

(Do Not Write Above This Line)

10-R-2084

**A RESOLUTION
BY FINANCE/EXECUTIVE COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A LICENSE AGREEMENT WITH GRADY HEALTH SYSTEM D/B/A GRADY EMS TO PERMIT IT TO UTILIZE THE CITY OF ATLANTA 800 MHZ RADIO COMMUNICATIONS NETWORK FOR THE DAY TO DAY OPERATION OF ITS RADIO COMMUNICATIONS.

**ADOPTED BY
DEC 06 2010
COUNCIL**

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

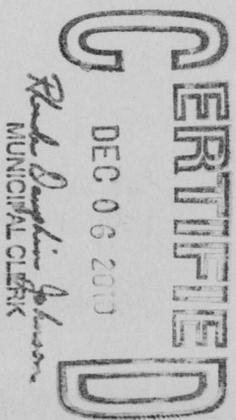
Committee Finance Executive
 Date 12/1/10
 Chair John McInerney
 Action Other
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Refer To _____

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote HRC Vote



MAYOR'S ACTION
APPROVED
 DEC 14 2010
 Mayor



**A RESOLUTION
BY FINANCE/EXECUTIVE COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A RADIO LICENSE AGREEMENT WITH GRADY HEALTH SYSTEM D/B/A GRADY EMS TO PERMIT IT TO UTILIZE THE CITY OF ATLANTA 800 MHZ RADIO COMMUNICATIONS NETWORK FOR THE DAY TO DAY OPERATION OF FOR THEIR TWO-WAY COMMUNICATIONS.

WHEREAS, the City of Atlanta ("COA") is the sole owner of the 800 MHz Digital Astro P25 radio communications network; and

WHEREAS, Grady Health System d/b/a Grady EMS ("Grady") has made a request to the City of Atlanta ("COA") to enter into a License Agreement to permit it to operate on the 800 MHz Digital Astro P25 radio communications network; and

WHEREAS, numerous COA departments, including the Police, Fire and Rescue, Public Works, Watershed, and General Services Administration, are presently users on the aforementioned network; and

WHEREAS, the COA network has additional capacity that can support additional subscriber units; and

WHEREAS, Grady desires to upgrade its ability to communicate internally and with the COA; and

WHEREAS, it is desirable to have a unified system that includes Grady on the COA network, which furthers the goal of protecting the health of citizens in the COA by facilitating radio interoperability between the COA and Grady; and

NOW, THEREFORE BE IT RESOLVED BY COUNCIL OF THE CITY OF ATLANTA GEORGIA, AS FOLLOWS: that the Mayor or his designee be and is hereby authorized to enter into a Radio License Agreement with Grady to operate on the City of Atlanta 800 MHz Digital Astro P25 radio communications network in accordance to the conditions stated in the agreement.

BE IT FURTHER RESOLVED, that Grady shall operate subscriber units on the City of Atlanta 800 MHz Digital Astro P25 trunked radio communications network.

BE IT FURTHER RESOLVED, that Grady shall operate subscriber units for an initial term of two years, with the option to extend the term for three additional successive one year periods.



BE IT FURTHER RESOLVED, that following the second year under the license, fees annually payable under such license during each renewal term shall be equal to one hundred four percent (104%) of total fees in effect for the last full calendar month immediately prior to the commencement of subsequent year. Further, that a penalty for late payments shall be assessed.

BE IT FURTHER RESOLVED, that the Radio License Agreement substantially in the form attached hereto is hereby authorized to be executed by the Mayor.

BE IT FURTHER RESOLVED, that the Radio License Agreements shall not become binding on the City of Atlanta and the City of Atlanta shall incur no obligation upon same until such Radio License Agreements have been approved by the City Attorney as to form executed by the Mayor, sealed by the Municipal Court Clerk and duly approved and authorized by Grady in accordance with their respective rules and regulations.

BE IT FURTHER RESOLVED, the City of Atlanta agrees to grant to the Grady a revocable, non-transferable license in accordance with the terms set forth in the Comnet Radio Licensee License Agreement.

BE IT FURTHER RESOLVED that all revenue generated shall be deposited into the appropriate fund, department and account number 1001 (General Fund) 000002 (Revenue Department) 3810101 (Equipment Rental) to be used to purchase parts for repair and equipment for the city's 800 MHz Digital P25 radio communications network.

BE IT FINALLY RESOLVED, that all resolutions and parts of resolutions in conflict with this resolution are rescinded to the extent of the conflict.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED by Mayor Kasim Reed

DEC 06, 2010
DEC14, 2010



INTERGOVERNMENTAL AGREEMENT REGARDING 800 MHz RADIO SYSTEM USER LICENSE

This System User License Agreement (the "License Agreement") is made and entered into on this ____ day of _____, 2010, between the City of Atlanta ("COA"), Georgia, a municipal corporation chartered pursuant to the laws of the State of Georgia, and the Grady Memorial Hospital Corporation d/b/a Grady Health System® located in the State of Georgia, ("User") (collectively, the "Parties").

RECITALS

Whereas, the COA is the sole owner and operator of an 800 MHz radio system (the "COA System"); and

Whereas, numerous COA departments, including the Police, Fire and Rescue, Public Works, Watershed, and General Services Administration, are presently users on the System; and

Whereas, the COA System has additional capacity that can support additional subscriber units; and

Whereas, User desires to upgrade its ability to communicate within its own jurisdiction and with the COA; and

Whereas, it is desirable to have a unified system that includes User on the COA System, which furthers the goal of protecting the citizens of both the COA and User by facilitating radio interoperability between COA and User; and

Whereas, User is designated by the Department of Human Resources (hereinafter, "DHR") as the Emergency Ambulance Zone Provider for the City of Atlanta within Fulton County; and

Whereas, COA and User desire to enter into an agreement that will be mutually beneficial to the Parties.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the COA agrees to grant to User a revocable, non-transferable license in accordance with the terms set forth below and User agrees to operate in accordance with the terms set forth below.

- 1. Use of the System:** User shall have the right to access the COA System through use of the number and type of subscriber units as set forth on Schedule A, as amended from time to time in accordance with the terms of this License Agreement. User will limit the number of all subscriber units including, but not limited to, mobile, portable, and console, in compliance with Schedule A. As part



of the User's use of the COA System, the COA agrees to create the talk groups as identified on Schedule B.

2. **Term:** The term of this Agreement shall be for two (2) years, with three (3) additional options of one (1) year renewals at the COA's sole discretion beginning on the effective date above.
3. **Compensation:** User shall pay to COA compensation in accordance with the terms set forth on Schedule C.
4. **Changes in the Use of COA System:** User shall request changes to Schedule A by making formal written application with supporting documentation of need to the Communication Commander of the Atlanta Police Department (the "Commander"). The application for additional units shall be reviewed and approved or denied at the sole discretion of the Commander. The Commander, in reviewing an application, will take into account how any change in User's use of the COA System will affect that system, including but not limited to system loading, air time usage, and number of system busies, and will make a decision based on maintaining the efficiency and effectiveness of the COA System for all users. Notwithstanding anything to the contrary in the License Agreement, the COA shall have the sole discretion to determine whether it will provide for the addition or modification of User's subscriber units or talk groups.
5. **Purchase and Maintenance of the Equipment:** (a) User will be solely responsible for purchasing and maintaining all equipment necessary to be a user on the COA System. The Commander will make available a conforming products list, which will be updated from time to time. It shall be the responsibility of the User to obtain the updated conforming products list prior to requesting the addition of any subscriber units on to the COA System. Products not listed on the conforming products list will not be accepted for use on the COA System. (b) User warrants that it will have a maintenance agreement in place for its subscriber units. Such maintenance agreement shall be with a technical company certified to work on the particular types of units in use throughout the term. All maintenance and/or repair work performed on User's subscriber units shall be performed only by such certified technical company. User will supply the name of its maintenance contractor to the COA along with its proof of its certification to work on the particular equipment. User shall be responsible to update the COA in the event of a change in its certified technical company in accordance with the notice requirements of this License Agreement. (c) User shall comply with all applicable software security and/or other requirements of the COA. COA shall have sole discretion to determine the configuration of the software on the subscriber units, and User shall not change such configuration. (d) If any of User's subscriber units or equipment causes any problems on the COA System, as determined by the Commander, User shall immediately take such units or equipment out of service. Such units or equipment shall not be allowed back on



the COA System until they are repaired and the Commander determines they may be used on the COA System.

6. **Regulatory Requirements:** User will comply with any and all regulations, mandates, requirements and/or directives issued by any applicable regulatory agencies, including but not limited to the Federal Communications Commission. User understands that the COA is not responsible for bringing User into compliance with any such regulations, mandates and/or directives and is not responsible for any direct or indirect, tangible or intangible costs, damages, or losses incurred by User as a result of compliance with such regulations, mandates requirements and/or directives. Notwithstanding the foregoing, User agrees that if the COA determines that it is appropriate for the COA System to comply with the regulations, mandates, requirements and/or directives in a time period that is shorter than required by any regulatory agency, User agrees to comply within that shorter time period. If User is unwilling or unable to comply with the regulations, mandates, requirements and/or directives within applicable time allowed (either by a regulatory agency or the COA), User agrees its subscriber units shall be removed from the COA System.
7. **Changes to the System:** The COA will have the sole discretion to update or change the COA System. The COA will not be responsible for any expenditure, losses, or other claims incurred by User that are caused by or attributed to such upgrades or changes to the COA System. User shall comply with all requirements resulting from such change within thirty (30) days of receipt of notice from the COA of any upgrades or any other changes to the COA System, including a change in vendor, reconfigurations required by a regulatory agency, fee or any other COA System changes. User shall pay its pro rata share of the expenses in any change in the System attributable to User's use of the COA System based upon the number of User's units.
8. **Violations of Law:** Alleged violations of any applicable law or regulatory requirements or this Agreement will be reviewed by the Commander. Upon finding a violation has occurred, the Commander in his/her discretion may require the User to remove unit(s) from the System, place the User on probation for a certain period of time not to exceed six (6) months, and take other remedial action. Persistent violations or misuse of the COA System, as determined in the Commander's sole discretion, may result in User being removed entirely from the COA System.
9. **User's Covenants and Warranties:** User covenants and warrants:
 - a. That it will restrict its use of the COA System to legitimate public safety related purposes of the User. The COA System shall not be used to conduct personal or unrelated business; and
 - b. User will abide by any and all rules and regulations created by the COA regarding the use of the COA System; and



- c. That all persons who will be operating subscriber units are properly trained and that no employee who is not properly trained will be allowed to use the COA System; and
- d. That it will provide proof of training within three (3) months of User's placement on the COA System and shall keep such training up to date; and
- e. That its employees who are trained and authorized to use the System will do so in compliance with this License Agreement and applicable law and regulations including, without limitation, federal, state, and COA, laws, regulations and ordinances.
- f. That User will not in any way infringe any patent, trademark or copyright associated with the COA System.

10. COA's Covenants and Warranties: COA covenants and warrants:

- a. That it will use reasonable efforts to maintain and support the COA System; and
- b. That it will use reasonable efforts to answer questions and facilitate use of the COA System by User; and
- c. That it will provide User reasonable notice of any voluntary upgrade or early compliance with regulations, mandates, requirements or directives affecting the COA System that will also affect User; and
- d. That it will use reasonable efforts to provide prompt information to User of violations, service interruptions, and modifications of subscriber units on the COA System to User; and
- e. That it will provide training to one (1) User representative who will in turn be responsible for training all of User's personnel authorized to operate a unit on the COA System.

11. Rebanding: Intentionally Omitted.

12. Inquiries from Regulatory Agencies: User shall be responsible, at the request of the COA, for responding to or assisting the COA in responding to any correspondence or complaint received by the COA from state or federal regulatory agencies involving User's conduct on the COA System. The COA agrees to use reasonable efforts to maintain and support the COA System, but not User's subscriber units. The COA shall use reasonable efforts to answer questions and facilitate use of the COA System by User. If User receives any inquiries or notices from any regulatory agency regarding use of the COA System, User shall immediately (and in no event longer than within three (3) days) notify the Commander of such inquiry or notice. User will cooperate with COA in responding to such inquiry or notice.

13. Indemnification and Hold Harmless: To the fullest extent allowed by law, the User shall defend, indemnify and hold harmless COA, its officers, agents and employees (herein "the COA"), from and against all suits, actions, legal or administrative proceedings, claims, damages, demands, liabilities, interest,



attorney's fees, costs and expenses of whatsoever kind or nature, arising from personal injury or property damage, including, without limitation, those arising out of injury to or death of User's employees, officers, agents (or anyone employed by User), the employee's family members, or any third party, whether arising before or after the term of this License Agreement which allegedly arise out of any intentional bad act or omission or negligent act or omission of the User of any one employed by the User or any of the User's and/or subcontractors'/sub-consultant's officers, or agents, whether active or passive in connection with the use of the COA System. User agrees that this indemnity will cover any claims of patent, trademark or copyright infringement brought against the COA as a result of User's use of the COA System.

- 14. Termination:** The COA shall have the right to terminate this License Agreement for its convenience by giving the User thirty (30) days prior written notice to do so and by specifying the effective date of such termination. Further, if the User fails to fulfill any of its obligations, the COA may, by giving written notice to the User, terminate the Agreement with said User for such default. The User may terminate this Agreement upon written notice to the COA not less than thirty (30) days prior to the effective date of said termination. The license granted under this License Agreement is not intended to and does not grant to User any property interest in the COA System nor does the COA make any warranties of any kind related to the equipment and service hereunder
- 15. Adherence to Grant Requirements:** The Parties acknowledge and agree that from time to time activities related to this License Agreement may be funded with money from grants from the federal or state government or other sources. The Parties agree that they will adhere to the terms of any such grants and shall perform their obligations under this License Agreement in accordance with such grants to the extent any such terms affect User's use of the COA System and COA's operation of the COA System.
- 16. Delivery** – All notices given by either party to the other under this agreement must be in writing and may be delivered by: (i) regular mail, postage prepaid and; (ii) certified or registered mail or; (iii) facsimile; or (iv) hand-delivery to the parties at the addresses and facsimile numbers set forth in the clause titled "Addresses for Notice."
- 17. Receipt** –Notices sent by certified or registered mail will be deemed to be received upon the date of the acknowledgement. Notices sent by facsimile will be deemed to be received upon successful transmission to the proper facsimile number. Notices delivered by hand-delivery will be deemed to be received upon acceptance by the respective party or its agent.



18. Change of Address or Facsimile Number – Either party may, at any time, change its respective address or facsimile number by sending written notice to the party of the change.

19. Addresses for Notice

To the City: City of Atlanta
Atlanta Police Department
675 Ponce De Leon Avenue
Atlanta, Georgia 30308
(404) 817-2370
Facsimile: (404) 853-7353
Attention: Communications Commander

With a copy to: City of Atlanta
City Attorney
Department of Law
68 Mitchell Street, S.W.
Suite 4100
Atlanta, Georgia 30303
(404) 330-6400
Facsimile: (404) 658-6894

To User: Grady Memorial Hospital Corporation d/b/a
Grady Health System®
80 Jesse Hill Jr. Drive, SW
Atlanta, Georgia 30303
Attn: Vice President of EMS

With a copy to: Grady Memorial Hospital Corporation d/b/a
Grady Health System®
80 Jesse Hill Jr. Drive, SW
Atlanta, Georgia 30303
Attn: Sr. Vice President of Legal Affairs/General Counsel

20. Incorporation of Exhibits – All exhibits, schedules, and other attachments (and any subsequent amendments thereto), attached to this agreement are incorporated within this Agreement as if set forth fully herein.

21. Legal Construction: If any provision contained in this agreement is held to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability will not effect any other provision of this agreement and this agreement will be construed as if the invalid, illegal or enforceable provision had never been contained in this agreement.



- 22. Waiver:** The failure of City to seek redress for any violation of, or to insist upon the strict performance of, any term of this agreement will not prevent a subsequent violation of this agreement from being actionable by City. The provision in this agreement of any particular remedy will not preclude City from any other remedy.
- 23. Counterparts:** This License Agreement may be executed concurrently in one or more counterparts, each of which will be deemed to be an original, but all of which will together constitute one (1) agreement.
- 24. Modifications:** This agreement may be altered or amended only by written instrument signed by City and User.
- 25. Disclaimer of Warranties:** COA designed the COA Network to provide reliable coverage. However, atmospheric, meteorological, topographical, and other conditions can affect the performance of any wireless network. Many of these conditions are beyond the reasonable control of a wireless network operator. Therefore, COA cannot guarantee that User will be able to access the COA Network without error or interruption. NETWORK ACCESS AND PERFORMANCE AND ANY ASSOCIATED EQUIPMENT, SOFTWARE, SERVICES OR DOCUMENTATION ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, UNDER CONTRACT, STATUTE, COMMON LAW, TRADE USAGE, CUSTOM, PRIOR COURSE OF DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.
- 26. EXCLUSION OF CERTAIN DAMAGES** NEITHER PARTY SHALL BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES.
- 27. Alternative Dispute Resolution** – User shall comply with all of the terms of this License Agreement pending resolution of any request for relief, dispute, claim, appeal or action arising under this License Agreement and comply with any decision of the COA. If the decision of the COA is not accepted by the User, the parties agree to attempt to resolve the dispute through the mediation format of Alternative Dispute Resolution ("ADR"). Either party may propose mediation by written request made within ninety (90) days of the City's final determination with which User disagrees. Each party will be responsible for its own expenses incurred to resolve the dispute, and the Parties agree to share equally the cost associated with the use of such mediator.



28. Governing law and venue - This agreement shall be governed by the laws of the State of Georgia. Jurisdiction and venue shall be in the federal and state courts located in Atlanta, Fulton County, Georgia.

29. Extent of Agreement – This License Agreement represents the entire agreement between the COA and the User with respect to the subject matter of this Agreement and supersedes any prior understandings whether written or oral between the COA and User. The parties agree that this License Agreement shall not become binding on the COA, and the COA shall incur no liability upon the same, until the agreement has been executed by the Mayor, officially sealed by the Clerk of Council and delivered to User.

30. Headings - Division of this Agreement into sections and the use of headings is for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement, or any provision hereof.

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The parties, acting by and through their duly authorized officers, have caused their hands to be hereunto affixed, as of the date and year first written above.

CITY OF ATLANTA

**GRADY MEMORIAL HOSPITAL
CORPORATION D/B/A GRADY
HEALTH SYSTEM®**

By: _____
Mayor

By: _____

Name: _____

Attest:

Municipal Clerk

Recommended:

Approved as to Form:

City Attorney



Mobile radios: Motorola

SCHEDULE A

76 - XTS2500

13 - XTL5000

33 - XTS5000



SCHEDULE B



SCHEDULE C

Upon execution of this document User shall pay to the COA the amount of three hundred and thirty-nine dollars and thirty cents (\$339.30) per subscriber unit, such rate having been approved by the Atlanta City Council, for (122 units) as set forth in Schedule A for and in consideration of this revocable non-transferable license with a payment each successive year equal to 102% of the amount paid the previous year. Said payment shall be due and payable on the anniversary of the execution date of this document."



SCHEDULE D

RCS# 709
12/06/10
2:33 PM

Atlanta City Council

REGULAR SESSION

CONSENT I EXCEPT 10-O-1919,10-O-1991,10-O-2107

ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	B Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		12-06-10
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 10-O-1656	42. 10-R-2128	83. 10-R-2034
2. 10-O-1878	43. 10-R-2132	84. 10-R-2035
3. 10-O-1879	44. 10-R-2005	85. 10-R-2036
4. 10-O-1920	45. 10-R-2072	86. 10-R-2037
5. 10-O-1921	46. 10-R-2073	87. 10-R-2038
6. 10-O-1990	47. 10-R-2108	88. 10-R-2039
7. 10-O-1992	48. 10-R-2119	89. 10-R-2040
8. 10-O-2095	49. 10-R-2120	90. 10-R-2041
9. 10-O-1893	50. 10-R-2121	91. 10-R-2042
10. 10-O-1894	51. 10-R-2124	92. 10-R-2043
11. 10-O-1895	52. 10-R-2011	93. 10-R-2044
12. 10-O-1965	53. 10-R-1996	94. 10-R-2045
13. 10-O-1966	54. 10-R-2000	95. 10-R-2046
14. 10-O-1967	55. 10-R-2001	96. 10-R-2047
15. 10-O-1993	56. 10-R-2002	97. 10-R-2048
16. 10-O-1995	57. 10-R-2074	98. 10-R-2049
18. 10-O-2094	58. 10-R-2075	99. 10-R-2050
19. 10-O-2105	59. 10-R-2076	100. 10-R-2051
20. 10-O-2106	60. 10-R-2012	101. 10-R-2052
21. 10-O-1914	61. 10-R-2013	102. 10-R-2053
22. 10-O-1915	62. 10-R-2014	103. 10-R-2054
23. 10-O-1972	63. 10-R-2015	104. 10-R-2055
24. 10-O-1973	64. 10-R-2015	105. 10-R-2056
25. 10-O-1974	65. 10-R-2016	106. 10-R-2057
26. 10-R-1657	66. 10-R-2017	107. 10-R-2058
27. 10-R-1922	67. 10-R-2018	108. 10-R-2059
28. 10-R-1924	68. 10-R-2019	109. 10-R-2060
29. 10-R-1925	69. 10-R-2020	110. 10-R-2061
30. 10-R-1926	70. 10-R-2021	111. 10-R-2062
31. 10-R-2008	71. 10-R-2022	112. 10-R-2063
32. 10-R-2109	72. 10-R-2023	113. 10-R-2064
33. 10-R-2084	73. 10-R-2024	114. 10-R-2065
34. 10-R-2086	74. 10-R-2025	115. 10-R-2066
35. 10-R-2087	75. 10-R-2026	116. 10-R-2067
36. 10-R-2088	76. 10-R-2027	117. 10-R-2068
37. 10-R-2089	77. 10-R-2029	118. 10-R-2069
38. 10-R-2090	78. 10-R-2030	119. 10-R-2070
39. 10-R-2113	79. 10-R-2031	
40. 10-R-2114	80. 10-R-2032	
41. 10-R-2115	81. 10-R-2033	
	82. 10-R-2129	