	
Name: _____	Title: _____
Employee I.D No.: _____	Signature: _____
Mailing Address: _____	
Telephone: _____	Fax: _____
Email: _____	

E-4 Standard Purchasing Resolutions**a) Standard Purchasing Resolution 1: Award to Low Bidder – Grass Seed and Hydro-Seeding Mulch/Fertilizer**

Resolution #2006-05-202-E-4a

RESOLVED, That a contract to purchase grass seed and hydro-seeding mulch/fertilizer is hereby **AWARDED** to the low total bidder, Tri-Turf of Farmington Hills, Michigan, for an estimated total cost of \$12,099.00, at unit prices contained in the bid tabulation opened April 18, 2006, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

b) Standard Purchasing Resolution 3: Exercise Renewal Option – MITN Purchasing Cooperative Pager Rental Contract

Resolution #2006-05-202-E-4b

WHEREAS, On November 3, 2003, a three (3) year contract with an option to renew for up to three (3) additional years to provide pager rental was awarded to the low bidder, Verizon Wireless Messaging Services of Lewisville, Texas for an estimated annual cost of \$29,103.00 (Resolution #2003-11-559);

WHEREAS, Verizon Wireless has agreed to exercise the three-year option to renew the contract under the same pricing structure, terms, and conditions for participating members of the MITN (Michigan Intergovernmental Trade Network) Cooperative;

NOW, THEREFORE, BE IT RESOLVED, That the option to renew the contract is hereby **EXERCISED** with Verizon Wireless Messaging Services to provide pager rental services under the same pricing structure, terms and conditions for three years expiring December 1, 2009.

c) Standard Purchasing Resolution 10: Travel Authorization and Approval to Expend Funds for Troy City Council Members' Travel Expenses – National League of Cities (NLC) FAIR/Public Finance Panel Spring Steering Committee Meeting

Resolution #2006-05-202-E-4c

RESOLVED, That those Council members interested are **AUTHORIZED** to attend the National League of Cities (NLC) FAIR/Public Finance Panel Spring Steering Committee Meeting on June 15 - 17, 2006 in Cambridge, Massachusetts in accordance with accounting procedures of the City of Troy.

d) Standard Purchasing Resolution 4: State of Michigan, MiDeal Purchasing Agreement – SMARTMSG, Emergency Notification System

Resolution #2006-05-202-E-4d

RESOLVED, That contracts to purchase SMARTMSG, an emergency notification system, which includes hardware and software from Codespear, AT&T, Hewlett Packard, and EDS are hereby **APPROVED** through State of Michigan MiDeal contracts for an estimated total project cost of

April 27, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Jeanette Bennett, Purchasing Director

Subject: **Agenda Item:** Standard Purchasing Resolution 3: Exercise Renewal Option - MITN Purchasing Cooperative Pager Rental Contract

RECOMMENDATION

On October 28, 2003, informal quotations were received to furnish three (3) year requirements of pager rental with an option to renew for up to three (3) additional years. Troy City Council awarded the contract on November 3, 2003, to the low bidder, Verizon Wireless Messaging Services of Lewisville, Texas, for an estimated annual total cost of \$29,103.00. (Resolution #2003-11-559). City management recommends exercising the option to renew for three (3) additional years at the same prices, terms, and conditions as the original contract to expire December 1, 2009.

Verizon has agreed to exercise the option to renew the contract for the (3) three additional years under the same discount structure, terms, and conditions.

Numeric Pagers	2.95 per mo
Alpha-Numeric (State)	4.95 per mo
Alpha-Numeric (Nation)	18.90 per mo
Two-Way Pagers	17.95 per mo

MARKET SURVEY

A market survey conducted by the Purchasing Department indicates the MITN contract continues to be the best value when compared to others in the marketplace. Therefore, staff concurs with the recommendation to exercise the option to renew for (3) three additional years.

SUMMARY

The City of Troy is the host city for the bid process conducted on behalf of the MITN Purchasing Cooperative including Farmington Hills, Sterling Heights, Warren, Rochester Hills, Pontiac and the County of Livingston.

BUDGET

Funds for this contract are currently available in various departmental operating budgets under Communications-Pagers.

Market Survey for Pagers - February 15, 2006						
		PAGER CONTRACTS				
	MITN Cooperative	State of Michigan	Oakland County	MiCTA	REMC	US Communities
Contract	Yes	Yes	Yes	Yes	No	No
Expires	12/1/2006	10/1/2006	12/31/2006	9/20/2008	0	0
Company	Verizon	USA Mobility	USA Mobility	Verizon Business	None	None
		(aka Arch Wireless)	(aka Arch Wireless)	(formerly MCI)		
Company Contact	Michelle Bearse	Barbara Williams	Wanda Williams	Jerry A. Edgeton	None	None
Phone #	1-888-858-7712	1-800-412-1044	248-423-2840		None	None
		Lower Peninsula				
<u>Contract Rates:</u>						
Numeric Pagers	2.95 per mo	2.95 per mo	None	6.99 per mo	None	None
Alpha-Numeric (State)	4.95 per mo	5.75 per mo	6.95 per mo	8.99 per mo	None	None
Alpha-Numeric (Nation)	18.90 per mo	None	38.00 per mo	34.55 per mo	None	None
Two-Way Pagers	17.95 per mo	None	38.45 per mo	7.26 per mo	None	None
Key Note (Tone/Voice)	None	11.95 per mo	None	None	None	None
BlackBerry Wireless	None	None	69.00 per mo	43.75 per mo		
<u>Replacements: w/out Ins.</u>						
Numeric	27.00 ea	49.00 ea		20.00 ea	None	None
Alpha-Numeric	55.00 ea	129.00 ea		64.99 ea	None	None
Two-Way Pagers	119.00 ea	None		49.95 ea	None	None
Key Note	None	145.00 ea		None	None	None

D-3 Proposed Zoning Ordinance Text Amendment for Section 03.40 – Site Plan Review/Approval (ZOTA #199)

Vote on Resolution to Refer to Planning Commission

Resolution #2003-11-558
Moved by Lambert
Seconded by Beltramini

RESOLVED, That proposed Zoning Ordinance Text Amendment for Section 03.40 – Site Plan Review/Approval (ZOTA #199) be **REFERRED** to the Planning Commission for further review.

Yes: All-6
No: None
Absent: Stine

RECESS: 9:20 P.M. – 9:41 P.M.

PUBLIC COMMENT:

A. Items on the Current Agenda

E-21 Standard Purchasing Resolution 1: Award to Low Bidder – Tri-County Purchasing Cooperative Pager Rental Contract

Resolution #2003-11-559
Moved by Eisenbacher
Seconded by Broomfield

RESOLVED, That a contract to provide three-year requirements of pager rentals for the City of Troy and various members of the Tri-County Purchasing Cooperative with an option to renew for up to three years is hereby **AWARDED** to the low bidder, Verizon Wireless Messaging Services, for an estimated annual cost of \$29,103.00, at unit prices contained in the tabulation dated October 28, 2003, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed proposal and agreement documents acceptable to the City of Troy **AUTHORIZED AND EXECUTED** by the Mayor and City Clerk.

Yes: All-6
No: None
Absent: Stine

October 28, 2003

TO: Honorable Mayor and City Council

FROM: John Szerlag, City Manager
John M. Lamerato, Assistant City Manager/ Finance and Administration
Jeanette Bennett, Purchasing Director

Subject: Standard Purchasing Resolution 1: Award To Low Bidder -
Tri-County Purchasing Cooperative Pager Rental Contract

RECOMMENDATION

On Tuesday, October 28, 2003, three (3) informal quotations were due and received to furnish three (3) year requirements of Pager Rental with an option to renew for up to three (3) additional years. City management recommends that the Troy City Council award the contract to the low total bidder, Verizon Wireless Messaging Services, for an estimated annual total cost of \$73,839.00, at unit prices contained in the attached quote tabulation. Troy's annual total is estimated to be \$ 29,103.20. The annual savings for the Cooperative due to the re-bid using adjusted quantities equals approximately \$12,236.40 or \$5,426.80 for Troy.

REVERSE AUCTION VS. INFORMAL QUOTATIONS

At the Council meeting of October 20, 2003, staff gained approval to re-bid the pager rental contract either by means of a reverse auction or informal quotation process (Resolution #2003-10-513). Two problems were experienced in trying to conduct the reverse auction. First, both Public Safety Communications and Skytel declined to participate in the reverse auction (letters attached). Secondly, there were stringent timing issues associated with when the auction would close. At this time, Bidcorp, the enabler of the reverse auction process, could not change a midnight auction closing time; nor could they allow for continued bidding when vendors bid within the last couple minutes (seconds) of a closing time. To achieve the competition necessary for a reverse auction, the ending time should be within normal working hours so all could actively participate. Reverse auctions are the wave of the future, and the City will encourage active participation when market conditions allow.

SUMMARY

The City of Troy is the host city for the bid process conducted on behalf of the Tri-County Purchasing Cooperative cities including Farmington Hills, Sterling Heights, Warren, Rochester Hills, St. Clair Shores, and Pontiac.

BUDGET

Funds for this contract are currently available in various departmental operating budgets under Communications-Pagers.

3 Vendors – Electronically Notified
3 Bid Responses Received

Closing Date -- 10/28/03		CITY OF TROY						RFQ-COT 03-34			
Date Prepared -- 10/28/03		INFORMAL QUOTE									
		PAGER RENTAL									
VENDOR NAME: *		Verizon Wireless			Public Safety Co. LLC			Skytel Communications			
		Messaging Services									
PROPOSAL --		NUMBERIC, ALPHA-NUMERIC, AND TWO-WAY PAGERS									
		ALL COSTS BASED ON 500 PAGES PER MONTH EXCEPT AS NOTED									
	EST QTY	COST	MON/Cost	YEAR/Cost	COST	MON/Cost	YEAR/Cost	COST	MON/Cost	YEAR/Cost	
NUMERIC PAGERS:											
	State-wide	465	\$ 2.95	\$ 1,371.75	\$ 16,461.00	\$ 3.15	\$ 1,464.75	\$ 17,577.00	\$ 4.99	\$ 2,320.35	\$ 27,844.20
ALPHA NUMERIC PAGERS:											
	State-wide	790	\$ 4.95	\$ 3,910.50	\$ 46,926.00	\$ 5.00	\$ 3,950.00	\$ 47,400.00	\$ 6.99	\$ 5,522.10	\$ 66,265.20
	Nationwide *	20	\$ 18.90	\$ 378.00	\$ 4,536.00	\$ 17.95	\$ 359.00	\$ 4,308.00	\$ 19.95	\$ 399.00	\$ 4,788.00
* (200 pages per month)											
TWO-WAY PAGERS:											
	State-wide/Nationwide	20	\$ 17.95	\$ 359.00	\$ 4,308.00	\$ 17.95	\$ 359.00	\$ 4,308.00	\$ 19.95	\$ 399.00	\$ 4,788.00
REPLACEMENT PAGERS: (If not insured) Lost or Stolen											
	Numeric Pager	10	\$ 27.00	\$ 270.00	\$ 35.00	\$ 350.00	\$ 45.00	\$ 450.00	\$ 90.00	\$ 900.00	\$ 1,800.00
	Alpha Numeric Pager	20	\$ 55.00	\$ 1,100.00	\$ 75.00	\$ 1,500.00	\$ 90.00	\$ 1,800.00	\$ 180.00	\$ 3,600.00	\$ 7,200.00
	Two-Way Pager	2	\$ 119.00	\$ 238.00	\$ 159.00	\$ 318.00	\$ 159.00	\$ 318.00	\$ 318.00	\$ 636.00	\$ 1,272.00
ESTIMATED TOTAL PER YEAR:				\$ 73,839.00			\$ 75,761.00			\$ 106,235.40	
ESTIMATED GRAND TOTAL - 3 YRS				\$ 221,517.00			\$ 227,283.00			\$ 318,706.20	
Quoting on:		Motorola			Davis Comm / Bravo 800 / Sun Telecom			Motorola			
Make/Model:		BR850/BRAVO FLEX/ADVISOR ELITE/ADVISOR GOLD/T900			ST-800 / Motorola / Talkabout						
OPTIONAL: ADDITIONAL COSTS											
INSURANCE COST:											
			Unit Cost			Unit Cost			Unit Cost		
	Numeric Pager		\$ 0.45			N/A			\$ 1.00		
	Alpha Numeric Pager		\$ 0.45			N/A			\$ 1.00		
	Two-Way Pager		\$ 1.50			N/A			\$ 1.00		
REPLACEMENT COSTS W/INSURANCE:											
	Numeric Pager		\$ 15.00			N/A			\$ 20.00		DEDUCTIBLE
	Alpha Numeric		\$ 35.00			N/A			\$ 65.00		DEDUCTIBLE
	Two-Way Pager		\$ 80.00			N/A			\$ 99.00		DEDUCTIBLE
BAUD RATE:			FLEX			FLEX			2400		
TERMS:			NET 30			NET 30 DAYS			3 YRS BUT 30 DAYS OUT		
EXCEPTIONS:			ATTACHED TO BID			BLANK			ATTACHED TO BID		
			(EXCEPTIONS / CLARIFICATIONS)						CANNOT DO REPLACEMENT BATTERIES		
									CANNOT DO FREE SHIPPING		
									FREE MONTHLY BILLING		
PAGER SERVICES/OPTIONS TO BE OFFERED AT NO CHARGE											
PC SOFTWARE/MESSAGE ENTRY											
CAP CODE BURNERS											
NETWORK SOFTWARE FOR ALPHA-NUMERIC OR TWO-WAY PAGERS - ALLOWS GROUP PAGING											
SPARE PAGERS											
PUBLIC SAFETY INFORMATION SERVICES											
DATACAST											
PROPOSAL-- Three Year Requirements of Pager Rentals for the City of Troy and Various Members of the Tri-County Purchasing Cooperative Group with an Option to Renew for Up to Three Years											
* DENOTES LOW TOTAL BIDDER											
Jeanette Bennett Purchasing Director											

Public Safety Communications, LLC
30246 Rosenbusch
Warren, Michigan 48088
Office: 888-PSC-0911 Fax: 877-616-9334
Garry Watts - Timothy Teer
sales@publicsafetycommunications.net



October 22, 2003

City of Troy
Attention: Jeanette Bennett
Purchasing Department

It is the choice of PSC, LLC to use the option of "Electronic Quote" for bidding the pagers.

We feel that using the reverse auction procedure would be unfair since it hasn't been used in a bid like this. We also feel that having exposed pricing already would create further issues.

Thank You

A handwritten signature in black ink, appearing to read 'Garry Watts', is written over a circular stamp or mark.

Garry Watts

President
Public Safety Communications, LLC



1 Towne Square
Suite 900
Southfield, MI 48076

Jeanette Bennett
City of Troy

Dear Jeanette:

Thank you for inviting us to participate in the reverse auction process for your paging business. While we appreciate the opportunity we will have to decline the offer. We would prefer to simply offer you the lowest rates we can right off the bat. I have spoken with SkyTel's upper management to get the best rates. When you advise us to the Internet procedure I will submit our "best and final offer." Please keep in mind that while some companies treat paging as a loss leader and a commodity, value added paging is SkyTel's only business. We own and operate two paging networks that many regard as the best and most reliable in the country. As a resident of Farmington Hills I hope my tax dollars are going to the best product and value on the market not the cheapest. As recent history has shown reliable paging services and networks save lives and money.

Customers Rely on SkyTel During the Power Outage

The recent outage in the Northeast and Midwest was a challenge to everyone -- Individuals and businesses alike. But SkyTel service made staying in touch a little easier for customers in New York, New Jersey, Chicago, Detroit, Cleveland and Toledo:

Throughout the outage, street level coverage was available on the SkyTel one-way and two-way networks. So, while our in-building penetration was below normal in some cases, most customers were able to use their SkyTel services without incident.

Here's what some SkyTel customers had to say:

"SKYTEL RULES!!!!!! YOU GUYS PROVIDED THE ONLY COMMUNICATION DURING THE ENTIRE BLACKOUT!!!! I WAS ABLE TO REACH MY TEAM TO SHUT DOWN SERVERS, DEAL WITH EMERGENCY BACK-UPS, SEE IF EVERYONE GOT HOME, ETC.AWESOME!!!!!!"

VERIZON, AT&T, NEXTEL AND SPRINT WERE DOWN MOST OF THE TIME. YOU GUYS ROCK!!!!!!!!!!"

-- Angela Lynch -McGraw Hill

"The pager was a life saver for all of us here in IT despite some few latency and basic service issues. All in all, the pager did help us get through the black out, so we are very grateful for it...."

-- Jenny - BNP Paribas

"SkyTel's network was up the entire time when many other things were not. We were able to keep our firefighters updated and informed throughout the entire blackout. Two-way messaging came in handy numerous times throughout the night, especially in light of the fact that most cellular networks were down. This event reinforced our belief in SkyTel as a rock-solid service provider."

-- David Pilster, Port Washington Fire Department

Another reminder that the more critical the Communications need, the more critical it is for that customer to have SkyTel!

Sincerely,

Tim Wilson
Major Account Executive
SkyTel

Susan A Leirstein

From: Deborah.Kroeger@VerizonWireless.com
Sent: Thursday, October 23, 2003 11:58 AM
To: LeirsteiSA@ci.troy.mi.us
Subject: Reverse Auction Bid Process

Susan-

Verizon Wireless Messaging Services does not have any problems competing in a reverse auction. If you have any questions, please contact me at the number listed below.

Thank you!

Debi Kroeger

Verizon Wireless Messaging Services
Consultant, Sales Support
Lewisville, TX
(214) 222-6491

"Its not the size of the dog in the fight, its the size of the fight in the dog"

POSTPONED ITEMS

D-1 Standard Purchasing Resolution 2: Bid Award – Lowest Acceptable Bidder Meeting Specifications – Pager Contract

Resolution #2003-10-513

Moved by Eisenbacher

Seconded by Broomfield

RESOLVED, That the bid proposal for ITB-COT 03-20, pagers, opened July 30, 2003, is hereby **REJECTED**.

BE IT FURTHER RESOLVED, That the Troy City Council determines that the public interest will be best served without obtaining sealed bids and allowing an alternate competitive purchasing process since:

- 1) Formal bids have already been received once, but could not be awarded.
- 2) There are potential savings to be experienced from an electronic process due to process speed and timesavings.
- 3) The processes proposed (electronic informal quotations or reverse auction) are competitive although, with the changes in technology, not obtained in a traditional sealed method.

Yes: Howrylak, Pryor, Beltramini, Broomfield, Eisenbacher

No: Lambert

Absent: Stine

MOTION CARRIED**Suspend City Council Rules #5 and Change Order of Business**

Resolution #2003-10-514

Moved by Eisenbacher

Seconded by Lambert

RESOLVED, That City Council **SUSPEND** Rules of Procedure #5 and **MOVE FORWARD F-8**, Request from CCPTF: Change Proposed Location of Reflective Head on the current agenda.

Yes: All-6

No: None

Absent: Stine

F-8 Request from CCPTF – Change Proposed Location of Reflective Head

Resolution #2003-10-515

Moved by Beltramini

October 15, 2003

TO: Honorable Mayor and City Council

FROM: John Szerlag, City Manager
John M. Lamerato, Assistant City Manager/Finance and Administration
Jeanette Bennett, Purchasing Director

SUBJECT: Rejection of Bid – Pagers

RECOMMENDATION

City management recommends that City Council approve the rejection of all bids for pagers opened July 30, 2003 (ITB-COT 03-20). Verizon, our current provider, misconstrued the bid proposal documents and forced their bid to be evaluated with normalized quantities since an essential price was not submitted for replacements without insurance.

Staff also recommends the waiver of a formal bid procedure and the use of one of the following alternate competitive purchasing processes: electronic quotations or, our preferred course, an electronic reverse auction. Since this bid included other entities from the Tri-County Purchasing Cooperative, the largest member entities were canvassed, and they agreed to the rejection and either alternate process.

The charter states: "...In all sales or purchases in excess of ten thousand dollars, (a) the sales or purchases shall be approved by the Council, (b) ***sealed bids shall be obtained, except where the Council shall determine*** that an emergency exists ***or that the public interest will be best served without obtaining sealed bids...***" The following reasons are proposed to fulfill the requirement that the public interest would be served without sealed bids:

1. Sealed bids have been formally taken once. In the interest of saving time and money for both the City and the bidders involved in conducting another entire bid process, the alternate processes can be completed quickly and result in a less costly process. The bids that are being rejected are approximately \$2.20 / pager / month less than current rates. This translates into a monthly savings of approximately \$1,025.20 or \$12,302.40 annually. Time is money.
2. Both processes are competitive and ensure competition, although the current interpretation of a "sealed bid" is compromised. Charter and ordinance changes are pending to allow electronic processes.
3. The pager contract is a perfect fit to handle in an electronic format. During the July-October bid process, much was discovered concerning the current pager market. Those market changes could be accommodated with modified and compressed specifications to allow a simplified document and pricing structure that results in savings to the City and the Cooperative.

Pager Rejection
Page 2 of 2

BACKGROUND

Since, to our knowledge, a reverse auction has not been conducted in Michigan, we are dependent upon one of our current electronic providers Bidcorp or Bidnet to implement the process. At this point, Bidcorp is confident they can accommodate a reverse auction and Purchasing is reviewing the implementation of such a process with them.