

LICENSE AGREEMENT AND ENHANCEMENTS CONTRACT  
FOR A DATA COMMUNICATIONS MONITOR SOFTWARE BRIDGE

THIS AGREEMENT, entered into between the City of Portland, Oregon, Bureau of Computer Services (hereinafter referred to as "City") and Pacific Applied Technology, Inc., a Washington corporation, whose address is 2008 C Street, Vancouver, Washington 98663 (hereinafter referred to as "PAT") on April , 1980.

RECITALS:

WHEREAS, the City has a significant investment in computer application programs using Software AG's data communications monitor (hereinafter referred to as "COM-plete"); and

WHEREAS, the City of Portland, Police Bureau is installing an IBM 4331 system to perform off-line data entry in support of the new Columbia Region Information Sharing System (CRISS) and requires a software bridge between COM-plete and IBM's DOS/VS data communications monitor (hereinafter referred to as "CICS/VS"), which software bridge will allow application programs to run using CICS/VS; and

WHEREAS, PAT has significant experience, expertise and trade secrets in the development of data communications monitor software transition aids and has developed a software bridge which will meet the foregoing needs of the City (hereinafter referred to as "SOFTWARE"); and

WHEREAS, the City desires to obtain a license from PAT for the use of the SOFTWARE and to utilize the services of PAT to make enhancements to the SOFTWARE (hereinafter referred to as "Enhancements"), necessary for full implementation;

NOW THEREFORE, the parties agree as follows:

1. License and Term.

A. PAT hereby grants to the City a nonexclusive, nontransferrable, nonassignable license for the use of the SOFTWARE on the City of Portland, Police Bureau's IBM 4331 computer system on the terms and conditions hereinafter set forth.

B. The license granted herein for SOFTWARE shall be for a term of five years from the date of final installation of SOFTWARE and Enhancements.

C. Any transfer of title, copyright rights or the trade secrets associated with the SOFTWARE by PAT shall be made subject to this agreement.

D. In the event that PAT should cease business operations and the SOFTWARE has not been assigned, sold or transferred by PAT to a successor in interest, the duration of the license grant shall be increased from five years to perpetual duration at no additional cost to City.

2. Delivery and Acceptance of SOFTWARE.

A. SOFTWARE will be delivered to the City within two weeks from the date of execution of this agreement in the form of relocatable modules.

B. Unless written notice is received within seven days after receipt of SOFTWARE, City will be deemed to have accepted SOFTWARE.

3. Enhancements.

A. In addition to the license granted for use of SOFTWARE, the City hereby engages the services of PAT to write additional modules to substantially enhance the SOFTWARE.

B. PAT will use its best efforts to have the Enhancements coded, tested and operational by August 1, 1980. However, the undertaking is a significant one which may require additional time. Therefore, PAT will be given until August 31, 1980, to make these Enhancements operational.

C. During the development phase of the Enhancements, PAT will conduct progress meetings every two weeks with the Director, Bureau of Computer Services.

D. PAT will supply two consecutive weeks (80 person hours) of on-site installation support. The support will be provided at the City's convenience, but, no later than December 31, 1980.

4. Implementation and Acceptance of Enhancements to SOFTWARE.

Once the SOFTWARE and Enhancements have been installed on the Police Data Entry minicomputer (IBM 4331 operating under DOS/VS and CICS/VS), demonstrated operational by the programs written by PAT to invoke each COM-plete command supported, and the programmer documentation delivered, the SOFTWARE and associated Enhancements shall be deemed both implemented and accepted by City.

5. Support by City.

The City at its expense, will provide the following to PAT in support of PAT's development of Enhancements for the SOFTWARE:

- A. On-site office space, office supplies, and clerical support for the duration of this contract;
- B. Timely data entry support; and, in the special data entry area of keypunching, will both punch and verify all data associated with this project;
- C. Timely access to a computer with the current release of IBM's DOS/VS and CICS/VS installed and operational with disc space for program libraries and input/output devices suitable to support this project. This support must be provided no later than April 18, 1980 and remain available for the duration of the project; and

D. In the event of delay in delivering support beyond the City's control, the time for delivery of SOFTWARE set forth in paragraph 2 will be extended for an additional time period.

6. Payment.

In consideration of license and services rendered hereunder, the City agrees to pay to PAT thirty-two thousand seven hundred dollars (\$32,700), payable as follows:

A. Eighteen thousand seven hundred fifty dollars (\$18,750) for the license to use SOFTWARE. Payment in full of this amount shall be made within fifteen (15) days following delivery of the SOFTWARE described in Attachment 1 to this agreement.

B. Ten thousand two hundred fifty dollars (\$10,250) upon completion of coding the program modules defined in Attachment 2, payable within fifteen (15) days following completion of coding.

C. Three thousand seven hundred dollars (\$3,700) upon installation and acceptance of the Enhancements set forth in Attachment 2, payable within fifteen (15) days following installation and acceptance of the Enhancements.

7. Attachment 2.

Attachment 2 to this agreement discloses the Enhancements to SOFTWARE and is a trade secret and confidential in nature. City acknowledges that Attachment 2 has been reviewed by the Director and Deputy Director of the Bureau of Computer Services, and Systems Manager of the CRISS Project and is acceptable to the City. The parties agree that Attachment 2 shall be clearly identified as confidential and will hereafter remain sealed except for additional review by and disclosure to those persons identified in writing by the City set forth in Attachment 3.

8. Title, Trade Secrets and Confidentiality.

A. Title to and ownership of all programs, macros, modules, and associated documentation including all copyright rights therein shall remain with and be the exclusive property of PAT.

B. The programs, macros, modules, methodology and associated documentation constitute trade secrets and confidential information owned by PAT. All items considered by PAT to be trade secrets will be clearly identified and labeled as confidential in nature by PAT.

C. The City agrees to exercise due care and diligence to protect the trade secrets of PAT from unauthorized disclosure or use by the City, its employees and/or City's

contractors. The City will also take care to ensure that no reproduction of the programs, macros, modules and associated documentation may be made by City employees or City contractors without the prior written consent of PAT.

9. Exclusions and Warranty.

A. The City recognizes and understands that the modules developed pursuant to this project are for a limited subset of the functions of COM-plate and intended to perform only the CRISS off-line data entry function (further defined in Attachment 2 to this agreement). Modifications to support other functions for use by the City could require substantial additional Enhancements. The cost of such additional Enhancements are not covered by this agreement.

B. It is contemplated by the parties that the City may desire to secure additional services to expand the subset of functions of the SOFTWARE. Nonetheless, no use of PAT's trade secrets may be made in the developments of such Enhancements without the express written consent of PAT.

C. Any changes, including correction of defects, required following implementation and acceptance of Enhancements to SOFTWARE will be made upon payment by the City for time and material costs incurred by PAT.

D. PAT warrants that it has the right to grant this license.

E. PAT DISCLAIMS ALL WARRANTIES WITH REGARD TO THE SOFTWARE LICENSED HEREUNDER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS.

IN NO EVENT SHALL PAT BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES RESULTING FROM OR ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE.

F. City agrees to indemnify, defend, and hold PAT harmless for any losses or injuries to third parties arising out of or resulting from the use or modification of the SOFTWARE by City, except where the losses or injuries were not caused by the fault of the City. PAT agrees to indemnify, defend, and hold City harmless for any losses or injuries to third parties arising out of or resulting from the use or modification of the SOFTWARE by City, except where the losses or injuries were not caused by the fault of PAT.

10. Rights Upon Default.

A. PAT shall have the right to terminate this agreement upon violation by City of any of the provisions of this agreement upon ten (10) days prior written notice.

B. In the event of termination by PAT, no refund shall be made of any portion of the license fees paid hereunder.



C. Upon termination of this agreement, City shall, at the option of PAT, either destroy all copies, including partial copies, of SOFTWARE or shall return SOFTWARE to PAT. In either event, City shall promptly forward written notice to PAT that all programs and materials containing SOFTWARE (including Enhancements thereto) have been destroyed or deleted from any computer libraries or storage and memory devices and are no longer in use or useable by City.

D. Upon termination of this agreement and continuing thereafter, City will continue to maintain SOFTWARE and Enhancements in confidence and will not thereafter use SOFTWARE and/or disclose PAT's trade secrets. Pat shall be entitled to injunctive relief to enforce the provisions of this paragraph 10.

E. Except as to matters relating to confidentiality, disclosure and/or use of trade secrets and damages resulting therefrom, all other controversies relating to this agreement shall be settled by arbitration, in accordance with the commercial arbitration rules of the American Arbitration Association. Any judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any arbitration arising from the agreement shall be heard in Portland, Oregon.

11. Impossibility of Performance.

The occurrence of any event such as natural disasters, acts of God, civil disorders, acts of war, or any other events which are beyond the control of either party and

resulting in an impossibility to perform under this agreement, shall cause termination of this agreement with no additional liability on the part of either party, except that of outstanding payments for work completed shall be made.

12. Indemnity of City.

PAT agrees to hold harmless, indemnify and, if requested by the City, defend the City from and against any claim or action brought against the City based on a claim that SOFTWARE supplied by PAT infringes a patent or copyright, provided that notice of request to defend is given in writing to PAT within ten (10) days of knowledge by the City of such claim.

PAT, at its election, may elect to replace the SOFTWARE with a noninfringing product or modify the SOFTWARE so that it becomes noninfringing, so long as the replacement or modification provides the same or better performance.

13. Governing Law.

The law of the State of Oregon, whether substantive or procedural, shall apply to this agreement.

14. Attorneys' Fees.

In the event of litigation or arbitration between the parties resulting from a breach of this agreement, the prevailing party shall be entitled to recover costs of said litigation including reasonable attorneys' fees.

15. Location of Services.

Services to be rendered hereunder need not be performed on the premises of the Bureau of Computer Services.

16. Modification.

Any modifications to this agreement, shall be valid only if in writing and signed by both parties.

17. Notices.

Notices by either party required or given under this agreement shall be valid if in writing addressed to the parties at their respective addresses stated herein, or such addresses as the parties shall designate in writing.

18. Captions.

Captions are for convenience only and do not form a part of this agreement.

19. Independent Contractor.

No member of PAT is a City employee. PAT employees are not entitled to the benefits provided by the City to its employees, including, but no limited to, group insurance and pension plan.

CITY OF PORTLAND

\_\_\_\_\_  
 Vincent H. Scott, President  
 Pacific Applied Technology, Inc.  
 2008 C Street  
 Vancouver, Washington 98663

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 Mayor Connie McCreedy  
 City of Portland  
 1220 S.W. Fifth Ave., #303  
 Portland, Oregon 97204

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 George Yerkovich, Auditor  
 City of Portland  
 1220 S.W. Fifth Ave., #202  
 Portland, Oregon 97204

## ATTACHMENT 1

## DEFINITION OF FUNCTIONS SUPPORTED BY BRIDGE

## I. COM-plete Commands Supported

The following COM-plete commands are supported as described below:

- A. WRTMC Write mapping conversational
- B. WRTMD Write mapping done
- C. WRTMR Write mapping return
- D. READM Read mapping

## II. COM-plete Commands Simulated

The following COM-plete commands are simulated as described below:

- A. GETCHR Simulated by move of constant data and return to caller
- B. SETEID Simulated by immediate return to caller
- C. FETCH Simulated by immediate return to caller

## III. New Command

The following command was added to allow emulation of the OS ANS COBOL special register function RETURN-CODE:

- A. RTNCDE Simulates the transfer of command completion codes

## IV. Control Block Communication

- A. Mapping Request Control Block

The following fields in the mapping request control block (MRCB) are used by the bridge:

1. Mapname
  2. Cursor-out field name
  3. Cursor-in field name
  4. Enter-code
- B. No other fields or control blocks are modified by the bridge

V. General Limitations

- A. Will support IBM 3270 Model 2 (or equivalent) terminals only
- B. All terminal fields will be alphanumeric
- C. All IBM CICS/VS restrictions will apply
- D. All Software AG COM-plete limitations will apply
- E. Physical maps will be done on a system already having COM-plete

149483

ATTACHMENT 3

TRADE SECRET DISCLOSURE CONTROL

NAME \_\_\_\_\_ DATE \_\_\_\_\_ ORGANIZATIONS \_\_\_\_\_

ORDINANCE NO. **149484**

An Ordinance authorizing an agreement with Pacific Applied Technology, 2008 C Street, Vancouver, Washington, 98663, for the CICS/COM-plete software bridge, hereinafter referred to as "software bridge", for the Bureau of Computer Services at the estimate amount of \$32,700 without advertising for bids, authorizing the drawing and delivery of a warrant, waiving performance bond requirements and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Computer Services requires the software bridge for orderly transfer of Police systems to their new IBM 4331 without the expense of fully converting all existing and developed systems currently resident to the Multnomah County Data Processing Authority.
2. No other product of equal value, utility, or merit is available for this purpose.
3. The software bridge is urgently necessary for the public welfare and the time for advertising would result in delay improper in the circumstances because installation of the software bridge requires an eighteen-week lead time and it must be installed by August 31, 1980, which is the date for installation of the CRISS data entry system.
4. This purchase has been reviewed and approved by the Purchasing Agent. It is therefore in the public interest for Pacific Applied Technology to provide the necessary materials and services as set forth above at an estimate cost of \$32,700 without advertising for bids.
5. Exhibit A, attached to the original hereof, is an appropriate form of agreement.

NOW, THEREFORE, the Council directs:

- a. The Mayor and the Auditor are authorized to enter into a contract with Pacific Applied Technology, in form similar to Exhibit A.
- b. The Mayor and the Auditor hereby are authorized to draw and deliver warrants chargeable to the 1979-80 Budget; General Fund, Bureau of Computer Services, 550 Professional Services, when demand is presented, approved by the proper authorities.

ORDINANCE No.

Section 2. Inasmuch as this Ordinance is necessary for the immediate preservation of public health, peace and safety for the City of Portland in this: in order that the provisions of this Ordinance may become effective without undue delay, therefore an emergency is hereby declared to exist and this Ordinance shall be in force and effect from and after passage by the Council.

ORDINANCE NO. 149483

Passed by the Council, APR 23 1980

Mayor Connie McCreedy  
Leonard L. Yoon:pjw  
April 9, 1980

*Connie McCreedy*  
Mayor of the City of Portland

Attest:

*George Fickens*  
Auditor of the City of Portland



Calendar No. 1405

**ORDINANCE No. 149483**

**Title**

An Ordinance authorizing an agreement with Pacific Applied Technology, 2008 C Street, Vancouver, Washington, 98663, for the CICS/COM-plete software bridge, hereinafter referred to as "software bridge", for the Bureau of Computer Services at the estimate amount of \$32,700 without advertising for bids, authorizing the drawing and delivery of a warrant, waiving performance bond requirements and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg		
Schwab		
McCready		

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
Mayor Connie McCready

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration <i>C.M.J.</i>
Safety
Utilities
Works

BUREAU APPROVAL
Bureau: Computer Services
Prepared By: <i>LY</i> Date: 4/9/80
Leonard L. Yoon
Budget Impact Review: <input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head: <i>LY</i>
Leonard L. Yoon, Director

NOTED BY
City Attorney
City Auditor
City Engineer <i>[Signature]</i>

Filed APR 18 1980

**GEORGE YERKOVICH**  
Auditor of the CITY OF PORTLAND

By *George Croell*  
Deputy