



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		08/13/12			
Department:		Public Safety Communications			
Department Head		Ron Timmons			
Agenda Coordinator (include phone #): Earl Whitaker x7074					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a technical services contract with Motorola Solutions, Inc.; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	146,116	0	0	146,116
Encumbered/Expended Amount	0	-10,322	0	0	-10,322
This Item	0	-55,849	0	0	-55,849
BALANCE	0	79,945	0	0	79,945
FUND(S): GENERAL					
COMMENTS: Funds are included in the FY 2011-12 Public Safety Communications Adopted Budget to provide a Motorola Radio Service Agreement for the maintenance, support or other services for the City of Plano Radio System. STRATEGIC PLAN GOAL: Providing a Motorola Service Agreement for the City's Radio System relates to the City's Goal of a Financially Strong City with Service Excellence.					
SUMMARY OF ITEM					
Staff request Council approval of an agreement between the City of Plano, Texas and Motorola Solutions, Inc. for Network Monitoring, Technical Support, and Customer Technician Dispatch Service Agreement for provision of services to the City's ASTRO25® Voice and Data Communications System from June 1, 2012 to September 30, 2012.					
List of Supporting Documents: Recommendation Memo, Sole Source Letter, Resolution and Agreement			Other Departments, Boards, Commissions or Agencies		



Date: 7/17/12

To: Sharron Mason, Purchasing

From: Ron Goldsmith, PSC

Ref: Sole Source purchase Recommendation Memo

Public Safety Communications recommends the purchase from Motorola Solutions Inc. of a (4) month service agreement.

This agreement allows Motorola Solutions Inc. to monitor the new digital radio system for faults and notify the on call radio technician for repairs. This service automatically notifies the appropriate personnel and tracks their response times and successful completion. Additionally, the agreement provides 24hr technical support to the radio technicians. Finally, this agreement provides software patches as needed for the radio infrastructure to protect against viruses and other network vulnerabilities.

Failure to approve this contract will result in the loss of online technical support, call out case management, technician dispatching and tracking as well as software security updates. These services are essential to maintaining the new digital radio system.

Motorola Solutions Inc. is the sole source provider of this service.

The cost of these services is \$55,849 and funded from the General Fund.

Phil Dyer
Mayor

Lissa Smith
Mayor Pro Tem

Ben Harris
Deputy Mayor Pro Tem

Pat Miner
Place 1

André Davidson
Place 3

Jim Duggan
Place 5

Patrick Gallagher
Place 7

Lee Dunlap
Place 8

Bruce D. Glasscock
City Manager



1507 LBJ Freeway
Farmers Branch, TX 75234
972-277-4608

July 17, 2012

Jim Raney
Radio Systems Coordinator
Plano, TX

This letter is to advise that Motorola Solutions Inc. is the sole source provider for depot repairs, monitoring services and technical support for the City of Plano's Radio Communications system. Motorola's depot is the centralized repair facility that provides expert infrastructure maintenance and repair for customers throughout North America. Our experienced, highly trained and certified repair technicians perform quality repairs with a guarantee that your repairs will be done correctly.

Motorola's technical support technicians are the only technicians trained to service the complex radio system and Motorola does not certify any other service providers to perform this service. State-of-the-art diagnostics equipment, repair tools, and an extensive inventory of replacement parts help us quickly analyze, isolate and provide expert repair on your Motorola equipment. With over 35 years of experience in depot repairs, the Motorola Depots are ISO 9001 and TL9000 certified. Only Motorola can assure that your equipment is repaired and reprogrammed to the correct operating parameters. All repairs are returned to original factory specifications by using parts specifically designed for your radios. Using Motorola OnLine (MOL), you can easily and quickly submit repair requests and check repair status.

Contracting directly with Motorola will assure Plano that its communications equipment will continue to operate properly today and in the future.

Sincerely,

John Martin
Customer Service Manager
Motorola Solutions, Inc.
214-681-6515

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a technical services contract with Motorola Solutions, Inc.; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the Public Safety Communications Department of the City of Plano utilizes an ASTRO25 voice and data communications system designed and manufactured by Motorola Solutions, Inc. and utilized by Public Safety and other City departments; and

WHEREAS, Motorola Solutions, Inc. is the sole source provider for network monitoring and technical support services for the ASTRO25 voice and data communications system; and

WHEREAS, the City Council has been presented a proposed network monitoring, technical support and customer technician dispatch service agreement between the City of Plano and Motorola Solutions, Inc., a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the Agreement should be approved, and that the City Manager or his designee shall be authorized to execute it on behalf of the City of Plano.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:

Section I. The City Council hereby finds and determines that Motorola Solutions, Inc. is the sole source provider for network monitoring and technical support for the City of Plano's ASTRO25 voice and data communications system, and, thus, the purchase of such services is exempt from competitive bid as provided for in TEXAS LOCAL GOVERNMENT CODE, Section 252.022(a)(7).

Section II. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section III. The City Manager, or his/her authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section IV. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this 13th day of August, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**NETWORK MONITORING, TECHNICAL SUPPORT AND CUSTOMER TECHNICIAN
DISPATCH SERVICE AGREEMENT
BETWEEN
THE CITY OF PLANO, TEXAS, AND
MOTOROLA SOLUTIONS, INC.**

MOTOROLA SOLUTIONS, INC. ("Contractor") and the **CITY OF PLANO, TEXAS** ("City") enter into this Network Monitoring, Technical Support, and Customer Technician Dispatch Service Agreement for provision of services to the City's ASTRO25® Voice and Data Communications System from June 1, 2012 to September 30, 2012, with the option for renewal as set forth herein.

**I.
EXHIBITS**

The exhibits listed below are incorporated into and made a part of this Agreement. In the event of an inconsistency or conflict between the provisions of this Agreement and the Exhibits, the provisions in this Agreement shall take precedence over the Exhibits, and any inconsistency or conflicts between the Exhibits shall be read and resolved in their listed order.

- (a) Contractor's Services Agreement (**Exhibit "A"**);
- (b) Statement of Work – Network Monitoring and Customer Technician Dispatch (**Exhibit "A-1"**);
- (c) Statement of Work – Technical Support Service (**Exhibit "A-2"**);
- (d) Statement of Work – Pre-Tested Software Subscription (PTSS) (**Exhibit "A-3"**);
- (e) Insurance Requirements (**Exhibit "B"**); and
- (f) Affidavit of No Prohibited Interest (**Exhibit "C"**).

**II.
SCOPE OF SERVICES**

The parties agree that Contractor shall perform such services as are further described in the Statements of Work attached hereto and incorporated herein as **Exhibits "A-1"**, **"A-2"**, and **"A-3"**. The parties understand and agree that deviations or modifications in the Statement of Work may be authorized from time to time by the City, but said authorization must be made in writing and signed by all parties.

**III.
WARRANTY**

Contractor warrants and covenants to City that all goods and services provided by Contractor, Contractor's subcontractors, and agents under the Agreement shall be free of defects and produced and performed in a skillful and workmanlike manner and shall comply with the specifications for said goods and services as set forth in this Agreement and **Exhibits "A-1"**, **"A-2"**, and **"A-3"**, as applicable. Contractor warrants that the goods and services provided

to City under this Agreement shall be free from defects in material and workmanship, for a period of ninety (90) days from the date that the goods or services are provided.

IV. PAYMENT

Total compensation for Contractor's services shall be in an amount not to exceed the sum of **FIFTY-FIVE THOUSAND, EIGHT HUNDRED FORTY-NINE AND NO/100 DOLLARS (\$55,849.00)** as set out in **Exhibit "A"**.

Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

V. PROTECTION OF EMPLOYEES AND THE PUBLIC

Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws. The safety precautions actually taken and the adequacy thereof shall be the sole responsibility of Contractor. Contractor shall indemnify City for any and all losses arising out of or related to a breach of this duty by Contractor pursuant to sections VII and VIII (Indemnification and Compliance with Applicable Law, respectively).

VI. LOSSES FROM NATURAL CAUSES

Unless otherwise specified, all loss or damage to Contractor arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstances in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the Contractor at its own cost and expense.

VII. INDEMNIFICATION AND HOLD HARMLESS

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S NEGLIGENT ACT, GROSSLY NEGLIGENT ACT OR WILLFUL MISCONDUCT OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES OR SUBCONTRACTORS WHILE PERFORMING DUTIES UNDER THIS

AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

CONTRACTOR AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, PROVIDED THAT THE CITY GIVES CONTRACTOR PROMPT WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. CITY SHALL COOPERATE WITH CONTRACTOR IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT. THIS SECTION SETS FORTH THE FULL EXTENT OF CITY'S GENERAL INDEMNIFICATION OF CONTRACTOR FROM LIABILITIES THAT ARE IN ANYWAY RELATED TO CITY'S PERFORMANCE UNDER THIS AGREEMENT. CONTRACTOR SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. INDEMNITY FOR INTELLECTUAL PROPERTY INFRINGEMENT

Contractor will defend at its expense any suit brought against City to the extent it is based on a third-party claim alleging that equipment manufactured by Contractor or Contractor's software ("Product") directly infringes a United States patent or copyright ("Infringement Claim"). Contractor's duties to defend and indemnify are conditioned upon: City promptly notifying Contractor in writing of the Infringement Claim; Contractor having sole control over the defense of the suit and all negotiations for its settlement or compromise; and City providing to Contractor cooperation and if, requested by Contractor, reasonable assistance in the defense of the Infringement Claim. In addition to Contractor's obligation to defend, and subject to the same conditions, Contractor will pay all damages finally awarded against City by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Contractor in settlement of an Infringement Claim. If an Infringement Claim occurs, or in Contractor's opinion is likely to occur, Contractor may at its option and expense; (a) procure for City the right to continue using the Product; (b) replace or modify the Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Product and grant City a credit for the Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards. Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Product with any software, apparatus, or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Product; (c) Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a

modification of the Product by a party other than Contractor; (e) use of the Product in a manner for which the Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by City to install an enhancement release to the Contractor software that is intended to correct the claimed infringement. In no event will Contractor's liability resulting from its indemnity obligation to City extend in any way to royalties payable on a per use basis or the City's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Contractor from sales or license of the infringing Product. This section provides City's sole and exclusive remedies and Contractor's entire liability in the event of an Infringement claim.

**IX.
COMPLIANCE WITH APPLICABLE LAWS**

Contractor shall at all times observe and comply with all federal, state and local laws, ordinances and regulations including all amendments and revisions thereto, which in any manner affect Contractor or the work. If Contractor observes that the work is at variance therewith, Contractor shall promptly notify City in writing.

**X.
VENUE**

The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Contract. The parties agree that this Contract is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

**XI.
ASSIGNMENT AND SUBLETTING**

Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned or sublet without the prior written consent of City, with the exception of wholly-owned subsidiaries of Contractor, and that no part or feature of the work will be sublet to anyone objectionable to City. Contractor further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract.

**XII.
INDEPENDENT CONTRACTOR**

Contractor covenants and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

XIII.

INSURANCE AND CERTIFICATES OF INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance coverage as set forth in the Insurance Requirements marked **Exhibit "B"** attached hereto and incorporated herein by reference. Contractor shall provide a signed insurance certificate verifying that they have obtained the required insurance coverage prior to the effective date of this Contract.

XIV. FORCE MAJEURE

Neither party is liable for delays or lack of performance resulting from any causes beyond the reasonable control of a party including acts of God or the public enemy, war, riot, civil unrest, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages any of which event(s) directly impact the Contractor's operations in the City.

XV. AFFIDAVIT OF NO PROHIBITED INTEREST

Contractor acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as **Exhibit "C"**.

XVI. SEVERABILITY

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.

XVII. ENTIRE AGREEMENT

This Contract and the Exhibits embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

XVIII. CONTRACT INTERPRETATION

Although this Contract is drafted by City, should any part be in dispute, the parties agree that the Contract shall not be construed more favorably for either party.

**XIX.
SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

**XX.
HEADINGS**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

**XXI.
EFFECTIVE DATE**

This Contract shall be effective from and after execution by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

MOTOROLA SOLUTIONS, INC.

DATE: _____

By: _____
Name: _____
Title: _____

CITY OF PLANO, TEXAS

DATE: _____

By: _____
Bruce D. Glasscock
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney



SERVICES AGREEMENT

Attn: National Service Support/4th fl
 1301 East Algonquin Road
 (800) 247-2346

Contract Number: S00001018445
 Contract Modifier: RN29-MAR-12 17:23:36

Date: 03/30/2012

Company Name: Plano, City Of Attn: Billing Address: P O Box 860358 City, State, Zip: Plano, TX, 75086 Customer Contact: Phone:

Required P.O.: No
 Customer # : 1011267912
 Bill to Tag # : 0028
 Contract Start Date: 06/01/2012
 Contract End Date: 09/30/2012
 Anniversary Day: May 31st
 Payment Cycle: IMMEDIATE
 PO #:

QTY	MODEL/OPTION	SERVICES DESCRIPTION	MONTHLY EXT	EXTENDED AMT
		***** Recurring Services *****		
1	SVC01SVC0032C	NETWORK MONITORING SERVICE - CTD	\$3,934.51	\$15,738.04
1	SVC150AD	ASTRO25 MASTER SITE		
1	SVC152AD	ASTRO25 PRIME SITE		
24	SVC153AD	ASTRO25 REMOTE SITE		
	SVC01SVC1104C	TECHNICAL SUPPORT SERVICE	\$5,691.47	\$22,765.88
1	SVC032AD	ASTRO25 MASTER SITE		
1	SVC034AD	ASTRO25 PRIME SITE		
23	SVC035AD	ASTRO25 REMOTE SITE		
1	SVC040AD	ASTRO25 DISPATCH SITE		
	SVC01SVC1105C	CUSTOMER TECHNICIAN DISPATCH SERVICE	\$1,315.01	\$5,260.04
1	SVC129AD	ASTRO25 MASTER SITE		
23	SVC132AD	ASTRO25 REMOTE SITE		
1	SVC137AD	ASTRO25 DISPATCH SITE		
1	SVC486AE	ASTRO25 PRIME SITE		
	SVC04SVC0016C	SECURITY UPDATE SERVICE	\$3,021.26	\$12,085.04
1	SVC973AE	SUS MASTER SITE STANDARD		

SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS	Subtotal - Recurring Services	\$13,962.25	\$55,849.00
	Subtotal - One-Time Event Services	\$.00	\$.00
	Total	\$13,962.25	\$55,849.00
	Taxes	-	-
	Grand Total	\$13,962.25	\$55,849.00
THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA.			

Subcontractor(s)	City	State
MOTOROLA SSC NETWORK SECURITY DO298	SCHAUMBURG	IL

Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

Section 1. APPLICABILITY

These Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

Section 2. DEFINITIONS AND INTERPRETATION

2.1. "Agreement" means these Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Service Terms and Conditions take precedence over any cover page; and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2. "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3. "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

Section 3. ACCEPTANCE

Customer accepts these Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

Section 4. SCOPE OF SERVICES

4.1. Motorola will provide the Services described in this Agreement and the Statement of Work documents attached as Exhibits to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

Section 5. EXCLUDED SERVICES

5.1. Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2. Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no

obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements. Should helicopter use or other unusual service expenses be deemed necessary by Motorola, written approval for the additional charges will be obtained from Customer prior to commencement of the work.

Section 7. CUSTOMER CONTACT

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

Section 8. PAYMENT

Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within thirty (30) days of the invoice in accordance with the terms of the Texas Prompt Payment Act, (Texas Government Code § 2251).

Section 9. WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10. DEFAULT/TERMINATION

10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable under the terms of the Texas Prompt Payment Act upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Section 12. EXCLUSIVE TERMS AND CONDITIONS

Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement or another contractual document made part of the Network Monitoring, Technical Support, or Customer Technician Dispatch Service Agreement between the parties; clearly indicate the intention of both parties to override and modify this Agreement or another contractual document between the parties; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request, except as required by law. Customer may not disclose, without Motorola's written permission or except as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

Section 15. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

Notwithstanding the others terms of this section, Motorola will agree to remove any such property within sixty (60) days of a written request from Customer to Motorola, and Customer will have no further duty to retain or safeguard the equipment should Motorola fail to remove the property at the expiration of the sixty-day period.

Section 16. GENERAL TERMS

16.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

16.2. This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed

16.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

16.4. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

16.5. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event

Statement of Work

Network Monitoring and Customer Technician Dispatch

Motorola will provide Network Monitoring and Customer Technician Dispatch Service to Customer Systems. These services are applicable only for the following system types: ASTRO®, ASTRO® 25, SmartZone®/OmniLink® v2.0.3 and higher, SmartNet®, Private Data (with a wireless network gateway) v2.0.3 and higher, and Harmony® Wireless Communications Systems.

The terms of this Statement of Work (SOW) are an integral part of the Motorola Service Terms and Conditions or other applicable Agreement(s) with the Customer to which this SOW is appended and made a part thereof by this reference.

1.0 Description of Services

Network Monitoring is a service designed to electronically monitor Elements of a Communication System for Events, as set forth in the Monitored Elements Table. When the Motorola System Support Center (SSC) detects an Event, trained technologists acknowledge and remotely diagnose the Event, and initiate an appropriate response per the customer profile. Appropriate responses could include, but are not limited to, continuing to monitor the Event for further development, transferring the Event to Technical Support or opening a Case for dispatch of a Customer's technician.

Motorola will provide Case management as set forth herein. The SSC maintains contact with the on-site Customer Technician until System Restoral occurs and Case is closed. The SSC will continuously track and manage Case activity from open to close through an automated Case tracking process.

2.0 Motorola Responsibilities:

- 2.1. Provide dedicated Connectivity through a private network connection necessary for monitoring ASTRO, ASTRO25, SmartZone/ OmniLink, Private Data, and Harmony Wireless Communications network types. The Connectivity Matrix set forth in Appendix 1 further describes the Connectivity options.
- 2.2. If determined necessary by Motorola, provide Motorola owned equipment for monitoring ASTRO and ASTRO 25 System elements.. If Motorola installs or replaces Motorola owned equipment, the type of equipment and location installed is listed in the Motorola Owned & Supplied Equipment Table.
- 2.3. If determined necessary by Motorola, provide Motorola owned equipment for monitoring SmartNet system elements. If Motorola installs or replaces Motorola owned equipment, the type of equipment and location installed is listed in the Motorola Owned & Supplied Equipment Table.
- 2.4. Verify Connectivity and Event monitoring prior to System Acceptance or Start Date.
- 2.5. Continuously receive data from Customer monitored System and Customer initiated service requests.
- 2.6. Remotely access the Customer's System to perform remote diagnosis as permitted by Customer pursuant to section 3.1.
- 2.7. Create a Case, as necessary. Gather information to perform the following:
 - 2.7.1. Characterize the issue
 - 2.7.2. Determine a plan of action
 - 2.7.3. Assign and track the Case to resolution.
- 2.8. Contact technician or other representative designated by Customer as the dispatch contact (Customer Contact) and provide necessary Case information collected in 2.7.
 - 2.8.1. If Customer contact does not respond to Motorola as required by the Customer Support Plan provided by Customer pursuant to section 3.5 below, Motorola will continue to attempt to reach Customer contact every 10 minutes until contact has been attempted for each name set forth in the pre-defined escalation contact table provided by Customer pursuant to section 3.5.2.
 - 2.8.2. Upon attempting each name on the pre-defined escalation contact table, Motorola will either send an email or leave a voice mail message with the Customer contact notifying Customer contact of the Case. Thereafter, Motorola will defer the Case to the next Standard Business Day.
 - 2.8.3. On the next Standard Business Day, Motorola will attempt to reach the Customer contact again as set forth in section 2.8.1. If all contacts on the Customer escalation table provided pursuant to 3.5.2 have been attempted, without receiving any Customer response, Motorola will close the Case. Motorola will

not be responsible for any damages of any kind arising out of or relating to the inability of Motorola to reach the Customer Contact or others on the Customer escalation table.

- 2.9. Escalate the Case per the escalation contact table provided by Customer pursuant to 3.5.2 if Customer's technician does not report site arrival, Response or Restoration within Customer requested Response times as set forth the Customer Support Plan.
- 2.10. Verify with Customer that Restoration is complete or System is functional, if required by Customer's repair Verification preference in the Customer Support Plan. If Verification by Customer cannot be completed within 20 minutes of Restoration, the Case will be closed and the Customer technician will be released.
- 2.11. Close the Case upon receiving notification from Customer indicating the Case is resolved.
- 2.12. Notify Customer of Case Status, as described in the Customer Support Plan at the following Case levels:
 - 2.12.1. Open and closed; or
 - 2.12.2. Open, assigned to Customer technician, arrival of Customer technician on site, deferred or delayed, closed.
- 2.13. Provide, when requested by Customer, the following reports, as applicable:
 - 2.13.1. Case activity reports to Customer.
 - 2.13.2. Network Monitoring Service reports for Customer System(s)
 - 2.13.3. Network Activity/Availability Reports for ASTRO 25, SmartZone/ OmniLink, and Private Data Systems only.
- 2.14. Respond in accordance to pre-defined Response times upon receipt from Customer of Customer managed passwords required for proper access to the Customer's System.

3.0 Customer Responsibilities:

- 3.1. Allow Motorola Continuous remote access to obtain System availability and performance data.
- 3.2. Allow Motorola to access System if firewall has been installed; provide permanent/dedicated access for SNMP traps (outbound) and ZDS polling (inbound). Also provide continuous utility service to any Motorola equipment installed or utilized at Customer's premises to support delivery of the Service.
- 3.3. Order and maintain dedicated dial-up phone lines for telephone service for SMARTNET System types. The Connectivity Matrix set forth in Appendix 1 further describes the Connectivity options.
- 3.4. Unless otherwise specified, Motorola recommends a private network connection for all other Systems. The Connectivity Matrix set forth in Appendix 1 further describes the Connectivity options.
- 3.5. Provide Motorola with pre-defined Customer information and preferences prior to Start Date necessary to complete Customer Support Plan, including, but not limited to:
 - 3.5.1. Case notification preferences and procedure
 - 3.5.2. Escalation contact table
 - 3.5.3. Severity Level definitions
 - 3.5.4. Site arrival preference and procedure
 - 3.5.5. Repair Verification preference and procedure
 - 3.5.6. Response and Restoration time commitments
 - 3.5.7. Submit changes in any information supplied in the Customer Support Plan to the Customer Support Manager.
- 3.6. Provide the following information when initiating a service request:
 - 3.6.1. Assigned System ID number
 - 3.6.2. Problem description and site location
 - 3.6.3. Other pertinent information requested by Motorola to open a Case.
- 3.7. Notify the SSC when Customer performs any activity that impacts the System. (Activity that impacts the System may include, but is not limited to, installing software or hardware upgrades, performing upgrades to the network, or taking down part of the system to perform maintenance.)
- 3.8. Respond to Motorola within 10 minutes of receipt of page or telephone call to accept assignment of Case. If Customer fails to contact Motorola within 10 minutes, Motorola will follow the escalation process described in section 2.8.1 above.
- 3.9. Report Restoration to Motorola upon resolution of Case within Restoration times set forth in the Customer Support Plan.
- 3.10. Report site arrival to Motorola within the Response and Restoration time commitments for all accepted cases if required in the Customer Support Plan.
- 3.11. Allow Motorola access to remove Motorola owned monitoring equipment upon cancellation of service.
- 3.12. Provide all Customer managed passwords required to access the Customer's System to Motorola upon request or when opening a Case to request service support or enable Response to a technical issue.



- 3.13. Pay additional support charges above and beyond the contracted service agreements that may apply if it is determined that System faults were caused by the Customer making changes to critical System parameters.
- 3.14. Cooperate with Motorola and perform all acts that are reasonable or necessary to enable Motorola to provide the services described in this SOW.

Appendix 1

Connectivity Matrix

System Type	Connectivity	Responsibility
Astro 25	T1	Motorola
SmartZone/OmniLink v3.5 and below	256K	Motorola
SmartZone/OmniLink v4 and above	512K	Motorola
Private Data	256K	Motorola
ARC 4000	T1 or VPN	Motorola
MESH	T1 or VPN	Motorola
Harmony	T1	Motorola
MotoBridge	T1 or VPN	Motorola
SmartNet	Dial-up	Customer

Private Network Connection IP VPN (All Customers)	Public Internet Connection IP VPN (Option Available only to Customers outside of the US)
Standard solution for real time Connectivity	Non Standard solution for Connectivity
Dedicated bandwidth configuration provided to monitor Customers	No dedicated bandwidth provided to monitor Customers
Protected from unauthorized intrusion	Low risk of unauthorized intrusion
Encryption available	Encryption is required
Connectivity available through Motorola	Customer provides Connectivity to the internet via an internet service provider selected by Customer.

Motorola Owned & Supplied Equipment Table

Equipment Type	Location Installed
	Master Site
Firewall/Router	Master Site for each Zone
System Support Server	

ASTRO 25 6.0 - 6.2	<p>Nortel; Packet Routing Network; Zone Controllers; Database Server; FullVision Server; Zone Statistical Server; Air Traffic Router; System Statistics Server; User Configuration Server; Packet Data Gateway Server; PBX; Interconnect Server; Motorola Gold Elite Gateway (MGEG); AEB; CEB; ARCADACS Cross Connect Switch; Simulcast RF Site (Site Controllers, Comparators, Stations); Intelli Repeater RF Site (Stations); Intelli Site Repeater RF Site (Site Controllers, Stations);</p> <p>MOSCAD Overlay (TenSr, Station, Channel Banks, TRAK GPS, Environmental Alarms, Microwave)</p>
SmartZone 4.1	<p>Zone Controllers; Database Server; Digital Interface Unit (DIU); Central Electronic Bank (CEB) Interface; AEB; FullVision Server; Air Traffic Router; System Statistics Server (Multi-Zone); Zone Statistical Server; User Configuration Server; NOVA 2000 (Interconnect); Remote RF Sites (Site Controllers Including Simulcast, Stations);</p> <p>MOSCAD Overlay (Stations-Non Trunked, Comparater, TenSr Channel Banks, Environmental Alarms, Microwave)</p>
ARC 4000	<p>Zone Controller, Network Manager Servers, User Configuration Server, Zone Database Server, FullVision Server, Air Traffic Router Server, Packet Data Router & Radio Network Gateway (IV&D), Data Collection Device, Master Site Router (Core, Gateway), Master Site Switches, Individual Site Routers, Individual Site Switches</p>
Astro LE	<p>Site Controllers; Environmental Alarms; Channel Banks</p>
SMARTNET Monitored by MOSCAD SiteSentry	<p>Site Controllers; Stations; Environmental Alarms; Channel Banks. Site Sentry is a canceled product. No new customers.</p>
Private Data	<p>Wireless Network Gateway (WNG); Radio Network Controller (RNC); Base Station</p>
Harmony (HWCS)	<p>MSO, EBTS</p>
MOTObridge	<p>SIP, OMC, Gateway Units</p>



Statement of Work

Technical Support Service

1.0 Description of Services

The Technical Support service provides centralized remote telephone support for technical issues that require a high level of communications systems expertise or troubleshooting on Equipment. The Motorola System Support Center's (SSC) Technical Support Operation is staffed with technologists who specialize in the diagnosis and resolution of system performance issues. Technical Support Service: (i) does not include software upgrades that may be required for issue resolution; (ii) does not include Customer training; (iii) is only available for those system types supported and approved by Technical Support Operations and (iv) limited to Infrastructure currently supported by Motorola,

Technical Support is applicable to the following system types: ASTRO®, ASTRO® 25, ARC 4000, SmartZone® v2.0.3 and higher, SmartZone®/OmniLink®, E911, Private Data v2.0.3 and higher, SmartNet®, Conventional Two-Way, Wireless Broadband and Digital In-Car Video.

The terms and conditions of this Statement of Work (SOW) are an integral part of Motorola's Service Terms and Conditions or other applicable Agreement to which it is attached and made a part thereof by this reference.

2.0 Motorola has the following responsibilities:

- 2.1. Respond to requests for Technical Support for the Restoration of failed Systems and diagnosis of operation problems in accordance with the response times set forth in the Remote Technical Support Response Times Table and the Severity Level defined in the Severity Definitions Table.
 - 2.1.1. If Infrastructure is no longer supported by Motorola, Technical Support will diagnosis the System but may not be able to resolve the issue without the Customer replacing the Infrastructure.
- 2.2. Advise caller of procedure for determining any additional requirements for issue characterization, and Restoration which includes providing a known fix for issue resolution when available.
- 2.3. Attempt remote access to System for remote diagnostics, when possible.
- 2.4. Maintain communication with the Servicer or Customer in the field until close of the Case, as needed.
- 2.5. Coordinate technical resolutions with agreed upon third party Vendor(s), as needed.
- 2.6. Escalate and manage support issues, including Systemic issues, to Motorola engineering and product groups, as applicable.
- 2.7. Escalate the Case to the appropriate party upon expiration of a Response time.
- 2.8. Provide Configuration Change Support and Work Flow changes to Systems that have dial in or remote access capability.
- 2.9. Determine, in its sole discretion, when a Case requires more than the Technical Support services described in this SOW and notify Customer of an alternative course of action.

3.0 Customer has the following responsibilities:

- 3.1. Provide Motorola with pre-defined information prior to Start Date necessary to complete Customer Support Plan.
 - 3.1.1. Submit changes in any information supplied in the Customer Support Plan to the Customer Support Manager.
- 3.2. Contact the SSC in order to access the Technical Support Operation, provide name of caller, name of Customer, System ID number, Service Agreement number, site(s) in questions, and brief description of the problem.
- 3.3. Supply on-site presence when requested by System Support Center.
- 3.4. Validate issue resolution prior to close of the Case.



- 3.5. Allow Motorola remote access to the System by equipping the System with the necessary Connectivity.
- 3.6. Remove video from Digital In-Car Video equipment prior to contacting Motorola. If Technical Support assists the Customer in removing video, the Customer acknowledges, understands and agrees that Motorola does not guarantee or warrant that it will be able to extract any captured video or that any captured video will not be damaged, lost or corrupted.
- 3.7. Acknowledge that Cases will be handled in accordance with the times and priorities as defined in Remote Technical Support Response Times Table and the Severity Level defined in the Severity Definitions Table.
- 3.8. Cooperate with Motorola and perform all acts that are reasonable or necessary to enable Motorola to provide the Technical Support service to Customer.

Severity Definitions Table

Severity Level	Problem Types
Severity 1 ③	Response is provided Continuously ③ Major System failure ③ 33% of System down ③ 33% of Site channels down ③ Site Environment alarms (smoke, access, temp, AC power). ③ This level is meant to represent a major issue that results in an unusable system, sub-system, Product, or critical features from the Customer's perspective. No Work-around or immediate solution is available.
Severity 2 ③	Response during Standard Business Day ③ Significant System Impairment not to exceed 33% of system down ③ System problems presently being monitored ③ This level is meant to represent a moderate issue that limits a Customer's normal use of the system, sub-system, product, or major non-critical features from a Customer's perspective
Severity 3 ③	Response during Standard Business Day ③ Intermittent system issues ③ Information questions ③ Upgrades/preventative maintenance ③ This level is meant to represent a minor issue that does not preclude use of the system, sub-system, product, or critical features from a Customer's perspective. It may also represent a cosmetic issue, including documentation errors, general usage questions, recommendations for product enhancements or modifications, and scheduled events such as preventative maintenance or product/system upgrades.

Remote Technical Support Response Times Table

SEVERITY	RESPONSE
Severity 1	Within 1 Hour from receipt of Notification, Continuously
Severity 2	Within 4 Hours from receipt of Notification, Standard Business Day
Severity 3	Within next Business Day, Standard Business Day

STATEMENT OF WORK

Pre-Tested Software Subscription (PTSS)

1.0 Definitions

Terms that are capitalized but not defined in this Statement of Work shall have the definition given to such terms in the Service Terms and Conditions, the Communications System Agreement or other applicable agreement. The following terms have the following meanings:

1.1 Non-Motorola Software: Software whose copyright is owned by a party other than Motorola or its affiliated company, including but not limited to the anti-virus definitions, operating system software patches and signature files that will be pre-tested pursuant to this Statement of Work.

1.2 System: The currently shipping Motorola ASTRO 25 System Release and up to 5 releases prior, with the last eligible release starting at 7.4.

1.3 Supported Release: Pre-Tested Software Subscription Platinum is available on the currently shipping Motorola ASTRO 25 System Release and up to 5 releases prior, with the last eligible release being 7.4. If a customer is on a System Release older than 7.4 (e.g., 7.3, 7.2, 6.9, etc.), or is outside of the 5 release schedule, then they cannot purchase this service.

2.0 Description of Services

With Pre-Tested Software Subscription ("Service"), Motorola pretests the updated commercial anti virus definitions for the Microsoft Windows based boxes on a System. This Service includes Motorola obtaining Microsoft Security Updates for Windows operating system, Solaris recommended patch bundles, Red Hat Linux security patches, anti-virus definitions* and intrusion detection sensor updates for Motorola supplied equipment from applicable original equipment manufacturer (OEM). Motorola will evaluate and pre-test each update on Motorola's ASTRO 25 test System components for operational impact. Motorola's verification and evaluation process for anti-virus definitions will consist of applying each update to an appropriate ASTRO 25 system release that corresponds and is consistent with supported** & fielded systems. Each assessment will consist of no less than 36 hours of examination time to evaluate the impact each anti-virus update has to the system. Upon satisfactory completion of the assessment pertaining to anti-virus signatures, these updates will be provided on a weekly basis either automatically or through connecting to Motorola's secured extranet



connection. When anti-virus definitions classified as Category 4 (Severe, difficult to contain) and Category 5 (Very Severe, very difficult to contain) by the commercial supplier are released, Motorola will determine if a high-priority release is necessary. Operating system updates/patches will be made available to our customers electronically upon successful testing in our lab environments on a monthly basis for Microsoft patches and on a quarterly basis for all others.

NOTICE: Automatic anti-virus and IDS updates are only available through our network security monitoring offering. Motorola will perform testing only on standard configurations certified by Motorola System Integration Testing (SIT) and Motorola supplied equipment/software prior to making an update available to Customers.

* - Not all systems are provided antivirus for Microsoft and UNIX platforms. To receive full antivirus support under this service offering, the customer must have a standard ASTRO 25 system that is supported and also has implemented antivirus for UNIX.

** - Supported is defined as the current system release and the last three prior. Support beyond this model requires approval from the Customer Service Manager and the Security Services Product Manager. For extended coverage, please communicate a formal request to your account manager.

The customer will be responsible for deploying Microsoft, Oracle, Sun Microsystems, UNIX, and Linux security updates from a Motorola provided secured extranet Web site. Antivirus and IDS updates will be capable of pushed automatically to the customer ASTRO25 network only if network security monitoring is acquired by the customer. If there is a recommended configuration change that is successfully tested on the ASTRO 25 test System, Motorola will provide detailed instructions for performing the configuration change. Pre-Tested Software Subscription - Platinum does not include software for system upgrades or implementation of any recommended remediation.

INCLUSIONS: Pre-Tested Software Subscription - Platinum is available on the currently shipping Motorola ASTRO 25 System Release and up to 5 releases prior, with the last eligible release being 7.4. If a customer is on a System Release older than 7.4 (e.g., 7.3, 7.2, 6.9, etc.), then they cannot purchase this service.

EXCLUSIONS: Systems that have non-standard configurations that have not been certified by Motorola SIT are specifically excluded from this Service unless otherwise agreed in writing by Motorola. Service does not include pre-tested intrusion detection system (IDS) updates for IDS solutions not purchased through Motorola. NICE Recorder, certain consoles, MARVILS, Symbol Equipment, AirDefense Equipment, AVL, and Radio Site Security products are also excluded. The scope of service coverage is defined by Motorola Services and is subject to change based on OEM support lifecycles. The terms and conditions of this Statement of Work are an integral part of Motorola's Service Terms and Conditions or other applicable Agreement to which it is attached and made a part thereof by this reference.

3.0 Motorola has the following responsibilities:

3.1 Obtain anti-virus definitions for the Microsoft Windows platform, intrusion detection sensor signatures for Motorola supplied IDS, Microsoft Security Updates for Windows Operating system, Solaris operating system recommended patch bundles, and Red Hat Linux security patches from Motorola selected commercial suppliers.

3.2 Evaluate anti-virus definitions classified as Category 4 and 5 by Motorola selected commercial supplier to determine if a high-priority release is required. Motorola in its discretion will determine the urgency of the update based on the impact to the System.

3.3 Identify and document latest System vulnerabilities and compliance issues discovered during quarterly vulnerability scan performed in Section 3.4.

3.6 Investigate new vulnerabilities and compliance issues that are identified in Sections 3.3 and 3.5 to determine a recommended response. Recommended response may include, but is not limited to, not applicable to ASTRO 25 System, deploy security software updates; deploy operating system security updates or patches; implement configuration changes; upgrade to current ASTRO 25 System Release (actual upgrade expense not included in this service offering); or recommending a compensating control.

3.7 Pre-test recommended remediation when applicable and make documentation and/or software updates available to Customer electronically.

3.8 Provide documented response with recommended remediation when applicable for all new vulnerabilities quarterly or at Motorola's discretion to Customer electronically.

3.9 Test anti-virus definitions, intrusion detection sensor signatures, and operating system security updates/patches by deploying them on a dedicated ASTRO 25 test System with the standard supported configurations, which include Motorola's then current approved cohabitated applications.

3.10 Confirm that tested anti-virus definitions, intrusion detection sensor signatures, and operating system security updates/patches do not degrade or compromise System functionality on dedicated test System within the standard supported configurations.

3.11 Address issues identified during testing to support functionality under the procedures specified in 3.10 above by working with Motorola selected commercial supplier or Motorola product development engineering team.

3.12 Release pre-tested anti-virus definitions and intrusion detection sensor signatures for Motorola supplied IDS electronically on a weekly basis upon successful completion of the weekly test cycle to be completed one week after release by commercial supplier unless an issue is detected or within 36 hours from Motorola selected commercial supplier's Category 4 & 5 certified virus definitions being available or at Motorola's discretion if determined by Motorola to be a high-priority release. Release may include the anti-virus definition file, intrusion detection sensor signatures, updated configuration files, instructions and other information deemed pertinent by Motorola.

3.13 Release Microsoft, Solaris and Red Hat Linux operating system security patches/updates when they are certified and available with instructions for obtaining patch/update for Customer deployment on the Customer system. Microsoft operating system security updates will be released monthly as available from Motorola selected commercial supplier upon successful completion of monthly test cycle. Solaris and Red Hat Linux operating system security patches will be released quarterly upon successful completion of quarterly test cycle or at Motorola's discretion.

3.14 Notify Customer when the latest release is available with instructions on where to obtain latest release.

3.15 Provide technical assistance if there is an issue with the installation of an update.

3.16 Maintain annual Customer subscriptions for anti-virus definitions and intrusion detection sensor signatures, with Motorola selected commercial supplier.

4.0 Customer has the following responsibilities:

4.1 Provide means for accessing pre-tested files electronically.

4.2 Deploy pre-tested files on Customer System as instructed in the "Read Me" text provided.

4.3 Implement recommended remediation(s) on Customer System as determined necessary by Customer.

4.4 Upgrade System to a Supported System Release as necessary to continue Service.

4.5 Identify one point of contact for issues specific to Pre-Tested Software Subscription.

4.6 Cooperate with Motorola and perform all acts that are reasonable and/or necessary to enable Motorola to electronically provide Pre-Tested Software Subscription Platinum to Customer.



4.7 Comply with the terms of the applicable license agreement between Customer and the Non-Motorola Software copyright owner.

4.8 Adhere closely to the System Support Center (SSC) troubleshooting guidelines provided upon system acquisition. A failure to follow SSC guidelines may cause Customer and Motorola unnecessary or overly burdensome remediation efforts that may result in a service fee to Customer.

5.0 WARRANTIES AND DISCLAIMER:

Motorola warrants that its services will be free of defects in materials and workmanship for a period of ninety (90) days following completion of the service. Your sole remedies are to require Motorola to re-perform the affected service or at Motorola's option to refund, on a pro-rata basis, the service fees paid for the affected service.

During the applicable Warranty Period, Motorola warrants that the tested anti-virus definitions, intrusion detection sensor signatures, and operating system security updates/patches do not degrade or compromise System functionality, and that after incorporation of the recommended remediation action the System Software, when used properly and in accordance with the Documentation, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Product and Software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which this information is provided) are collectively referred to as "Documentation." Whether a defect occurs will be determined solely with reference to the Documentation. Motorola does not warrant that Customer's use of the Software or Products will be uninterrupted or error-free or that the Software or the Products will meet Customer's particular requirements.

MOTOROLA DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO PRE-TESTED ANTI-VIRUS DEFINITIONS, DATABASE SECURITY UPDATES, OPERATING SYSTEM SOFTWARE PATCHES, AND INTRUSION DETECTION SENSOR SIGNATURE FILES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. FURTHER, MOTOROLA DISCLAIMS ANY WARRANTY CONCERNING THE NON-MOTOROLA SOFTWARE AND DOES NOT GUARANTEE THAT CUSTOMER'S SYSTEM WILL BE ERROR-FREE OR IMMUNE TO VIRUSES OR WORMS AS A RESULT OF THESE SERVICES.

INSURANCE REQUIREMENTS

1.0 General Provisions

- 1.1 The Contractor shall obtain and maintain the minimum insurance coverage set forth in this section. By requiring such minimum insurance, City shall not be deemed or construed to have assessed the risk that may or may not be applicable to the Contractor. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Contractor is not relieved of any liability or other obligation assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The insurance requirements listed below do not replace any warranty or surety (performance, payment, or maintenance) bonds if required by preceding or subsequent sections of this contract.
- 1.2 Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified herein or cover such subcontractors under its insurance coverage.
- 1.3 The Contractor agrees that the insurance requirements specified in this section do not reduce the liability Contractor has assumed in any indemnification/hold harmless section of this contract.
- 1.4 City reserves the right to approve the security of the insurance coverage provided pursuant to this section by insurers including terms, conditions and the Certificate of Insurance. Failure of the Contractor to fully comply with requirements of this section during the term of the contract will be considered a material breach of contract and will be cause for immediate termination of the contract at the option of City.
- 1.5 Insurance coverage required by this section shall:
- 1.5.1 Be on a primary basis, non-contributory with any other insurance coverage and/or self-insurance carried by City
 - 1.5.2 Be with an insurer possessing an A-VII. A. M. Best Rating
- 1.6 **Subcontractor Insurance.** If the contractor utilizes the services of another company or subcontractor, affiliate or non-affiliate, in order to fulfill the requirements covered under this Agreement, then those other companies or subcontractors must comply with the insurance provisions within this Agreement.

2.0 Minimum Insurance Coverage & Limits

2.1 Commercial General Liability. Contractor shall maintain commercial general liability and, if necessary commercial umbrella insurance as specified below.

2.1.1 Commercial general liability insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, product-complete operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

2.1.2 City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the commercial general liability using **ISO additional insured endorsement CG 20 10 and CG 20 37** or their equivalent, including coverage for City with respect to liability arising out of the completed operations of Contractor.

2.1.3 Limits of Insurance

- 2.1.3.1 \$1,000,000 Per Occurrence
- 2.1.3.2 \$1,000,000 Personal/Advertising Injury
- 2.1.3.3 \$2,000,000 General Aggregate
- 2.1.3.4 \$2,000,000 Products/Completed Operations Aggregate

3.0 Evidence of Insurance

3.1 Prior to commencement of work, and thereafter upon renewal or replacement of coverage required by this section, Contractor shall furnish City a certificate(s) of insurance, including for subcontractors cited in Section 1.6, executed by a duly authorized representative of each insurer, showing compliance with this section. **Contractor shall furnish copies of all endorsement to insurance policies as required by each section herein to the City.**

3.2 Failure of City to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

3.3 City shall have the right, but not the obligation, of prohibiting Contractor or any subcontractor from entering the project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the City.

- 3.4 Failure to maintain required insurance may result in termination of this contract at sole option of the City.
- 3.5 The Contractor shall furnish a Certificate of Insurance (COI) evidencing insurance coverage required by this section ten (10) business days preceding commencement of contracted service(s). The COI shall:
 - 3.5.1 List each insurers' NAIC Number or FEIN
 - 3.5.2 List **contract number, project name**/number, name of event, location (building name, building address, etc.), date(s) of event or service being performed
 - 3.5.3 State insurance is on a primary basis and non-contributory with any insurance/or self-insurance carried by City
 - 3.5.4 Specifically list reference to all endorsements required herein
 - 3.5.5 List the specific number of days cancellation provided pursuant to policy language for notice of cancellation on certificate
 - 3.5.6 List City of Plano, Risk Management Division, 7501 A Independence Parkway, Plano, Texas, 75025 in the Certificate Holder Section



MEMORANDUM OF INSURANCE

PRODUCER

AON RISK SERVICES CENTRAL, INC.
 AON CENTER
 200 EAST RANDOLPH STREET
 CHICAGO, ILLINOIS 60601

D/B/A Aon Risk Insurance Services of Illinois. CA License #0095623

THIS MEMORANDUM IS A MATTER OF INFORMATION ONLY. THIS MEMORANDUM DOES NOT AMEND, EXTEND OR ALTER THE COVERAGES AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A LIBERTY MUTUAL FIRE INSURANCE COMPANY

COMPANY B LIBERTY INSURANCE CORPORATION

COMPANY C

COMPANY D

INSURED

MOTOROLA SOLUTIONS, INC. AND ITS
 SUBSIDIARIES
 1303 EAST ALGONGUIN ROAD
 SCHAUMBURG, IL 60196

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY -Commercial General Liability -Occurrence	TB2-641-005169-072	7/01/2012	7/01/2013	GENERAL AGGREGATE	\$2,000,000
					PRODUCTS - COMP/OP AGG	Included
					PERSONAL & ADV INJURY	\$1,000,000
					EACH OCCURENCE	\$1,000,000
					FIRE DAMAGE (any one fire)	\$250,000
					MED EXP (any one person)	\$10,000
A	AUTOMOBILE LIABILITY -Any Auto	AS2-641-005169-012 (Domestic Auto- All Sates)	7/01/2012	7/01/2013	COMBINED SINGLE LIMIT	\$1,000,000
					BODILY INJURY (per accident)	
					BODILY INJURY (per accident)	
					PROPERTY DAMAGE	
	GARAGE LIABILITY				AUTO ONLY (each accident)	
					OTHER THAN AUTO ONLY	
					EACH ACCIDENT	
					AGGREGATE	
	EXCESS LIABILITY				EACH OCCURENCE	
					AGGREGATE	
B	WORKERS COMP & EMPLOYER'S LIABILITY	WA7-64D-005169-082 (Deductible) WC7-641-005169-092 (Retro)	7/01/2012	7/01/2013	<input checked="" type="checkbox"/> WC Statutory limits	
B					EL EACH ACCIDENT	\$1,000,000
					EL DISEASE-POLICY LIMIT	\$1,000,000
					EL DISEASE - EA EMPLOYEE	\$1,000,000
	OTHER					

FOR INFORMATIONAL PURPOSES ONLY

