

# MORROW COUNTY BOARD OF COMMISSIONERS MEETING AGENDA

Wednesday, January 5, 2022 at 9:00 a.m.

Bartholomew Building Upper Conference Room

110 N. Court St., Heppner, Oregon

**Zoom Meeting Information on Page 2**

1. **Call to Order and Pledge of Allegiance - 9:00 a.m.**
  2. **City/Citizen Comments:** Individuals may address the Board on topics not on the agenda
  3. **Open Agenda:** The Board may introduce subjects not on the agenda
  4. **Consent Calendar**
    - a. Approve Accounts Payable and Payroll Payables
    - b. Minutes: November 17<sup>th</sup> & 24<sup>th</sup>
    - c. Review Order No. OR-2017-01: Establishing a Rotating Cycle for the Chairmanship and Vice Chairmanship of the Board of Commissioners
    - d. Contract with Community Counseling Solutions, Inc. for Assessment and Planning for Behavioral Health Housing
    - e. Subdivision Plat for River Ridge Estates, Phase 4, Boardman
    - f. Designate County Road Official
    - g. Amendment 7 to Oregon Health Authority Intergovernmental Agreement #166052 for the Financing of Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services
    - h. Extension to Federal Lands Access Program Agreement, Federal Highway Administration
  5. **Business Items**
    - a. Tax Foreclosure Sale to Previous Owner (Mike Gorman, Assessor)
    - b. Award North County Janitorial Contract (Sandi Pointer, Public Works)
    - c. Award South County Janitorial Contract (Sandi Pointer)
    - d. Contract – Motorola Solutions, Inc. for 911 Phone System (Lt. Kristen Bowles)
    - e. Grant Agreement with Oregon Department of Land Conservation & Development for Economic Development Planning Grant (Tamra Mabbott, Planning Director)
    - f. Wheatridge Strategic Investment Program STEAM and STEM IGA (Kate Knop, Finance Director)
    - g. Request to Purchase CIS Endpoint Security Services (Darrell Green, County Administrator)
    - h. Review BOC Committee & Board Assignments for 2022
    - i. Updated COVID-19 Vaccination Policy
    - j. Building Project Updates
  6. **Department Reports**
    - a. Administrator's Monthly Report (Darrell Green)
    - b. Sheriff's Office Monthly Report (Administrative Lieutenant Melissa Ross)
    - c. Fair Office Quarterly Report (Ann Jones)
    - d. District Attorney Quarterly Report (Justin Nelson)
  7. **Correspondence**
  8. **Commissioner Reports**
  9. **Signing of documents**
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## 10. Adjournment

Agendas are available every Friday on our website ([www.co.morrow.or.us/boc](http://www.co.morrow.or.us/boc) under “Upcoming Events”). Meeting Packets can also be found the following Monday.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Roberta Lutchter at (541) 676-5613.

Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the meeting; however, the Board may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend. Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media. The Board may recess for lunch depending on the anticipated length of the meeting and the topics on the agenda. If you have anything that needs to be on the agenda, please notify the Board office before noon of the preceding Friday. If something urgent comes up after this publication deadline, please notify the office as soon as possible. If you have any questions about items listed on the agenda, please contact Darrell J. Green, County Administrator at (541) 676-2529.

### **Zoom Meeting Information**

<https://zoom.us/j/5416762546>

**PASSWORD: 97836**

Meeting ID: 541-676-2546

#### Zoom Call-In Numbers for Audio Only Using Meeting ID 541-676-2546#:

- 1-346-248-7799
- 1-669-900-6833
- 1-312-626-6799
- 1-929-436-2866
- 1-253-215-8782
- 1-301-715-8592

Morrow County Board of Commissioners Meeting Minutes  
November 24, 2021  
Bartholomew Building Upper Conference Room  
Heppner, Oregon

**Present In-Person**

Chair Don Russell, Commissioner Jim Doherty, Commissioner Melissa Lindsay, Darrell J. Green, Katie Imes, Roberta Lutchter, Aaron Moss

**Present Via Zoom**

Staff: Stephanie Case, SaBrina Bailey Cave, Mike Gorman, Lindsay Grogan, Deanne Irving, Tamra Mabbott, Justin Nelson, Jaylene Papineau, Sandi Pointer, Linda Skendzel, Heidi Turrell;  
Non-Staff: JoAnna Lamb, Aaron Palmquist, Karen Pettigrew

**City & Citizen Comments:** None

**Open Agenda:** No items

**Consent Calendar**

The contract with Ducote Consulting was moved to Business Items.

*Commissioner Doherty moved to approve the following items in the Consent Calendar:*

1. *Accounts Payable and Payroll Payables*
2. *Minutes: September 22<sup>nd</sup>, October 6<sup>th</sup>, 13<sup>th</sup>, 20<sup>th</sup> & 27<sup>th</sup>*
3. *Curloo Estates Subdivision Plat, located in the City of Irrigon*
4. *Applications for Tax Refunds: Meenderinck Land Company LLC and Devin Oil Co., Inc.*
5. *Airport Advisory Committee Reappointment Request: Barbara Van Arsdale representing Tenant/Pilot; term to be November 24, 2021 to November 24, 2024*

*Commissioner Lindsay seconded. Unanimous approval.*

**Business Items**

Contract with Ducote Consulting for Grant Writing & Environmental Services

*Commissioner Lindsay said, based on the last conversation, she moved to approve the contract with Ducote Consulting to assist with the U.S. Economic Development Administration (EDA) grant applications using American Rescue Plan Act of 2021 funds out of the Resiliency budget line. Commissioner Doherty seconded. Discussion: Administrator Darrell Green asked if the Commissioners approved of Planning Director, Tamra Mabbott, continuing to take the lead and work with Mr. Ducote. The discussion turned to how environmental services fit into the contract, and the response was some of the proposed projects have potential environmental issues, such as the former mill site in Heppner or the Robinson subdivision property. Unanimous approval.*

Commissioner Lindsay said most of the work would be done by Mr. Ducote but if was too much for Ms. Mabbott, she'd be happy to take the lead or work with the Planning Director to steer her along and act as a liaison. She then expanded on the environmental issues – the work at the mill site would be around flood plain mitigation; in Ione it would involve the placement of the drain field; and the Heppner subdivision would be working through water quality if a well is dug and

siting it properly. Later in the discussion, Chair Russell and Commissioner Doherty agreed to have Commissioner Lindsay work with Ms. Mabbott and to act as the liaison.

#### Second Review of Graphics for the New Public Transit Buses

Katie Imes, Coordinator, The Loop

Ms. Imes presented the revised graphics for the three buses on order from Creative Bus Sales. She said shortly before the buses arrive, she planned to obtain new quotes and prepare a cost comparison to select the vendor for the graphics. Discussion.

*Commissioner Lindsay moved to adopt the second review design. Commissioner Doherty seconded. Unanimous approval.*

#### Command Team Update

Paul Gray, Emergency Manager

- Regional statistics for intensive care unit (ICU) beds occupied by COVID patients: 34% last week; 7% this week.
- The Occupational Safety and Health Administration (OSHA) rules were stopped by the U.S. Court of Appeals for the Fifth Circuit and are being taken up by the Sixth Circuit.
- OSHA rules state employers are to gather the vaccine card information from employees and are not required to verify authenticity. Submission is voluntary at this point, pending the outcome at the Sixth Circuit and decisions at the state level.
- Vendors for COVID tests are being explored and it's estimated the County will need at least 1,200 tests at an estimated cost of \$15,000.

#### Building Project Updates

Darrell Green, Administrator

- Courthouse Feasibility Study – Final report from DLR Group will be submitted by November 30<sup>th</sup>, including the fourth option to build a separate building.
- Morrow County Government Center Building – Power was installed last week. In order to get 25 phone lines to the building and the Sheriff's Office Irrigon Annex, a new phone line and conduit need to be installed at a cost of approximately \$31,000. The first punch list walk-through took place last week and another is scheduled for December 2<sup>nd</sup>. Nothing major was found but the power was not on during part of the walk-through. The parts for the heated sidewalks arrived but they were faulty, meaning ADA accessible decks will be built at an additional cost of \$5,103. The audio-visual system components have not arrived and the timeline to obtain them is unknown. December 7<sup>th</sup> is the new move-in date.

#### **Department Reports**

- The written Road Department Monthly Report was reviewed.

#### **Correspondence**

- Article from the La Grande Observer titled, "New housing gives veterans a brand-new home and a fresh start."

- Portland State University's Preliminary July 2021 Population Estimate for Morrow County – 12,635.
- Morrow County Planning Commissioner 2022 Meeting Schedule.

**Commissioner Reports**

Reports of activity were provided.

**Signing of documents**

**Adjourned:** 10:00 a.m.

DRAFT

**Morrow County Board of Commissioners Meeting Minutes**  
**November 17, 2021**  
**Bartholomew Building Upper Conference Room**  
**Heppner, Oregon**

**Present In-Person**

Staff: Kate Knop, Roberta Lutcher

**Present Via Electronic Means**

Chair Don Russell, Commissioner Melissa Lindsay, Commissioner Jim Doherty, Darrell J. Green, Aaron Moss, Justin Nelson

**Call to Order, Pledge of Allegiance and Roll Call:** 8:46 a.m.

**City & Citizen Comments:** None

**Open Agenda:** No items

**Consent Calendar**

*Commissioner Doherty moved to approve the following items in the Consent Calendar:*

- 1. Accounts Payable and Payroll Payables*
- 2. Minutes: September 15<sup>th</sup>*

*Commissioner Lindsay seconded. Unanimous approval.*

Chair Russell said that concluded the agenda and he hoped the representatives from Morrow County attending the Association of Oregon Counties Annual Conference in Eugene were learning a great deal and enjoying the in-person meetings with fellow commissioners from around the state.

**Adjourned:** 8:49 a.m.

**BEFORE THE BOARD OF COMMISSIONERS  
FOR MORROW COUNTY, OREGON**

IN THE MATTER OF A RESOLUTION )  
ESTABLISHING A ROTATING CYCLE )  
FOR THE CHAIRMANSHIP AND VICE ) RESOLUTION NO. R-2017-01  
CHAIRMANSHIP OF THE )  
MORROW COUNTY BOARD OF )  
COMMISSIONERS )

**WHEREAS**, the Morrow County Board of Commissioners have voted to equalize their three positions; and

**WHEREAS**, the chairmanship and vice chairmanship of the Board of Commissioners will rotate; and

**WHEREAS**, the present Board of County Commissioners feels the need to establish a pattern for the rotation of the chairmanship and vice chairmanship; and

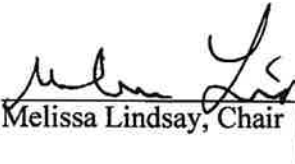
**WHEREAS**, position one is currently occupied by Jim Doherty, position two is currently occupied by Don Russell, and position three is currently occupied by Melissa Lindsay; now therefore:

**THE MORROW COUNTY BOARD OF COMMISSIONERS RESOLVES AS  
FOLLOWS:**

That the chairmanship and vice chairmanship will rotate by elected positions of the commissioners with position three occupying the chair and position two occupying the vice chair in 2017, position two occupying the chair and position one occupying the vice chair in 2018, position one occupying the chair and position three occupying the vice chair in 2019 and then repeating the cycle for future years.

Dated this 25<sup>th</sup> day of January, 2017.

**MORROW COUNTY BOARD OF COMMISSIONERS  
MORROW COUNTY, OREGON**

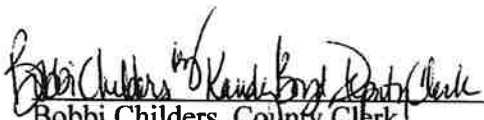
  
Melissa Lindsay, Chair

  
Don Russell, Commissioner, Vice Chair


  
Jim Doherty, Commissioner

Attest:



  
Bobbi Childers, County Clerk

Approved as to Form:

  
Morrow County Counsel  
Justin Nelson  
OSB # 074460

MORROW COUNTY, OREGON **CJ2017-0024**  
Commissioners' Journal 01/25/2017 3:47:01 PM



2017-0024  
I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Bobbi Childers - County Clerk







# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners  
(Page 1 of 2)

(For BOC Use)  
Item #  
4d

Please complete for each agenda item submitted for consideration by the Board of Commissioners  
(See notations at bottom of form)

Presenter at BOC: Christy Kenny Date submitted to reviewers:  
 Department: LPSCC/Morrow County Requested Agenda Date: 1/5/22  
 Short Title of Agenda Item: Assessment & Planning for Behavioral Health Housing contract between Morrow County and  
(No acronyms please) Community Counseling Solutions

**This Item Involves:** (Check all that apply for this meeting.)

<input type="checkbox"/> Order or Resolution <input type="checkbox"/> Ordinance/Public Hearing: <input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading <input type="checkbox"/> Public Comment Anticipated: Estimated Time: <input type="checkbox"/> Document Recording Required <input checked="" type="checkbox"/> Contract/Agreement	<input type="checkbox"/> Appointments <input type="checkbox"/> Update on Project/Committee <input checked="" type="checkbox"/> Consent Agenda Eligible <input type="checkbox"/> Discussion & Action Estimated Time: <input type="checkbox"/> Purchase Pre-Authorization <input type="checkbox"/> Other
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N/A Purchase Pre-Authorizations, Contracts & Agreements

Contractor/Entity: Community Counseling Solutions  
 Contractor/Entity Address: PO BOX 469 Heppner, OR 97836  
 Effective Dates – From: December 15, 2021 Through: August 15, 2022  
 Total Contract Amount: \$50,000 Budget Line:  
 Does the contract amount exceed \$5,000?    Yes    No

Reviewed By:

Christy Kenny	12/16/21 <i>DATE</i>	Department Director	
			Required for all BOC meetings
	DATE	Administrator	
			Required for all BOC meetings
Justin Nelson via email	12/16/21 <i>DATE</i>	County Counsel	
			*Required for all legal documents
Kate Knop via email	12/30/21 <i>DATE</i>	Finance Office	
			*Required for all contracts; other items as appropriate.
	DATE	Human Resources	
			*If appropriate

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

**Note:** All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

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## **1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Morrow County was awarded a behavioral health housing planning grant in the amount of \$50,000 from the Oregon Health Authority (OHA). This was Oregon Health Authority Intergovernmental Grant Agreement #172717.

The contract between Morrow County and Community Counseling Solutions is to subcontract all of the services contained in the Oregon Health Authority Intergovernmental Grant Agreement #172717. This will increase community engagement and work with community partners to increase capacity for culturally and linguistically appropriate housing and residential service options.

## **2. FISCAL IMPACT:**

Morrow County is receiving revenue up to \$50,000 for the OHA contract, #172717, for disbursement to CCS and Jessica Rose.

Revenue: #101-112-3-80-7075, \$50,000; and

Expenditures: #101-112-5-20-3440 up to: \$38,000 for CCS, and \$12,000 for Jessica Rose.

## **3. SUGGESTED ACTION(S)/MOTION(S):**

Motion to approve Assessment & Planning for Behavioral Health Housing contract between Morrow County and Community Counseling Solutions.

Attach additional background documentation as needed.

**From:** Christy Kenny  
**Sent:** Thursday, December 30, 2021 3:17 PM  
**To:** Roberta Lutcher <rlutcher@co.morrow.or.us>  
**Subject:** Re: MOCO/CCS Planning contract

Hi Roberta,

Here is the updated cover sheet. Kate has reviewed and no objections. I have sent the contract to Kimberly and will forward it on to you once she signs it.

Hope you have a great new year!

Thanks,  
Christy

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**CONTRACT BETWEEN  
MORROW COUNTY  
AND  
COMMUNITY COUNSELING SOLUTIONS, INC  
Assessment & Planning for Behavioral Health Housing**

This Contract, made and entered into by and between **MORROW COUNTY**, a political subdivision of the State of Oregon, hereinafter referred to as "County," and **COMMUNITY COUNSELING SOLUTIONS, INC.**, a non-profit corporation, incorporated under the laws of the State of Oregon, hereinafter referred to as "Provider."

WHEREAS, County applied for and was awarded a grant to increase capacity for culturally and linguistically appropriate housing and residential service options; and

WHEREAS, County has entered into an Intergovernmental Grant Agreement, Number 172717, with the State of Oregon, ("Grant Agreement") to receive grant funding not-to-exceed \$50,000, for the period November 16, 2021 to June 30, 2022, for the services; and

WHEREAS, under the terms of the Grant Agreement, the County was to provide the services through a contract with Community Counseling Solutions; and

WHEREAS, Provider has available, or can cause to be made available, the facilities and staff required for the performance of the services; now, therefore,

IT IS HEREBY AGREED by and between the parties above mentioned, for and in consideration of the mutual promises hereinafter stated, as follows:

**1. PARTIES**

1.1 **Parties.** The parties to this agreement are Morrow County and Community Counseling Solutions, Inc.

1.2 **Notices.** Any communication between the parties shall be given in writing by personal delivery, email, facsimile, or USPS mailing with postage prepaid and addressed to County or Provider as set forth below. The parties will notify each other when their contact information changes. Delivery by email and/or facsimile shall be effective on the day of transmitting. Personal delivery is effective upon actual delivery. Delivery by mail shall be two (2) days after mailing.

**County:**  
Morrow County  
Board of Commissioners  
P.O. Box 788  
Heppner, OR 97836  
mlindsay@co.morrow.or.us

**Provider:**  
Community Counseling Solutions  
P.O. Box 469  
Heppner, OR 97836  
Attn: Executive Director  
Fax: (541) 676-5662

1.3 **Independent Contractor.** The parties agree and acknowledge and their relationship is that of independent contracting parties and that Provider is not an officer, employee, or agent of the County as those terms are used in ORS 30.265 or otherwise.

**2. EFFECTIVE DATE AND DURATION**

2.1 This Contract shall become effective on December 15, 2021. Unless earlier terminated as provided in this document, the Contract will expire August 15, 2022.

2.2 Termination of this Contract shall not extinguish or prejudice County's right to enforce this Contract with respect to: (i) any default or defect in Provider's performance that has not been cured. Provider and County agree that this Contract may continue until terminated. However, in no event is Provider required or authorized to provide any services unless current Intergovernmental Agreements between the County and the State are in place.

**3. PROVIDER REPRESENTATIONS**

A Grant Agreement: Provider shall comply with all applicable provisions of Intergovernmental Grant Agreement, Number 172717, with the State of Oregon, for in the planning and development of behavioral health housing in Morrow County, as further outlined in Exhibit A of the Agreement.

B Grant Goal: The grant goal is to conduct a needs assessment, planning and develop a comprehensive site proposal and financial mode for construction and operations for housing for behavioral health needs in Morrow County

C Non Discrimination: Provider will not discriminate against any person because of age, gender, race, color, creed, national origin marital status, or physical/mental disabilities.

D Financial Audit: Provider shall provide County with a financial review that is inclusive of county specific supplemental information in relation to the financial statements as a whole. Federal requirements shall supersede State requirements as applicable.

E Compliance with Regulations: Provider agrees to comply with the rules and regulations set down by County as well as applicable provisions of the Administrative Rules and Procedures of Federal and State law relating to Provider's performance of services under this Contract. Any act or duty of County imposed upon County by Department, which by the nature of this Contract, County and Provider determine to be within the scope of this Contract, will be performed by Provider.

F Indemnity: Provider shall be responsible for any and all claims, demands, suits and causes of action alleging any injury or death, property damage or other claim caused by the negligence of Provider, its agents and employees, and arising directly or indirectly from the activities or operations of Provider, its agents or employees, and agrees to hold harmless the State of Oregon and Morrow County therefrom.

G Lack of Funds: Any claim for injury, illness or death to any person due to a lack, or withdrawal of funds by the State of Oregon, Department or County, which Provider could reasonably have relied upon, and when said funds were withheld, withdrawn or otherwise made unavailable to Provider, and such injury, illness or death was a direct result of such lack or withdrawal of funds, shall not be the responsibility of Provider.

H Certificate of Insurance: Provider shall name the State of Oregon, OHA, County, and their employees as additional insured's on all policies required by this Contract. Copies of certificates of insurance on all policies shall be forwarded to County, showing that the insurance company issuing any policy is authorized to do business in the State of Oregon, and that in the event of a policy cancellation, a 30-day cancellation notice will be issued to each named insured, and shall be included within the terms of the issued policy or policies. Provider shall immediately notify County orally of any notice of cancellation it may receive from any insurance company. Oral notice will be followed by written notice within three (3) days.

4. **PROVIDER COVENANTS**

A Scope of Services: Provider shall comply with the terms of the Grant Agreement #172717 and provide the required services.

B Reporting Requirements: Provider will prepare and provide the reporting requirements as set out in the Grant Agreement. This will include two progress reports, due December 31, 2021 and April 30, 2022, and final recommendation report, due August 15, 2022.

C. State Terms: Exhibits A (Standard Terms and Conditions), B (Subcontractor Insurance) and C (Recipient's Proposal) are attached to this agreement and are incorporated into this agreement by this reference. Provider agrees to comply with all provisions of the grant as if it were the Recipient providing all identified programs that County was to provide under the Grant Agreement between County and the State of Oregon.

5. **COUNTY COVENANTS**

A Amount of Funds: Funds will be disbursed to Provider from County for the grant services in one payment of approximately \$38,000, remaining funds will stay with Morrow County to be used for support of LPSCC Coordinator to oversee process.

6. **TERMINATION**

A Termination: All or part of this Contract may be terminated by mutual consent of both parties with 60 (sixty) days written notice.

B County Termination: County may terminate all or part of the Contract for cause as follows:

a. With 60 days' notice, if Federal or State regulations are modified or changed in such a way as to make impossible the performance of provisions of this Contract by County or Provider.

- b. Upon notice of denial, revocation, or non-renewal of any letter of approval, license, or certificate required by law or regulation to be held by the Provider as a prerequisite to provide the services specified under this Contract.
- c. With 60 days' notice, if Provider fails to provide services, or substantially fails to meet any performance standard as specified in this Contract, or subsequent modifications which may be made to this Contract, within a reasonable time.
- d. Upon notice, if County has evidence that the Provider has endangered or is endangering the health and safety of clients, staff or the public.

C Time for Remedy: Prior to termination of this Contract, Provider shall be given a reasonable opportunity to defend itself and to gather evidence to refute the allegations against it, and/or to correct the problem within a reasonable time.

D Recovery of Property: In the event this Contract is terminated, Provider shall dispose of any property formerly belonging to County in the manner provided for in Provider's Articles of Incorporation.

**7. GENERAL PROVISIONS**

A Assignment: No portion of this Contract shall be assigned by Provider without the prior written consent of County, provided, however, that this restriction shall not prevent Provider from contracting with other individuals and corporations as provided for herein.

B Settlement of Disputes: Differences between Provider and County, or between providers, will be resolved when possible at appropriate management levels, followed by consultation between boards, if necessary. The Provider's Executive Director will have ultimate responsibility for resolution of disputes among sub-Contract agencies.

C Attorneys' Fees: In the event any suit or action is filed alleging a breach of any covenant of the Contract herein, each party shall be responsible for its own attorney's fees, expenses, costs and disbursements on account of such suit or action, including any such fees or costs on appeal.

Community Counseling Solutions, Inc.

Morrow County

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Jim Doherty, Chair  
Board of Commissioners

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Standard Terms and Conditions**

**1. Governing Law, Consent to Jurisdiction.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OHA or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.

**2. Compliance with Law.**

Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.

**3. Independent Parties.**

The parties agree and acknowledge that their relationship is that of independent parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

**4. Grant Funds; Payments.**

- a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that OHA's participation in this Agreement is contingent on OHA receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
- b. Disbursement Method. Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other OHA Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, Recipient must provide its taxpayer identification number (TIN)



and other necessary banking information to receive EFT payment. Recipient must maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient must provide this designation and information on a form provided by OHA. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, Recipient will provide the changed information or designation to OHA on a OHA-approved form.

**5. Recovery of Overpayments.**

Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended ("Unexpended Funds") on the earlier of termination or expiration of this Agreement must be returned to OHA. Recipient shall return all Misexpended Funds to OHA promptly after OHA's written demand and no later than 15 days after OHA's written demand. Recipient shall return all Unexpended Funds to OHA within 14 days after the earlier of termination or expiration of this Agreement. OHA, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 14 of this Exhibit.

**6. Ownership of Work Product. Reserved.**

**7. Contribution.**

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the Recipient (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such

expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Recipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Recipient on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Recipient on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

This Section shall survive expiration or termination of this Agreement.

**8. Indemnification by Subcontractors.**

Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims. This Section shall survive expiration or termination of this Agreement.

**9. Default; Remedies; Termination.**

**a. Default by Recipient.** Recipient shall be in default under this Agreement if:

- (1) Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- (2) Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by OHA to measure compliance with this Agreement, the expenditure of disbursements or the desired outcomes by Recipient is untrue in any material respect when made;

- (3) Recipient (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
- (4) A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

b. OHA's Remedies for Recipient's Default. In the event Recipient is in default under Section 9.a., OHA may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

- (1) termination of this Agreement under Section 9.c.(2);
- (2) withholding all or part of monies not yet disbursed by OHA to Recipient;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 5. of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and OHA may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Recipient was not in default under Section 9.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 9.c.(1).

c. Termination.

- (1) OHA's Right to Terminate at its Discretion. At its sole discretion, OHA may terminate this Agreement:

- (a) For its convenience upon 30 days' prior written notice by OHA to Recipient;
  - (b) Immediately upon written notice if OHA fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
  - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that OHA's support of the program under this Agreement is prohibited or OHA is prohibited from paying for such support from the planned funding source.
  - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or benefitting from services under this Agreement "OHA Client", including any Medicaid Eligible Individual, under its care.
- (2) OHA's Right to Terminate for Cause. In addition to any other rights and remedies OHA may have under this Agreement, OHA may terminate this Agreement immediately upon written notice to Recipient, or at such later date as OHA may establish in such notice if Recipient is in default under Section 9.a.
- (3) Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (4) Return of Property. Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to OHA all of OHA's property that is in the possession or under the control of Recipient at that time. This Section 9.c.(4) survives the expiration or termination of this Agreement.
- (5) Effect of Termination. Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to OHA, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by OHA, OHA expressly directs otherwise.

**10. Insurance.**

All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

**11. Records Maintenance, Access.**

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and

writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OHA and the Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:

- a. Six years following final payment and termination of this Agreement;
- b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
- c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

**12. Information Privacy/Security/Access.**

If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants Recipient or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.

**13. Assignment of Agreement, Successors in Interest.**

- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by OHA. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA in addition to those set forth in this Agreement.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

**14. Resolution of Disputes.**

The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.

**15. Subcontracts.**

Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without OHA's prior written consent. In addition to any other provisions OHA may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that OHA will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. OHA's consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

**16. No Third Party Beneficiaries.**

OHA and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.

**17. Severability.**

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.

**18. Notice.**

Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or OHA at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**OHA:** Office of Contracts & Procurement

635 Capitol Street NE, Suite 350  
Salem, OR 97301  
Telephone: 503-945-5818  
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

**19. Headings.**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

**20. Amendments; Waiver; Consent.**

OHA may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, the Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.

**21. Merger Clause.**

This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.

**22. Limitation of Liabilities.**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

## SUBCONTRACTOR INSURANCE

Recipient shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Recipient and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OHA. Recipient shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Recipient permit a contractor to work under a Subcontract when the Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

### 1. **WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

### 2. **COMMERCIAL GENERAL LIABILITY:**

**Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of



not less than \$1,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.00.

**3. PROFESSIONAL LIABILITY:**

Required  Not required

**Professional Liability insurance** covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000.00 per claim. Annual aggregate limit shall not be less than \$2,000,000.00. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

**4. EXCESS/UMBRELLA INSURANCE:**

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

**5. ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**6. ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**7. WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the OHA or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the OHA has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**8. TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Subcontract, for a minimum of 24

months following the later of (i) Contractor's completion and Recipient's acceptance of all Services required under this Subcontract, or, (ii) Recipient's or Contractor termination of contract, or, iii) The expiration of all warranty periods provided under this Subcontract.

**9. CERTIFICATE(S) AND PROOF OF INSURANCE:**

Recipient shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance OHA has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**10. NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**11. INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by OHA under this agreement and to provide updated requirements as mutually agreed upon by Contractor and OHA.

**12. STATE ACCEPTANCE:**

All insurance providers are subject to OHA acceptance. If requested by OHA, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to OHA's representatives responsible for verification of the insurance coverages required under this Exhibit C.

Recipient's Proposal



**Board of Commissioners**

P.O. Box 788 • Heppner, OR 97836  
541-676-5613  
[www.co.morrow.or.us](http://www.co.morrow.or.us)

Commissioner Don Russell, Chair  
Commissioner Jim Doherty  
Commissioner Melissa Lindsay

September 3, 2021

Coral Ford, Procurement & Contract Specialist 3  
OHA Office of Contracts and Procurement  
635 Capitol Street N.E., Suite 350  
Salem, OR 97301  
Email: [coral.d.ford@dhsoha.state.or.us](mailto:coral.d.ford@dhsoha.state.or.us)

RE: Request for Grant Proposal No: OregonBuys No. S-44300-00000496 OHA-RFA-5250

Part One

Tribe/Organization name:	Morrow County
Organization name DBA (if different from above):	N/A
Fiscal sponsor organization name:	Morrow County
Address:	100 S. Court St., Heppner, OR 97836
Tax ID, EIN or FIN	93-6002308
Contact name:	Commissioner Melissa Lindsay
Contact email and phone:	<a href="mailto:mlindsay@co.morrow.or.us">mlindsay@co.morrow.or.us</a> 541-676-9061 or 541-561-0234
Authorized signature name:	Commissioner Melissa Lindsay
Authorized signature email:	<a href="mailto:mlindsay@co.morrow.or.us">mlindsay@co.morrow.or.us</a>
County Served:	Morrow County

Part Two

Dear Ms. Ford,

This letter is submitted in response to OHA-RFA-5250 in request for funding to support Morrow County in planning and development of behavioral health housing, including rental assistance, supportive housing, flexible housing, crisis respite and residential treatment in Morrow County for the support of our region. Morrow County currently lacks adequate housing across all socio-economic spectrums. Based upon data from Well Being in the Nation, 28% of all Morrow County residents reside in poor quality or unaffordable housing. At this time, 22% of households in our region are cost-burdened for housing, meaning they are paying 30% or more of their income on housing. It is well known that the cascading effects of mental illness might leave them in a precarious housing situation, or even cause them to lose their homes. Having a safe and secure place to live is an important part of recovery, along with access to services that enable those with mental health conditions to live as independently as possible.

Morrow County routinely works closely with Community Counseling Solutions and other service providers. The Morrow County Local Public Safety Coordinating Council (LPSCC) has been actively addressing behavioral health issues in Morrow County for over 15 years. Historical and current work includes support and implementation of secure and non-secure residential treatment, supported housing, respite beds and a mental health treatment court. This work has been supported by Greater Oregon Behavioral Health, Inc. (GOBHI) and the Eastern Oregon Coordinated Care Organization (EOCCO).

Morrow County has an active LPSCC, which meets monthly to assess all issues related to public safety and to develop plans to address and improve efficiencies. This topic has been on the list of goals and conversations of these stakeholders for some time. Similar community partners also regularly participate in the "Community Resource Roundtable." This group is developing a database of all resources in the region and, again, this topic is often discussed. As a rural county, Morrow County actively seeks opportunities to collaborate and plan locally with community partners and this funding opportunity will bring additional resources toward a focused project in a much-needed area.

With funding from OHA, Morrow County proposes to conduct a thorough needs assessment (\$10,000 in data collection and evaluation) to identify geographic and treatment areas of need. Once the assessment is completed, a planning committee will be convened (\$12,000 in staffing, meeting costs and participation stipends), to include a minimum 50% participation by those with lived experiences. Patients and family members participating in this capacity will receive a stipend to offset the cost of their time. Rural communities are significantly underserved in behavioral health, so patient/family participation in planning will assist the project team in identifying unique barriers and solutions for this population. In fact, rural Americans face significantly worse behavioral health outcomes than their urban counterparts, despite similar prevalence, due to lack of access to care (Morales, 2020). Rural LGBTQ+ communities and residents are also less likely to have access to affirming and appropriate care (Healthy People, 2020). To ensure a well-represented stakeholder group, planning committee participants will include members who identify as LGBTQ+ and members from the Black, Indigenous, People of Color (BIPOC) community, in particular members of the Hispanic community since they comprise approximately 36% of Morrow County's population (Oregon by the Numbers 2020, Ford Foundation). Morrow County and Morrow County Public Health, along with our partners, are connected to the many organizations serving the Latinx population. These include the Community Action Program of East Central Oregon (CAPECO), Federally Qualified Health Centers (FQHCs), community-based organizations (CBOs) such as Euvalcree, Doulas Latinas, Oregon Rural Action, and United Farm Workers. These entities work in tandem to further support our efforts to bring assistance to, and invest in, culturally and linguistically appropriate capacity. It is critical to Morrow County that any proposal is sustainable and, as a result, a significant portion of the budget is committed to financial planning.

A budget summary is provided below:

Needs Assessment:	\$10,000
Staff time:	\$ 6,000
Data analysis services:	\$ 4,000

Planning Committee:	\$12,000
Participation stipend:	\$ 3,000
Meeting costs (facility, A/V, etc.):	\$ 2,000
Staff time:	\$ 7,000
Site Proposal and Financial Model:	\$23,000
Financial analysis:	\$10,000
Report preparation:	\$ 7,000
Staff time:	\$ 6,000
Indirect Costs (10%):	\$ 5,000

We would like to thank OHA for the opportunity to apply for funding and look forward to working with OHA to increase access to services for some of Oregon's most vulnerable residents.

Sincerely,

  
Commissioner Melissa Lindsay  
Morrow County Board of Commissioners

List of organizations supporting this letter of intent:

Morrow County Board of Commissioners  
Community Counseling Solutions  
Morrow County Sheriff's Office  
Boardman Police Department  
Umatilla Morrow Domestic Violence Services  
Morrow County Veterans Services  
Morrow County Juvenile Department  
Morrow County Justice Court  
Morrow County Public Health Department  
Morrow County Parole and Probation  
Morrow County Local Public Safety Coordinating Council  
Umatilla Morrow Circuit Court  
Oregon Youth Authority  
Oregon Department of Human Services, District 12  
City of Irrigon  
City of Boardman  
City of Heppner



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
42

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Date submitted to reviewers:
Department: Requested Agenda Date: 1/5/2022
Short Title of Agenda Item: Review and approval of Boardman Subdivision, "River Ridge Estates Phase 4"
(No acronyms please)

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:
Department Director Required for all BOC meetings
DATE
Administrator Required for all BOC meetings
DATE
County Counsel \*Required for all legal documents
DATE
Finance Office \*Required for all contracts; other items as appropriate.
DATE
Human Resources \*If appropriate
DATE
\* Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

**AGENDA ITEM COVER SHEET**  
**Morrow County Board of Commissioners**  
**(Page 2 of 2)**

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**1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

The Subdivision Plat of River Ridge Estates - Phase 4 is being prepared for recording. It is located inside the limits of the City of Boardman. Pursuant to ORS 92.100(1)(d), the plat must be approved by the governing body of the County before recording. After County governing body approval, it can be sent to the Assessor for final tax payment approval and then recorded with the Clerk.

**2. FISCAL IMPACT:**

N/A

**3. SUGGESTED ACTION(S)/MOTION(S):**

Approve and sign all copies.

Attach additional background documentation as needed.



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
48

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Darrell Green
Department: Administration
Short Title of Agenda Item: County Road Official Designation
(No acronyms please)

Date submitted to reviewers:
Requested Agenda Date: 1/05/2022

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Department Director Required for all BOC meetings
DATE 1/3/22 Administrator Required for all BOC meetings
DATE County Counsel \*Required for all legal documents
DATE Finance Office \*Required for all contracts; other items as appropriate.
DATE Human Resources \*If appropriate
\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.



**AGENDA ITEM COVER SHEET**  
**Morrow County Board of Commissioners**  
**(Page 2 of 2)**

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**1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

With the resignation of our Public Works Director and County Road Official, Matt Scrivner, the County needs to designate a County Road Official per ORS 368.001(2); 'County road official means the roadmaster, engineer, road supervisor, public works director or other administrative officer designated by the county governing body as being responsible for administration of the road activities of the county.'

Eric has been the Assistant Road Master for Morrow County for almost four years, so it is my recommendation to designate our current Assitant Road Master, Eric Imes as the Interim County Road Official/Road Master.

**2. FISCAL IMPACT:**

N/A

**3. SUGGESTED ACTION(S)/MOTION(S):**

Motion to designate Eric Imes as the Interim County Road Official effective January 7, 2022

Attach additional background documentation as needed.



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
49

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Darrell Green
Department: Administration
Short Title of Agenda Item:
(No acronyms please)

Date submitted to reviewers: 12/22/2021
Requested Agenda Date: 1/05/2022

Oregon Health Authority Intergovernmental Agreement #166052 Amendment 7

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Department Director Required for all BOC meetings
1/13/22 Administrator Required for all BOC meetings
County Counsel \*Required for all legal documents
Finance Office \*Required for all contracts; other items as appropriate.
Human Resources \*If appropriate
\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

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**AGENDA ITEM COVER SHEET**  
**Morrow County Board of Commissioners**  
**(Page 2 of 2)**

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**1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Attached is Amendment 7 to our Oregon Health Authority Agreement #166052 for the financing of Mental Health, Addiction Treatment, Recovery and Prevention, and Problem Gambling.

This amendment is removing funds for invoiced services due to a client moving and the funds need to stay with the client.

I forwarded this amendment to Kimberly Lindsay, Executive Director of Community Counseling Solutions for her information and review.

Due to time constraints and a sense of urgency from OHA, I have signed this amendment in advance of the next Board of Commissioner meeting.

**2. FISCAL IMPACT:**

**3. SUGGESTED ACTION(S)/MOTION(S):**

Attach additional background documentation as needed.



In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

**SEVENTH AMENDMENT TO  
OREGON HEALTH AUTHORITY  
2021 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF MENTAL  
HEALTH, ADDICTION TREATMENT, RECOVERY, & PREVENTION, AND  
PROBLEM GAMBLING SERVICES AGREEMENT #166052**

This Seventh Amendment to Oregon Health Authority 2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Services effective as of January 1, 2021 (as amended, the "Agreement"), is entered into, as of the date of the last signature hereto, by and between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and **Morrow County** ("County").

**RECITALS**

WHEREAS, OHA and County wish to modify the Financial Assistance Award set forth in Exhibit C of the Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

1. The financial and service information in the Financial Assistance Award are hereby amended as described in Attachment 1 attached hereto and incorporated herein by this reference. Attachment 1 must be read in conjunction with the portion of Exhibit C of the Agreement that describes the effect of an amendment of the financial and service information.
2. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
3. County represents and warrants to OHA that the representations and warranties of County set forth in section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
5. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have executed this amendment as of the dates set forth below their respective signatures.

**6. Signatures.**

**Morrow County**

By:

DocuSigned by:  
*Darrell Green*  
A003768430F04E2

Darrell Green

County Administrator 12/23/2021

Authorized Signature

Printed Name

Title

Date

**State of Oregon acting by and through its Oregon Health Authority**

By:

DocuSigned by:  
*Jon Collins*  
A2C89F80775B405...

Jon Collins

Deputy Director Health Systems Division 12/23/2021

Authorized Signature

Printed Name

Title

Date

**Approved by: Director, OHA Health Systems Division**

By:

DocuSigned by:  
*Margie Stanton*  
9652DA932315422...

Margie Stanton

Director

12/23/2021

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Approved by Steven Marlowe, Senior Assistant Attorney General, Department of Justice, Tax and Finance Section, on April 30, 2019; e-mail in contract file.

**ATTACHMENT 1**  
**EXHIBIT C**  
**Financial Pages**

MODIFICATION INPUT REVIEW REPORT

MOD#: M0555

CONTRACT#: 166052

CONTRACTOR: MORROW COUNTY

INPUT CHECKED BY: \_\_\_\_\_ DATE CHECKED: \_\_\_\_\_

SE#	FUND	PROJ	CPMS	PROVIDER	EFFECTIVE	SLOT	RATE	OPERATING	STARTUP PART	PART	PAAF	CLIENT	SE#
		CODE			DATES	CHANGE/TYPE		DOLLARS	DOLLARS ABC	IV	CD	BASE	CODE

CALENDAR YEAR: 2021

BASE	INVOICE	SERVICES											
28	804	INVOIC		7/1/2021-12/31/2021	0	/N/A		-\$35,000.00	\$0.00	C	1	Y	1
						TOTAL FOR SE# 28		-\$35,000.00	\$0.00				
						TOTAL FOR 2021		-\$35,000.00	\$0.00				
						TOTAL FOR M0555	166052	-\$35,000.00	\$0.00				

OREGON HEALTH AUTHORITY  
Financial Assistance Award Amendment (FAAA)

CONTRACTOR: MORROW COUNTY  
DATE: 12/09/2021

Contract#: 166052  
REF#: 008

REASON FOR FAAA (for information only):

Residential Community Mental Health Treatment Services for Adults (MHS 28),  
funds are removed for Invoice Services.

The following special condition(s) apply to funds as indicated by the  
special condition number in column 9. Each special condition set forth  
below may be qualified by a full description in the Financial Assistance  
Award.

M0555 1 Special condition #M0501-1 in Amendment #2, regarding "A) MHS 28  
and B) Services" applies.

## Darrell Green

---

**From:** Branscome Elizabeth <Elizabeth.Branscome@dhsola.state.or.us>  
**Sent:** Wednesday, December 22, 2021 10:18 AM  
**To:** Darrell Green  
**Cc:** Emily Lippert; Knight Kelly C  
**Subject:** Morrow Amend Contract 166052-7 Out for Signature  
**Attachments:** 166052-7 Morrow out for signature 12.21.2021.pdf

**Importance:** High

---

STOP and VERIFY - This message came from outside of Morrow County Government.

---

Good Morning Darrell,

On 12/21/2021, OC&P sent amended contract 166052-7 out for signature. Please review and sign this contract as soon as possible on the DocuSign CLM. It is attached for your reference only.

The reason for the negative \$ is due to client moving from Options to Morrow and then from Morrow to Options. These funds need to stay with the client.

Thanks,  
Beth Branscome, BS  
Fiscal Analyst 2  
OHA | HSD | Contracts Unit  
Work Phone: 503-752-0602





AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
4h

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Sandi Pointer
Department: Public Works/ Road
Short Title of Agenda Item:
(No acronyms please)

Date submitted to reviewers: 12/27/2021
Requested Agenda Date: 01/05/2022

Federal Lands Access Program, Extension to use Match/In Kind work.

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity: Western Federal Lands Hwy Division
Contractor/Entity Address: 610 E. Fifth St., Vancouver, WA 98661
Effective Dates - From: 2018 Through: Extension to 2022 Year
Total Contract Amount: 637,494.00 Budget Line: In kind Rock, Labor and Equipment
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Department Director Required for all BOC meetings
DATE
Administrator Required for all BOC meetings
DATE
County Counsel \*Required for all legal documents
DATE
Finance Office \*Required for all contracts; other items as appropriate.
DATE
Human Resources \*If appropriate
DATE

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

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# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

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## **1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Morrow County Road department had applied for a grant with the FLAP Federal lands Access Program in November of 2016 for paving 0.5 miles of the East of Morphine road between Highway 207 and the OHV park. Repair and re-gravel the 10.35 miles East Morphine road / Forest Service Road 21. between the OHV park and Tupper Road. The agreement was signed and approved 03.27.2019. This agreement extension is to meet it's match requirement of in kind labor and equipment to complete the project. The entire project cost which is asphalt for the 0.5 miles and the aggregate for the 10.35 miles to \$710,458.00 which Morrow County crew will do the in-kind match of \$72,964.040 and the FLAP program will reimburse \$637,494.00 which will provide funding for the aggregate and asphalt. This agreement is an extension of granting Morrow County to complete the project. The extension can be granted.

Currently Morrow County has received in engineering costs reimbursements

\$6,590.40

\$635.25

## **2. FISCAL IMPACT:**


The budget will receive 637,494.00 additional to complete the project, For the physical year 2020/2021

## **3. SUGGESTED ACTION(S)/MOTION(S):**

Morrow County Board of Commisisoner accepts the siging of the extension to the assistance agreement.

Attach additional background documentation as needed.

**ASSISTANCE AGREEMENT**

1. Award No. 6905671940009		2. Modification No. 0001	3. Effective Date See block 27	4. CFDA No. 20.224
5. Awarded To COUNTY OF MORROW Attn: KATHERINE KNOP 100 S COURT ST HEPPNER OR 978367303 DUNS Number: 010741189		6. Sponsoring Office Federal Highway Administration		7. Period of Performance 06/18/2019 through 12/31/2022
8. Type of Agreement <input checked="" type="checkbox"/> Grant <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Other	9. Authority 23 U.S.C. 204		10. Purchase Request or Funding Document No.	
11. Remittance Address COUNTY OF MORROW Attn: MORROW COUNTY PO BOX 867 HEPPNER OR 97836		12. Total Amount Govt. Share: \$622,494.00  Cost Share : \$0.00  Total : \$622,494.00		13. Funds Obligated This action: \$0.00  Total : \$622,494.00
14. Principal Investigator	15. Program Manager Aaron Eklund Phone: 360-619-7718		16. Administrator Federal Highway Administration	
17. Submit Payment Requests To Federal Highway Administration		18. Paying Office US DOT Federal Highway Admin MMAC/AMK-315/HQ 291 6500 S Macarthur Blvd Oklahoma City OK 73169		19. Submit Reports To
20. Accounting and Appropriation Data See Schedule				
21. Research Title and/or Description of Project OR MORROW 847(1) ROAD 847 SURFACE IMPROVEMENTS				
For the Recipient			For the United States of America	
22. Signature of Person Authorized to Sign 			25. Signature of Grants/Agreements Officer	
23. Name and Title Darrell Z. Green County Administrator		24. Date Signed 12/27/21	26. Name of Officer ANGY LILJEDAHL	27. Date Signed

**CONTINUATION SHEET**

REFERENCE NO. OF DOCUMENT BEING CONTINUED  
6905671940009/0001

PAGE OF  
2 | 2

NAME OF OFFEROR OR CONTRACTOR  
COUNTY OF MORROW

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	<p>DUNS Number: 010741189 OR MORROW 847(1) ROAD 847 SURFACE IMPROVEMENTS</p> <p>Amendment 0001 serves to extend the period of performance and update the Agreement Officer's Representative (AOR).</p> <p>1. Amendment 0001 hereby extends the period of performance end date to 12/31/2022.</p> <p>2. Amendment 0001 hereby relieves Neal Christensen of his duties as the AOR and appoints Aaron Eklund as the new AOR.</p>				

Signed Federal Lands Access Program Match  
Agreement. Morrow County to do in kind work.

**State:** Oregon

**Project Number/Name:** OR MORROW 847(1) / Road 847 Surface Improvements

**Parties to this Agreement:**

U.S. Department of Transportation  
Federal Highway Administration  
Western Federal Lands Highway Division, FHWA

and

MORROW COUNTY

**Purpose of Agreement:**

The purpose of this agreement is to document the intent of MORROW COUNTY to meet its match requirement for the subject project as authorized under 23 USC 201(b)(7)(B).

With this agreement, Western Federal Lands Highway Division, FHWA authorizes this project as eligible for federal participation. The purpose of this project is to pave 0.5 miles of East of Morphine Road between Highway 207 and OHV Park. Repair and regravell the 10.35 miles of East Morphine Road between OHV Park and Tupper Road. This agreement does not commit the parties to complete the project, but, rather sets forth the respective responsibilities as the project proceeds. Any subsequent decisions to complete final design and to construct the project will depend on authorizing legislation, NEPA analysis, availability of appropriations, and matching funds at the time of obligation.

The authority for FHWA to enter into this agreement is under Title 23 U.S.C. Section 204.

**Funding:**

The Federal Lands Access Program (FLAP) under Fixing America's Surface Transportation Act (FAST Act) authorizes FHWA to provide funding for specific projects. The Program Decision Committee (PDC), consisting of FHWA, the State of Oregon, and an organization representing the local agencies of the state, is designated to jointly decide upon projects funded in the state. The PDC has selected this project for programming under the Oregon State Federal Lands Access Program.

All FLAP expenditures associated with this project after execution of this match agreement will need to be matched by a Non-Federal source, by other Federal funds other than those made available under Titles 23 and 49 of the United States Code, or by funds made available under 23 U.S.C. 202 and 203. The matching requirement under the FAST Act will be met by MORROW COUNTY and other agencies that have committed to the project in subsequent agreements. The forms of match *shall* be those consistent with the 'Federal-Aid Guidance Non-Federal Matching Requirements' *and as approved by FHWA*. In the state of Oregon, the match rate is 10.27% of the total project cost.

This project is authorized to use a Tapered Match. Under this approach, the non-Federal match is imposed over the entire project rather than individual progress payments. The terms and form of the Match will be documented in the project Memorandum of Agreement (MOA) in coordination with MORROW COUNTY AND US FOREST SERVICE to be executed at a later date. The final Match will be determined based on actual expenditures at the conclusion of project work. Matching cash funds in FHWA receipt may need to be supplemented, or returned, once actual expenditures are determined.

**Federal Lands Access Program  
Match Agreement**

*Federal Lands Access Program funds are administered by FHWA and are subject to annual appropriations from Congress. This document does not commit FHWA to advance the project or provide funds for the project, but provides the required matching funds if FHWA expends funds to advance the project.*

The following agencies have agreed to contribute the amounts shown which will reduce the federal share by the same amount.

**Agency Contributions:**

Agency	Percentage of Match	Total Match as a Percentage (%)
MORROW COUNTY	100%	10.27%
		<hr/> 10.27%

MORROW COUNTY is ONLY responsible for their respective match as shown above. The required local match listed in the FLAP application was \$72,964. The value of the match will be confirmed during the development of the Project Memorandum of Agreement.

**Modification:**

This agreement is expected to be replaced and superseded by the execution of a project Memorandum of Agreement.

This Agreement shall be effective as of the date of the last signature:

U.S. Department of Transportation  
Federal Highway Administration  
Western Federal Lands Highway Division, FHWA

Approved By:



Dan Donovan, Chief of Business Operations

4.2.2018

Date

**MORROW COUNTY**

Approved By:



Don Russell, Commissioner, Chair

Feb. 14, 2018

Date

**Signed (3/27/2019) Federal Lands Access Program  
Project Memorandum of Agreement.**

**This is the primary agreement and following is  
Mentioned in this document.**



# Federal Lands Access Program Project Memorandum of Agreement

**Project / Facility Name:** OR MORROW 847(1), Road 847 Surface Improvements

**Project Route:** East of Morphine Road, Road 847

**State:** Oregon

**County(ies):** Morrow

**Owner of Federal Lands to which the Project Provides Access:** Umatilla National Forest

**Entity with Title or Maintenance Responsibility for Facility:** Morrow County

**Type of Work:**



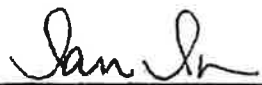
*NEPA  
Preliminary Engineering,  
Rehabilitation,  
Construction Engineering / Contract Administration*

This Agreement does not obligate (commit to) the expenditure of Federal funds nor does it commit the parties to complete the project. Rather, this agreement sets forth the respective responsibilities as the project proceeds through the project development process.

**Parties to this Agreement:** Federal Highway Administration, Western Federal Lands Highway Division and Morrow County.

The Program Decision Committee approved this project on November 22, 2016.

**AGREED:**

 Morrow County Board Chair	3-27-19 Date
 Forest Supervisor, USF'S - Umatilla National Forest	3-29-19 Date
 Director of Program Administration, FLHD	4.2.2019 Date

**A. PURPOSE OF THIS AGREEMENT:**

This Agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the subject project. The purpose of the Agreement is to identify and assign responsibilities for the environmental analysis, design, right-of-way, utilities, acquisition and construction as appropriate for this programmed project, and to insure maintenance of the facility for public use if improvements are made. The parties understand that any final decision as to design or construction will not be made until after the environmental analysis required under the National Environmental Policy Act (NEPA) is completed (this does not prevent the parties from assigning proposed design criteria to be studied in the NEPA process.) Any decision to proceed with the design and construction of the project will depend on the availability of appropriations at the time of obligation and other factors such as issues raised during the NEPA process, a natural disaster that changes the need for the project, a change in Congressional direction, or other relevant factors.

If Federal Lands Access Program funds are used for the development or construction of this project, Morrow County agrees to provide a match funding according to the Match Agreement signed on April 2, 2018.

**B. AUTHORITY:**

This Agreement is entered into between the signatory parties pursuant to the provisions of 23 U.S.C. 204.

**C. JURISDICTION AND MAINTENANCE COMMITMENT:**

Morrow County has jurisdictional authority to operate and maintain the existing facility and will operate and maintain the completed project at its expense.

**D. FEDERAL LAND MANAGEMENT AGENCY COORDINATION:**

Morrow County has coordinated project development with the USFS – Umatilla National Forest. The USFS – Umatilla National Forest support of the project is documented in the FLAP Applications OR-FY16-16 and OR-FY16-35.

Each party to this agreement who has a primary role in NEPA, design or construction should coordinate their activities with the USFS – Umatilla National Forest.

**E. PROJECT BACKGROUND / SCOPE:**

Forest Road 847, as known as East of Morphine Road, is a primary connector in Grant and Morrow Counties through the Umatilla National Forest. The road serves as a major route for commerce and emergency services, recreational and residential cabins, access to the Umatilla National Forest's Tupper Work Center and is a popular hunting and camping area. This not only is the primary access for the homes and cabins adjacent to this road, but for the ranchers who use this road daily during the summer months to move livestock and to monitor their pastures and livestock. With the creation of the Morrow-Grant County OHV park, significantly more recreational uses are driving the road. The road is maintained as a year-round route to travel to Grant County and the town of Monument. The road is a county maintained gravel road that varies in width from 24 to 28 feet, but lacks adequate surface material to maintain a smooth driving surface. The road also has many curves and follows the terrain and is adjacent to mountain streams causing drainage issues.

This project will pave a 2" mat for the first 0.50 miles from Highway 207 to just past the entrance of the OHV park. From there the road will be rehabilitated to provide a more

consistent width, shaped to enhance surface drainage and crushed aggregate base and surface course will be applied. The project termini will be the intersection of Forest Road 847 and Tupper Road / Forest Road 030.

**F. PROJECT BUDGET:**

See the Match Agreement signed on April 2, 2018.

Phase	FLAP Funds			Partner Match		Total
	To FHWA	MC	Total	MC	Total	
PE	\$7,500.00	\$75,000.00	\$82,500.00	\$9,442.49	\$9,442.49	\$91,942.49
CN	\$7,500.00	\$547,494.00	\$554,994.00	\$63,521.55	\$63,521.55	\$618,515.55
	\$15,000.00	\$622,494.00	\$637,494.00	\$72,964.04	\$72,964.04	\$710,458.04

**G. ROLES AND RESPONSIBILITIES:**

Morrow County will provide full support in the NEPA and environmental review process. This includes, but is not limited to: obtaining permits, providing documentation to support NEPA, Endangered Species Act (ESA), and Section 106 compliance, performing studies, etc. FHWA will be responsible for making the NEPA decision.

Morrow County will administer the other phases of project development such as survey, geotechnical investigation (if required), hydraulic investigation (if required) right-of-way plan preparation (if required), preliminary and final design. The project will be designed using the Oregon Standard Drawings. Morrow County will obtain, or will require the contractor to obtain, all necessary Federal, State, or local permits.

Morrow County will be responsible for the acquisition of any rights-of-way, easements and / or permits necessary to complete the project. Morrow County will not initiate right-of-way acquisition until FHWA has written an environmental decision document.

Although not expected, prior to Morrow County soliciting bids for the project, Morrow County will certify to FHWA that all right-of-way appraisals and acquisitions have been performed in accordance with the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 and the Uniform Relocation Act Amendments of 1987.

Although not expected, Morrow County will be responsible for the relocation of any utilities necessary to complete the project. In accordance with 23 CFR PART 645.103; any applicable reimbursement to the utility company will be governed by State and federal Laws and regulations, or Occupancy Permits.

During the construction phase, Morrow County will appoint a Project Engineer to oversee and inspect the work to ensure a quality product. The construction will be governed by the Oregon Standard Specifications for Construction, 2015 Edition.

Morrow County will be responsible for the following:

- Appointing a representative who will be the primary contact for FHWA’s Project Manager.
- Project activities identified in Section P.
- Provide appropriate match to all FLAP funds expended on the project even if the project is terminated prior to completion.

- Upon completion of construction, provide copies of final inspection demonstrating the project has been constructed in substantial conformity with the approved plans and specifications.
- Provide written confirmation of its final acceptance of the constructed project.
- Compliance with terms and conditions as noted in 2 CFR 200 Common Rule Requires and other legal requirements contained in Attachment 1.

USFS – Umatilla National Forest will be responsible for the following:

- Appointing a representative who will be the primary contact for FHWA’s Project Manager.
- Project activities identified in Section P.
- Provide written confirmation of its final acceptance of the constructed project.

FHWA will be responsible for the following:

- Stewardship and oversight activities identified in Section P.
- FHWA decisions that may not be delegated, identified in Section P.

**H. ROLES AND RESPONSIBILITIES – SCHEDULE:**

Responsible Lead	Product/Service	Schedule Finish
Morrow County	30% Design	July 2019
Morrow County	Environmental Reviews and Studies	October 2019
FHWA	NEPA Decision	December 2019
Morrow County	Final Design	April 2020
Morrow County	Construction	Summer 2020

**I. PROPOSED DESIGN STANDARDS:**

The following design criteria will be applied on the project:

	Criteria	Comments
Standard Design	AASHTO Low Volume	Oregon Standard Drawings
Functional Classification	Minor Collector	Forest Road 847, East of Morphine Lane
Surface Type	Asphalt and Aggregate	0.5 mile will be asphalt remaining will be aggregate
Design Volume	600	Average Daily Traffic (493) Seasonal Average (523)

**J. FUNDING:**

The Match Agreement executed on April 2, 2018 contains the funding source and amounts for the project.

Fund Source	Amount	Comments
Title 23 FLAP funds – K200 (89.73%)	PE - \$75,000 CE/CN/CM - \$547,494	\$7,500 for PE S/O and NEPA and \$7,500 for CE/CN S/O and NEPA
Local Matching Share – Morrow County (10.27%)	\$72,965	
TOTAL	\$710,459	

**K. MATCHING SHARE REQUIREMENTS:**

The Match Agreement executed on April 2, 2018 contains the terms and conditions of how the required match will be met. All records associated with valuations or costs under Section K shall be accessible and maintained for three years following project close-out.

Any cost increases due to contract modifications or claims, including FHWA administrative costs for the CM or claim will be the responsibility of all parties at the rates indicated in the project match agreements.

The final cash Match will be determined based on actual expenditures at the conclusion of project work. Matching cash funds in FHWA receipt may need to be supplemented, or returned, once actual expenditures are determined. As noted under Modifications, if costs increase over the amount within this agreement, the PDC will consult with the signing agency before granting approval.

Valuation of real property, services, materials, equipment, and use of facilities will be established at fair market value (FMV), as determined by applicable Federal grant administration regulations [49 CFR 18 or 19] and Federal cost principles. Final in kind Match will be determined based on actual expenditures at the conclusion of project work in order to determine the minimum match commitment has been met. The value of In kind match may need to be supplemented in order to meet the minimum match requirement. If the value of In kind match is in excess of the minimum match, the excess value will not be returned or reimbursed.

**L. PROJECT TEAM MEMBERS – POINT OF CONTACT:**

The following table provides the points of contact for this project. They are to be the first persons to deal with any issues or questions that arise over the implementation of each party’s role and responsibility for this agreement.

<b>Name / Title</b>	<b>Organization</b>	<b>Phone No. / Email</b>
Sandi Pointer, Management Assistant	Morrow County	547-989-9500 spointer@co.morrow.or.us
<del>Lonnie Ruchert, Forest Road Manager</del>	USFS – Umatilla National Forest	<del>541-278-3779</del> 541-278-3749 <del>lruchert@fs.fed.us</del> jneer@fs.fed.us
Neal Christensen, Program Manager	FHWA	360-619-7780 Neal.christensen@dot.gov

Joe Neer,  
Acting Staff  
Officer

**M. CHANGES / AMENDMENTS / ADDENDUMS:**

The agreement may be modified, amended, or have addendums added by mutual agreement of all parties. The change, amendment, or addendum must be in writing and executed by all of the parties.

The types of changes envisioned include, but are not limited to, changes that significantly impact scope, schedule, or budget; changes to the local match, either in type or responsibility; change that alter the level of effort or responsibilities of a party. The parties commit to consider suggested s\changes in good faith. Failure to reach agreement on changes may be cause for termination of this agreement.

A change in composition of the project team members does not require the agreement to be amended.

It is the responsibility of the project team members to recognize when changes are needed and to make timely notifications to their management in order to avoid project delivery delays.

**N. ISSUE RESOLUTION PROCEDURES MATRIX:**

Issues should be resolved at the lowest level possible. The issue should be clearly defined in writing and understood by all parties. Escalating to the next level can be requested by any party. When an issue is resolved, the decision will be communicated to all levels below.

<b>FHWA</b>	<b>Morrow County</b>	<b>USFS - UNF</b>	<b>Time</b>
Neal Christensen Program Manager <a href="mailto:neal.christensen@dot.gov">neal.christensen@dot.gov</a> 360-619-7780	<i>Matt Scrivner</i> <i>MC Public Works Director</i> <a href="mailto:mscrivner@co.morrow.or.us">mscrivner@co.morrow.or.us</a> 541-989-9500	Joe Neer Acting Staff Officer <a href="mailto:jneer@fs.fed.us">jneer@fs.fed.us</a> 541-278-3749	15 Days
Pete Field Environment, Planning and Programming Branch Chief <a href="mailto:Peter.field@dot.gov">Peter.field@dot.gov</a> 360-619-7619	<i>Sandi Pointer</i> <i>MC Management Assistant</i> <a href="mailto:spointer@co.morrow.or.us">spointer@co.morrow.or.us</a> 541-989-9500	Eric Watrud Forest Supervisor 541-278-3752 <a href="mailto:eric.watrud@usda.gov">eric.watrud@usda.gov</a>	15 Days
Dan Donovan Chief of Business Operations <a href="mailto:Daniel.donovan@dot.gov">Daniel.donovan@dot.gov</a> 360-619-7966	<i>Eric Imes</i> <i>MC Assistant Road Master</i> <a href="mailto:eimes@co.morrow.or.us">eimes@co.morrow.or.us</a> 541-989-9500		15 Days

**O. TERMINATION:**

This agreement may be terminated by mutual written consent of all parties. This agreement may also be terminated if either the NEPA process or funding availability requires a change and the parties are not able to agree to the change. Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. If Federal access funds have been expended prior to termination, the party responsible for the match agrees to provide a match in the applicable percentage of the total amount expended on the project prior to the termination.

**P. STEWARDSHIP & OVERSIGHT ACTIVITIES:**

Phase	Activity	Roles			Comments
		Morrow County	USFS - UNF	FHWA	
Planning & Programming	Evidence of funding allocation	Signed Match Agreement		File copy	Completed
Planning & Programming	Memorandum of Agreement with scope, schedule, & budget	Sign MOA	Sign MOA	Sign MOA, File copy	
Environment	Identify NEPA contact			Provide	FHWA must be a lead agency on NEPA
Environment	Complete all environmental documents necessary for FHWA to develop an environmental decision (ESA, Section 106, 4F, etc.)	Provide		Review and prepare environmental decision	
Environment	NEPA – Tribal coordination			Provide	FHWA must perform this task
Environment	Obtain environmental permits	Provide		File copy	
Environment	FHWA NEPA decision	Comply		Provide	FHWA approval needed
Design	Review or approve design exceptions	Provide	Concur	Approve	Follow ODOT's process
Design	Obtain all permits necessary for construction	Provide		Approve	
Acquisitions	Approval of proprietary products	Provide		Approve	
Acquisitions	Contract package for required clauses (Civil Rights, Davis Bacon, Buy America/American, etc.)	Provide		Approve	
Acquisitions	Receive copy of award package	Provide	File copy	File copy	
Acquisitions	Review and approve contract modifications	Provide	Concur	Approve	
Construction	Attend Pre-Construction Meeting	Attend	Attend	Attend as determined by FHWA	
Construction	Mid construction project inspection	Attend	Attend	Attend as determined by FHWA	

Construction	Final Project Inspections	Attend	Attend	Attend as determined by FHWA	
Construction	Construction photographs of project, before, during (quarterly) and post construction	Provide	File	File	
Construction	Copy of As-Builts	Provide	File	File	
Construction	Contract disputes (Claims)	Provide		Review and Provide assistance as warranted	
Construction	Copy of Final Construction Acceptance Letter and report	Provide	Provide	Review	



Attachment 1

2 CFR 200 Common Rule Requirements and Other Legal Requirements

## A. GENERAL TERMS AND CONDITIONS

Background. To promote accelerated and efficient delivery of projects that benefit Federal Land Management Agencies, the Secretary has exercised his discretion under 23 U.S.C. § 201(a) and § 204(a)(3) to apply Title 23 U.S.C. Chapter 1 requirements (Federal Aid requirements) to Federal Lands Access Projects delivered by State Departments of Transportation (DOTs) and local public agencies that are evaluated and certified by State DOTs to deliver Federal Aid projects. In instances where a local public agency is not certified to deliver Federal-aid projects and Federal Lands Access projects are delivered by the local public agency cooperatively with Federal Lands Highway Division office oversight, the government-wide Common Rule (2 CFR 200) will be applied. This cooperative relationship will enable the FLH to identify any federal law issues in cooperation with the local public agency which may arise in the project development and delivery process.

1. The Agreement provides funds on a reimbursable basis to the Servicing Agency for the project described in the Access Program Project Memorandum of Agreement.
2. The Government's liability to make payments to the Servicing Agency under the Agreement is limited to those funds obligated by the Government under the Agreement as indicated herein and by any subsequent amendments agreed to in writing by all parties.
3. The Servicing Agency agrees to abide by and comply with all terms and conditions of the Agreement and to abide by, and comply with, all requirements of applicable law, including those specified in this Attachment, which are considered as an integral part of the Agreement.
4. In the case of any inconsistency or conflict between the specific provisions of the Agreement and this Attachment, such inconsistency or conflict shall be resolved by giving preference to the Agreement.
5. The Servicing Agency shall be responsible for ensuring that the Project is designed and/or constructed in accordance with the Agreement, and all applicable Federal laws, regulations and policies of the Federal Highway Administration ("FHWA" also referred to herein as the "Government").
6. Reimbursement of costs incurred pursuant to the Agreement will be made pursuant to and in accordance with 2 CFR Part 200 and the provisions of such regulations and procedures as the Government may prescribe. Determination of allowable costs incurred by the Servicing Agency under the Agreement shall be made in accordance with applicable government-wide cost principles under 2 CFR 200. Closeout of the Agreement shall be based upon a determination that all applicable administrative actions and all required work of the Agreement have been completed in accordance with 2 CFR Part 200. Upon the Government's review of all financial, performance, and other reports required as a condition of the Agreement, the Government may make any upward or downward adjustments to the allowable costs in accordance with 2 CFR 200.
7. The Servicing Agency agrees to carry out and complete the Project without undue delays and in accordance with the terms of the Agreement, including the Project Schedule set out in the Agreement, or in the Access Program Project Memorandum of Agreement if no Schedule is included in this Agreement, and comply with such regulations and procedures as the Government may prescribe.
8. The Servicing Agency agrees to retain all documents relevant to the Project for a period of three years from completion of the Project and receipt of final reimbursement from the Government. The Servicing Agency agrees to furnish the Government, upon request, all documents and records pertaining to the Project.
9. The Government is subject to the Freedom of Information Act (FOIA). The Servicing Agency should therefore be aware that all materials submitted by the Servicing Agency related to the

Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests.

10. The Government shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this the Servicing Agency's work under the Agreement. The Government will be responsible for damages or injuries caused by the negligence of its own employees, to the extent permitted under the Federal Tort Claims Act, 28 U.S.C. 2671-2680.
11. To the extent that the State has not already enacted legislation regarding texting while driving, the Government encourages the Servicing Agency to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. See Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving", Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.10 "Text Messaging While Driving", Dec. 30, 2009, as implemented by Financial Assistance Policy Letter (No. FAP-2010-01, Feb. 2, 2010, available at [http://www.dot.gov/sites/dot.dev/files/docs/FAPL\\_2010-01.pdf](http://www.dot.gov/sites/dot.dev/files/docs/FAPL_2010-01.pdf)) This includes, but is not limited to, the Servicing Agency:
  - a. Considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
  - b. Conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving; and
  - c. Encouraging voluntary compliance with the agency's text messaging policy while off duty.

The Servicing Agency is encouraged to insert the substance of this clause in all contracts and subcontracts.

## **B. APPLICABLE FEDERAL LAWS AND REGULATIONS**

By entering into the Agreement, the Servicing Agency assures, certifies, and agrees to comply with all applicable Federal laws, regulations, policies, guidelines, and requirements as they relate to the use of Federal funds for this Project including, but not limited to, the following:

### **General Federal Legislation**

- Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- Hatch Act - 5 U.S.C. §§ 1501, et seq.
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title - 42 U.S.C. §§4601, et seq.
- National Historic Preservation Act of 1966 – 16 U.S.C. § 470, et seq.
- Archaeological Resources Protection Act – 16 U.S.C. 470aa, et seq.
- Native American Graves Protection and Repatriation Act - 25 U.S.C. § 3001, et seq.
- National Environmental Policy Act of 1969 - 42 U.S.C. §§ 4321, et seq.
- Endangered Species Act of 1973, as amended - 16 U.S.C. §§ 1531-1544
- Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. §§ 1271, et seq.
- Federal Water Pollution Control Act, as amended - 33 U.S.C. §§ 1251-1376
- Clean Air Act – 42 U.S.C. § 7401, et seq.
- Single Audit Act of 1984 - 31 U.S.C. §§ 7501, et seq.
- Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101, et seq.
- Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- Title VI of the Civil Rights Act of 1964 - 42 U.S.C. §§ 2000d *et seq.*

- Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
- Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1855
- Farmlands Protection Policy Act of 1981 – 7 U.S.C. 4201
- Noise Control Act of 1972 – 42 U.S.C. § 4901, et seq.
- Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. § 138
- Resource Conservation and Recovery Act of 1976 (RCRA), as amended -- 42 U.S.C. §§ 6901, et seq.
- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended --42 U.S.C. §§ 9601-9657
- Safe Drinking Water Act -- 42 U.S.C. §§ 300f-300j-6
- Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. § 6901, et seq.
- Migratory Bird Treaty Act 16 U.S.C. § 760c-760g
- The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- Buy America Act – 23 U.S.C. § 313 (see [http://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm))
- Nondiscrimination – 23 U.S.C. § 140

### **General Federal Regulations**

- Suspension and Debarment – 2 CFR Parts Part 180
- Non-procurement Suspension and Debarment – 2 CFR Part 1200
- External Programs – 23 CFR Part 230
- Manual on Uniform Traffic Control Devices – 23 CFR Part 655
- Environmental Impact and Related Procedures – 23 CFR Part 771
- Procedures for Abatement of Highway Traffic and Construction Noise – 23 CFR Part 772
- Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 CFR Part 774
- DOT's oversight of DOJ's ADA regulations for non-transit programs, including the ADA Accessibility Guidelines, required by the DOJ regulations at – 28 CFR Part 35
- Procedures for predetermination of wage rates – 29 CFR Part 1
- Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 CFR Part 3
- Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 CFR Part 5
- Permitting Requirements under the National Pollutant Discharge Elimination System – 40 CFR Part 122.
- Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 CFR Parts 60, et seq.
- Uniform administrative requirements, cost principles, and audit requirements for Federal Awards – 2 CFR Part 200
- New Restrictions on Lobbying – 49 CFR Part 20
- Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 CFR Part 21
- Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 CFR Part 24
- Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 CFR Part 25
- Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 CFR Part 26

- Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 CFR Part 27
- Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 CFR Part 30
- Government-wide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- DOT's implementing ADA regulations for transit, including the ADA Accessibility Guidelines in Part 37, Appendix A – 49 CFR Parts 37 and 38
- Procedures for Transportation Workplace Drug and Alcohol Testing Programs – 49 CFR Part 40
- 23 C.F.R. Part 710 applies unless otherwise agreed to by FHWA

The Servicing Agency, when contracting for work to be performed under this Agreement, will include in the prime contract the applicable provisions required under 2 CFR 200.326.

The Servicing Agency, when contracting for construction services, shall ensure that all laborers and mechanics employed by contractors or subcontractors on the construction work shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with sections 3141, 3146, and 3147 of title 40.

## C. ASSURANCES AND CERTIFICATIONS

### **TITLE VI ASSURANCE (Implementing Title VI of the Civil Rights Act of 1964, as amended)**

#### **ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 CFR Parts 21, 25, 27, 37 and 38

#### **The United States Department of Transportation (USDOT)**

#### **Standard Title VI/Non-Discrimination Assurances**

#### **DOT Order No. 1050.2A**

By entering into the Agreement, the Servicing Agency (also herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal funds from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

#### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964);

- 28 CFR section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964)

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Servicing Agency hereby gives assurance that it will promptly take any measures necessary to ensure that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Servicing Agency, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Servicing Agency agrees with and gives the following Assurances with respect to its receipt of funds for this project:

1. The Servicing Agency agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Servicing Agency will insert the following notification in all solicitations for bids and requests for proposals for work or materials, regardless of funding source:
  - a. *“The Servicing Agency, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”*
3. The Servicing Agency will insert the clauses of Appendix A of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Servicing Agency will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Servicing Agency receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Servicing Agency receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Servicing Agency will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Servicing Agency with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Servicing Agency or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal funds were extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Servicing Agency retains ownership or possession of the property.
9. The Servicing Agency will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other parties funded in whole or part from the funds provided under this Agreement will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Servicing Agency agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing the Agreement, the Servicing Agency also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA's access to records, accounts, documents, information, facilities, and staff. The Servicing Agency also recognizes that it must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. The Servicing Agency must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally, the Servicing Agency must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Servicing Agency gives this ASSURANCE in consideration of and for obtaining any Federal funds, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation.

This ASSURANCE is binding on the Servicing Agency, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the funds provided under this Agreement.

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-funded programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Servicing Agency or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Servicing Agency or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Servicing Agency will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Servicing Agency or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Servicing Agency to enter into any litigation to protect the interests of the Servicing Agency. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



## APPENDIX B

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Servicing Agency under the terms of the Agreement:

1. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the Servicing Agency will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
3. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Servicing Agency will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Servicing Agency and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX C

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Servicing Agency pursuant to the provisions of this Agreement:

1. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the Servicing Agency will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
3. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the Servicing Agency will there upon revert to and vest in and become the absolute property of the Servicing Agency and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

### A. ASSURANCE OF DISCLOSURE OF LOBBYING ACTIVITIES

#### Certification for Contracts, Grants, Loans, and Agreements

The person signing this Agreement for the Servicing Agency certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress

in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any grant agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or grant agreement, the undersigned shall complete and submit Standard Form-LLL (Rev. 7-97), "Disclosure of Lobbying Activities," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts and contracts under grants, loans and grant agreements) and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352, title. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **B. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

The Servicing Agency certifies that it will, or will continue, to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Servicing Agency's workplace, and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an ongoing drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The Servicing Agency's policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation, and employee assistance programs; and,
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of work supported by the Agreement be given a copy of the statement required by paragraph 1.
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment supported by the Agreement, the employee will:
  - a. Abide by the terms of the statement; and
  - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
5. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph 4.b. from an employee or otherwise receiving actual notice of conviction.

Employers of convicted employees must provide notice, including position title, to FHWA. Notice shall include the order number of the Agreement.

6. Taking one of the following actions, within 30 days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
  - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
  - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.
8. The Servicing Agency *may*, but is not required to, provide the site for the performance of work done in connection with the Agreement. For the provision of services pursuant to the Agreement, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the Agreement. If the Servicing Agency does so, the Servicing Agency shall identify the Places of Performance by listing the street address, city, county, state, zip code. Also identify if there are workplaces on file that are not identified in this section of the Agreement.

**C. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**

**2 CFR Parts 180, 1200, 48 CFR Part 9, and 49 CFR Part 32**

These assurances and certifications are applicable to all construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200, and 48 CFR Part. 9.

By entering into this Agreement the Servicing Agency is providing the assurances and certifications for First Tier Participants and Lower Tier Participants as set out below.

1. Instructions for Certification – First Tier Participants:
  - a. The prospective first tier participant is providing the certification set out below.
  - b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
  - c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion  
– First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
  1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
  2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph a.2. of this certification; and
  4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 C.F.R. Parts 180 and 1200)

- a. The prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient and subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal

funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
  - f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
  - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
  - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Participants:
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
  - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### **D. ASSURANCE OF ADEQUATE FINANCIAL SYSTEMS AND CONTROL OF PROJECT COSTS**

- 1. The Servicing Agency will be reimbursed in accordance with the terms of this Agreement.



2. The Servicing Agency shall have entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the Government. Reimbursement will only be made for expenses incurred after execution of a project agreement.
3. The Servicing Agency shall ensure that the funds provided by the Government are not misappropriated or misdirected to any other account, need, project, line-item, or unrelated activity.
4. Any Federal funds not expended in conjunction with the Project will remain the property of the Government.
5. Financial Management System: By signing this Agreement, the Servicing Agency verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs and that it complies with the financial management system requirements of 2CFR Part 200.302. The Servicing Agency's failure to comply with these requirements may result in Agreement termination.
6. Allowable Costs: Determination of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., 2 CFR Part 200. Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Agreement.

#### **E. TRANSPARENCY ACT REQUIREMENTS**

Pursuant to the Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Public Law 110-252, hereafter referred to as "the Transparency Act" or "the Act") and the OMB Interim Final Rule (75 FR 55663 (September 14, 2010) (available at <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf>) (codified at 2 CFR Part 170), the Servicing Agency is required to report as required under the Act: The Servicing Agency shall also report information for its prime contractor.

##### **1. Reporting Obligations**

- a. Applicability. Unless the Servicing Agency (hereinafter in this section referred to as "you") are exempt as provided in paragraph 4. of this section, you must report each action that obligates \$25,000 or more in Federal funds for a prime contract to an entity (see definitions in subsection 5. of this section).
- b. Where and when to report.
  1. You must report each obligating action described in subsection 1.a. of this section to <http://www.fsrs.gov>.
  2. For contractor information, report no later than the end of the month following the month in which the contract was executed. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- c. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

##### **2. Reporting Total Compensation of Executives.**

- a. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

1. The total Federal funding authorized to date under this award is \$25,000 or more;
2. In the preceding fiscal year, you received—
  - i.* 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - ii.* \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - iii.* The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
- b. Where and when to report. You must report executive total compensation described in subsection 2.a. of this section:
  1. As part of your registration profile at <https://www.sam.gov>
  2. By the end of the month following the month in which this award is made, and annually thereafter.
3. Reporting of Total Compensation of Prime Contractor's Executives.
  - a. Applicability and what to report. Unless you are exempt as provided in subsection d. of this section, for each prime contractor receiving funds for which reimbursement will be sought, you shall report the names and total compensation of each of the prime contractor's five most highly compensated executives for the prime contractor's preceding completed fiscal year, if—
    1. In the prime contractor's preceding fiscal year, the contractor received—
      - i.* 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
      - ii.* \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
    2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
  - b. Where and when to report. You must report the prime contractor's executive total compensation described in subsection 3.a. of this section:
    1. To <http://www.fsrs.gov>.

2. By the end of the month following the month during which you executed the prime contract. For example, if a prime contract is executed on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the prime contractor by November 30 of that year.

4. Exemptions.

If, in the previous tax year, you or the prime contractor had gross income, from all sources, under \$300,000, you are exempt from the requirements to report prime contracts and the total compensation of the five most highly compensated executives of any prime contractor.

5. Definitions. For purposes of this section:

a. Entity means all of the following, as defined in 2 CFR Part 25:

1. A Governmental organization, which is a State, local government, or Indian tribe;
2. A foreign public entity;
3. A domestic or foreign nonprofit organization;
4. A domestic or foreign for-profit organization;
5. A Federal agency, but only as a contractor or subcontractor to a non-Federal entity.

b. Executive means officers, managing partners, or any other employees in management positions.

c. Total compensation means the cash and noncash dollar value earned by the executive during the Servicing Agency's or prime contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

1. Salary and bonus.
2. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
4. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
5. Above-market earnings on deferred compensation which is not tax-qualified.
6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**F. SINGLE AUDIT INFORMATION FOR SERVICING AGENCIES**

To maximize the transparency and accountability of funds authorized under the Act as required by Congress and in accordance with 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", the Servicing Agency agrees to maintain records that identify adequately the source and application of FHWA funds.

Federal Lands Access Program Project Memorandum of Agreement that was signed 3/27/19 Amendment 1 This amendment is just defining the terms of the match (in-kind and will be met by summer 2020).

# Federal Lands Access Program Project Memorandum of Agreement – Amendment 1

**Project / Facility Name:** OR MORROW 847(1), Road 847 Surface Improvements

**Project Route:** East of Morphine Road, Road 847

**State:** Oregon

**County(ies):** Morrow

**Owner of Federal Lands to which the Project Provides Access:** Umatilla National Forest

**Entity with Title or Maintenance Responsibility for Facility:** Morrow County

**Type of Work:**

*NEPA*

*Preliminary Engineering,*

*Rehabilitation,*

*Construction Engineering / Contract Administration*

This Agreement does not obligate (commit to) the expenditure of Federal funds nor does it commit the parties to complete the project. Rather, this agreement sets forth the respective responsibilities as the project proceeds through the project development process.

**Parties to this Agreement:** Federal Highway Administration, Western Federal Lands Highway Division and Morrow County.

The Program Decision Committee approved this project on November 22, 2016.

**AGREED:**

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Morrow County Commissioner, Morrow County

Date

---

Forest Supervisor, USFS – Umatilla National Forest

Date

---

Director of Program Administration, FLHD

Date

**Replace Sections F and K with the following:**

**F. PROJECT BUDGET:**

Phase	FLAP Funds			Partner Match		Total
	To FHWA	MC	Total	MC	Total	
PE	\$7,500.00	\$75,000.00	\$82,500.00	\$9,442.49	\$9,442.49	\$91,942.49
CN	\$7,500.00	\$547,494.00	\$554,994.00	\$63,521.55	\$63,521.55	\$618,515.55
	\$15,000.00	\$622,494.00	\$637,494.00	\$72,964.04	\$72,964.04	\$710,458.04

**K. MATCHING SHARE REQUIREMENTS:**

The purpose of this section is to document the intent of Morrow County to meet its match requirement for the subject project as authorized under Section 23 USC 201(b)(7)(B). All FLAP expenditures associated with this project will need to be matched by a non-Federal sources, other Federal funds other than those made available under Title 23 and 49 of the United States Code, or by funds made available under 23 USC 202 and 203. The matching requirement under the FAST Act will be met by Morrow County

Morrow County has committed to the project. The forms of match shall be those consistent with the “Federal-Aid Guidance Non-Federal Matching Requirements” and as approved by FHWA-WFL. In the state of Oregon, 10.27% of the total project cost.

This project is authorized to use a Tapered Match. Under this approach, the non-Federal match is imposed over the entire project rather than individual progress payments. Timing of all fund transfers are specified under the Funding Plan. Tapered Match is authorized because it will result in an earlier completion date.

Estimated cost and fiscal year (FY) for the funding are based on the best budgeting and scheduling information known at the time. The final match will be determined based on actual expenditures at the conclusion of the project work. Matching cash funds in FWHA-WFL receipt may need to be supplemented, or returned, once actual expenditures are determined. As noted under Modifications, if cost increase over the amount within this agreement, FHWA-WFL will consult with the agency providing match before granting approval.

Maintain all project records, including source documentation for all expenditures and in-kind contributions, for a period of three (3) years from the date of final acceptance. If any litigation claim, negotiation, or audit has been started before expiration of the three-year period, the records shall be retained until completion of the action or resolution of all issues that arise from it.

The following agencies have agreed to contribute the amounts showing which will reduce the federal share by the same amount. The funding plan is as follows:

Agency	Phase	Form	Due	Value	Comments
Morrow County	PE/CN	In-Kind Services	7/1/2020	\$72,964.04	

Federal Lands Access Program Disclosure of Lobbying  
Activities. Federal Aid requirement.



# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB

4040-0013

<b>1. * Type of Federal Action:</b> <input type="checkbox"/> a contract <input checked="" type="checkbox"/> b grant <input type="checkbox"/> c cooperative agreement <input type="checkbox"/> d loan <input type="checkbox"/> e loan guarantee <input type="checkbox"/> f loan insurance	<b>2. * Status of Federal Action:</b> <input type="checkbox"/> a bid/offer/application <input checked="" type="checkbox"/> b initial award <input type="checkbox"/> c post-award	<b>3. * Report Type:</b> <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
<b>4. Name and Address of Reporting Entity:</b> <input checked="" type="checkbox"/> Prime <input type="checkbox"/> SubAwardee * Name: <input type="text" value="Harrow County"/> * Street 1: <input type="text" value="365 W. Hwy 71,"/> Street 2: <input type="text" value="PO. Box 428"/> * City: <input type="text" value="Levellon"/> State: <input type="text" value="OR: Oregon"/> Zip: <input type="text" value="97839"/> Congressional District, if known: <input type="text" value="OR-0C2"/>		
<b>5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:</b>		
<b>6. * Federal Department/Agency:</b> <input type="text" value="FHWA - WFO"/>	<b>7. * Federal Program Name/Description:</b> <input type="text" value="Federal Lands Access Program"/> CFDA Number, if applicable: <input type="text" value="20.224"/>	
<b>8. Federal Action Number, if known:</b> <input type="text"/>	<b>9. Award Amount, if known:</b> \$ <input type="text" value="637,494.00"/>	
<b>10. a. Name and Address of Lobbying Registrant:</b> Prefix <input type="text"/> * First Name <input type="text" value="JIA"/> Middle Name <input type="text"/> * Last Name <input type="text"/> Suffix <input type="text"/> * Street 1 <input type="text"/> Street 2 <input type="text"/> * City <input type="text"/> State <input type="text"/> Zip <input type="text"/>		
<b>b. Individual Performing Services</b> (including address if different from No. 10a) Prefix <input type="text"/> * First Name <input type="text" value="JA"/> Middle Name <input type="text"/> * Last Name <input type="text"/> Suffix <input type="text"/> * Street 1 <input type="text"/> Street 2 <input type="text"/> * City <input type="text"/> State <input type="text"/> Zip <input type="text"/>		
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. <b>* Signature:</b> <input type="text"/> <b>* Name:</b> Prefix <input type="text" value="Mr."/> * First Name <input type="text" value="Jim"/> Middle Name <input type="text"/> * Last Name <input type="text" value="Doherty"/> Suffix <input type="text"/> <b>Title:</b> <input type="text" value="Coblesetter"/> <b>Telephone No.:</b> <input type="text" value="541-676-5613"/> <b>Date:</b> <input type="text"/>		
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)

Federal Lands Access Program Assurances – of Construction  
Programs.

## ASSURANCES - CONSTRUCTION PROGRAMS

OMB Number: 4040-0009  
Expiration Date: 01/31/2019

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL  	TITLE Chair, Jim Doherty
APPLICANT ORGANIZATION Morrow County	DATE SUBMITTED 

**Additional Required Statements and Assurances for Grant  
Awards from Federal Highway Administration - Western  
Federal Lands**

**Additional Required Statements and Assurances for Grant Awards  
from Federal Highway Administration - Western Federal Lands**

Date:

Agency Name:                      Morrow County

Project Number and Name:                      OR MORROW 847(1), Road 847 Surface Improvements

1.)

The Applicant must provide a statement to indicate whether your organization has previously completed an A-133 Single Audit and, if so, the date that the last A-133 Single Audit was completed.

Has your organization had a Single Audit completed?

If Yes, to Question Number 1, please provide the date the last Single Audit was completed.

2.)

The Applicant must provide a statement regarding Conflicts of Interest. The Applicant must disclose in writing any actual or potential personal or organizational conflict of interest in its application that describes in a concise manner all past, present or planned organizational, contractual or other interest(s), which may affect the Applicants' ability to perform the proposed contract in an impartial and objective manner. Actual or potential conflicts of interest may include but are not limited to any past, present or planned contractual, financial, or other relationships, obligations, commitments or responsibilities, which may bias the Applicant or affect the Applicant's ability to perform the agreement in an impartial and objective manner. The AO will review the statement(s) and may require additional relevant information from the Applicant. All such information, and any other relevant information known to DOT, will be used to determine whether an award to the Applicant may create an actual or potential conflict of interest. If any such conflict of interest is found to exist, the AO may (a) disqualify the Applicant, or (b) determine that it is otherwise in the best interest of the United States to contract with the Applicant and include appropriate provisions to mitigate or avoid such conflict in the agreement pursuant to 2 CFR 200.112.

Are there any actual or potential personal or organizational conflict of interest as delineated in the Question Number 2 above?

If Yes, to Question Number 2, please provide the circumstances involving the actual or potential conflict of interest.

3.)

The Applicant must provide a statement regarding indicating whether a Federal or State organization has audited or reviewed the Applicant's accounting system, purchasing system, and/or property control system. If such systems have been reviewed, provide summary information of the audit/review results to include as applicable summary letter or agreement, date of audit/review, Federal or State point of contact for such review.

Has a Federal or State organization audited or reviewed the Applicant's accounting system, purchasing system, and/or property control system?

If Yes, to Question Number 3, please provide the following:

Date of Audit/Review:

Federal/State Point of Contact Information:

Name:

Phone Number:

Summary information of the audit/review results:

4.)

The Applicant must provide a statement regarding Terminated Contracts - List any contract/agreement that was terminated for convenience within the past 3 years, and any contract/agreement that was terminated for default within the past 5 years.

Has the Applicant had any contract(s)/agreement(s) terminated for convenience in the last 3 years, or default in the past 5 years?

If Yes, to Question Number 4, please briefly explain the circumstances in each instance below



5.)

The Applicant must provide a statement disclosing any violations of Federal criminal law involving fraud, bribery, or gratuity violations. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 entitled Remedies for Noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321).

Has the Applicant had any violations of Federal criminal law involving fraud, bribery, or gratuity violations.?

If Yes, to Question Number 5, please briefly explain the circumstances in each instance below:

Jim Doherty, Commissioner

Name and Title of Signature Authority

Federal Highway Administration –  
Application for Federal Assistance.

**Application for Federal Assistance SF-424**

\* 1. Type of Submission:

- Preapplication
- Application
- Changed/Corrected Application

\* 2. Type of Application:

- New
- Continuation
- Revision

\* If Revision, select appropriate letter(s):

\* Other (Specify):

\* 3. Date Received:

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

690567195000

**State Use Only:**

6. Date Received by State:

7. State Application Identifier:

**8. APPLICANT INFORMATION:**

\* a. Legal Name:

Morrow County

\* b. Employer/Taxpayer Identification Number (EIN/TIN):

\* c. Organizational DUNS:

0107411890000

**d. Address:**

\* Street1:

365 W. Hwy 74

Street2:

PO Box 428

\* City:

Lexington

County/Parish:

Morrow

\* State:

OR: Oregon

Province:

\* Country:

USA: UNITED STATES

\* Zip / Postal Code:

97839-0428

**e. Organizational Unit:**

Department Name:

Public Works

Division Name:

**f. Name and contact information of person to be contacted on matters involving this application:**

Prefix:

Mrs.

\* First Name:

Sandra

Middle Name:

\* Last Name:

Pointer

Suffix:

Title: Management Assistant

Organizational Affiliation:

\* Telephone Number:

547-989-8166

Fax Number:

541-989-8352

\* Email:

spointer@co.morrow.or.us

**Application for Federal Assistance SF-424**

**\* 9. Type of Applicant 1: Select Applicant Type:**

B: County Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

**\* 10. Name of Federal Agency:**

Federal Lands Access Program

**11. Catalog of Federal Domestic Assistance Number:**

20.224

CFDA Title:

Federal Lands Access Progra

**\* 12. Funding Opportunity Number:**

OR-2016 Call for Projects

\* Title:

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

Add Attachment

Delete Attachment

View Attachment

**\* 15. Descriptive Title of Applicant's Project:**

Road 847 Surface Improvements

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424**

**16. Congressional Districts Of:**

\* a. Applicant

\* b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

**17. Proposed Project:**

\* a. Start Date:

\* b. End Date:

**18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="637,494.00"/>
* b. Applicant	<input type="text"/>
* c. State	<input type="text"/>
* d. Local	<input type="text" value="72,964.04"/>
* e. Other	<input type="text"/>
* f. Program Income	<input type="text"/>
* g. TOTAL	<input type="text" value="710,458.04"/>

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- a. This application was made available to the State under the Executive Order 12372 Process for review on
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

Yes  No

If "Yes", provide explanation and attach

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

\*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:  \* First Name:   
Middle Name:   
\* Last Name:   
Suffix:

\* Title:

\* Telephone Number:  Fax Number:

\* Email:

\* Signature of Authorized Representative:  \* Date Signed:



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
5a

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Mike Gorman
Department: Assessment & Tax
Short Title of Agenda Item:

Phone Number (Ext): 541-676-5607
Requested Agenda Date: 1/05/2022

(No acronyms please) Tax Foreclosure Sale to Previous Owner

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time: 10 Minutes
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Mike Gorman 12/23/21 Department Director Required for all BOC meetings
DATE
[Signature] 1/13/22 Administrator Required for all BOC meetings
DATE
J. Nelson [Signature] 1/13/22 County Counsel \*Required for all legal documents
DATE
Finance Office \*Required for all contracts; other items as appropriate.
DATE
Human Resources \*If appropriate
DATE

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

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## **1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Tax lot 4N2516AC-126 was owned by Ridgecrest Development III, LLC. The property became four years delinquent with property taxes in 2019 and a foreclosure judgement was awarded in October 2019, (Circuit Court Case No. 19CV37521), after the two year redemption period expired this past October, the property was deeded to the County on 10/26/2021. The property is .68 acres with R3 Zoning and has a 2500 sf shop building constructed in 1997. The delinquent tax amount, including all delinquent years and foreclosure fees is **\$13,156.52**. The current estimated Real Market Value of the Property is **\$87,000.00**. In early December, a representative from Ridgecrest Development III, LLC contacted me inquiring if he could purchase the property back from the County.

The statute regarding this situation reads as follows: *275.180 Sale to record owner or contract purchaser of property; conditions. (1) The governing body of a county may at any time, without the publication of any notice, sell and convey by deed to the record owner or the contract purchaser of record, any property acquired by the county for delinquent taxes for not less than the amount of taxes and interest accrued and charged against such property at the time of purchase by the county with interest thereon at the rate of six percent per annum from the date of such purchase.*

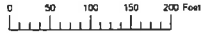
*(2) All such sales of any such property to the record owner or the contract purchaser of record shall be subject to all liens or claims arising out of any assessment for a local improvement levied against such property, or any part thereof, by any municipal corporation and remaining unsatisfied, and also shall be subject to any title or equity of the municipal corporation predicated upon or growing out of any such lien or assessment. [Amended by 1973 c.843 §1; 1975 c.657 §1; 2005 c.243 §17]*

## **2. FISCAL IMPACT:**

## **3. SUGGESTED ACTION(S)/MOTION(S):**

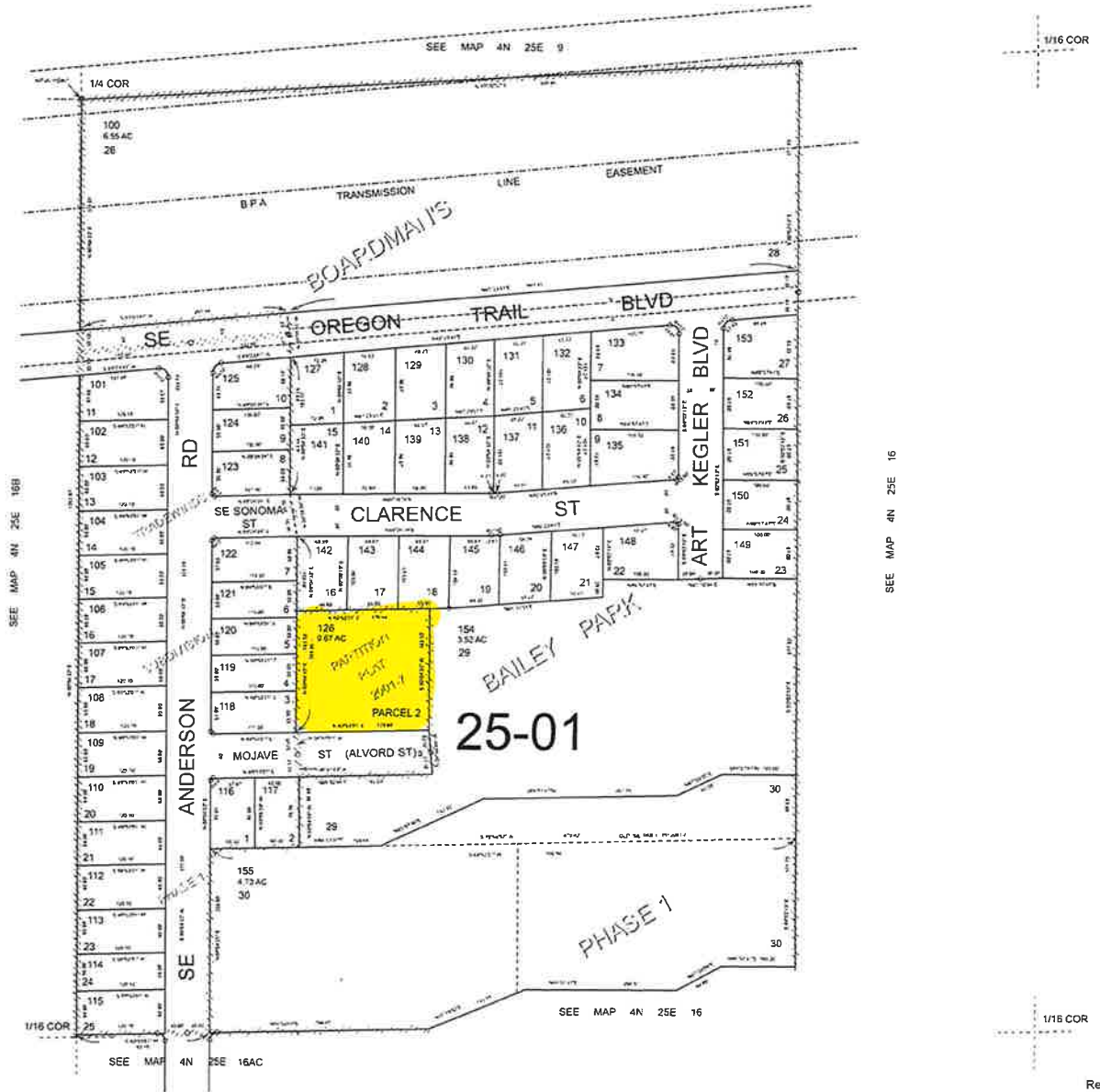
Attach additional background documentation as needed.

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY



N.W.1/4 N.E.1/4 SEC.16 T.4N. R.25E. W.M.  
MORROW COUNTY  
1" = 100'

04N25E16AB



Revised: EB  
06/29/2021

04N25E16AB



**REAL PROPERTY TAX STATEMENT  
 JULY 1, 2021 TO JUNE 30, 2022  
 MORROW COUNTY, OREGON  
 PO BOX 247  
 HEPPNER, OR 97836**

**ACCOUNT NO:  
 9845**

**PROPERTY DESCRIPTION**

**CODE:** 2501  
**MAP:** 4N2516-AB-00126  
**ACRES:** 0.68  
**SITUS:**

RIDGECREST DEVELOPMENT III, LLC  
 2809 NE STOUGHTON RD  
 LA CENTER WA 98629

VALUES	LAST YEAR	THIS YEAR
<b>REAL MARKET (M5 RMV)</b>		
<b>LAND</b>	47,830	50,220
<b>STRUCTURES</b>	<u>32,900</u>	<u>36,850</u>
<b>TOTAL M5 RMV</b>	80,730	87,070
<b>TOTAL ASSESSED VALUE</b>	71,710	73,860
<b>EXEMPTIONS</b>	0	
<b>NET TAXABLE:</b>	<u>71,710</u>	<u>73,860</u>
<b>TOTAL PROPERTY TAX:</b>	<b>1,352.47</b>	<b>1,469.24</b>

MORROW SCHOOL	292.87
INTERMOUNTAIN ESD	44.70
BMCC	48.00
<b>EDUCATION TOTAL:</b>	<u>385.57</u>
MORROW COUNTY	300.17
BOARDMAN URBAN RENEWAL	11.66
UMA-MORROW RADIO DIST	12.35
WEST BOARDMAN URBAN RENEWAL AREA	11.66
HEALTH DIST	43.93
HEALTH DIST LOCAL OPTION	28.50
PORT OF MORROW	6.11
BOARDMAN	305.74
BOARDMAN RFD	54.18
BOARDMAN CEMETERY	2.07
BOARDMAN PARK	21.71
UNIFIED REC DISTRICT	33.10
VECTOR CONTROL	13.79
VECTOR CONTROL LOCAL OPTION	7.31
OREGON TRAIL LIBRARY	18.42
<b>GENERAL GOVT TOTAL:</b>	<u>870.70</u>
BOARDMAN BOND	147.05
BOARDMAN PARK BOND	38.19
BMCC BOND	14.61
BOARDMAN FIRE RESCUE DISTRICT BO	13.12
<b>BONDS - OTHER TOTAL:</b>	<u>212.97</u>

Credit card payments can be made by calling the number below or online at [www.morrowcountyoregon.com](http://www.morrowcountyoregon.com). A fee of 2.75% with a minimum charge of \$2.00 will be charged to the cardholder.

**TAX QUESTIONS** (541) 676-5607

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/15/21	13,156.52	12,691.26	12,221.11
02/15/22			489.75
05/16/22		489.75	489.74
<b>Total</b>	<b>13,156.52</b>	<b>13,181.01</b>	<b>13,200.60</b>

<b>2021 - 2022 TAX ( Before Discount )</b>	<b>1,469.24</b>
<b>DELINQUENT TAXES:</b>	
2020-21 TAX AND INTEREST DUE	1514.77
2019-20 TAX AND INTEREST DUE	1558.98
* 2018-19 TAX AND INTEREST DUE	1640.06
* 2017-18 TAX AND INTEREST DUE	1817.59
* PREV TAX AND INTEREST DUE	5199.96
<b>TOTAL DUE (After Discount and Pre-payments)</b>	<b>13,156.52</b>

↑ Tear Here

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

Tear Here ↑

2021 - 2022 PROPERTY TAXES				MORROW COUNTY REAL				ACCOUNT NO. 9845	
PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount		
Full Payment Enclosed	3%	11/15/21	13,156.52						
or 2/3 Payment Enclosed	2%	11/15/21	12,691.26			05/16/22	489.75		
or 1/3 Payment Enclosed	0%	11/15/21	12,221.11	02/15/22	489.75	05/16/22	489.74		

Mailing address change on back

**DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE**

Enter Payment Amount  
 \$

RIDGECREST DEVELOPMENT III, LLC  
 2809 NE STOUGHTON RD  
 LA CENTER WA 98629

**MAKE PAYMENT TO:  
 MORROW COUNTY TAX OFFICE  
 PO BOX 247  
 HEPPNER, OR 97836**

288 - 000008 - 1315652



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
5b

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Sandi Pointer
Department: Public Works - General Maintenance
Short Title of Agenda Item: NORTH County Janitorial Award and Contract
(No acronyms please)
Date submitted to reviewers: 12/16/2021
Requested Agenda Date: 01/05/2022

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity: iPro Building Services, LLC
Contractor/Entity Address: 3000 Riverview Lane Malaga Wa. 98828
Effective Dates - From: 01/05/2022 Through: 12/30/2022
Total Contract Amount: \$22,884.00 Budget Line: 101.121.5.20.3464
Does the contract amount exceed \$5,000? Yes No

Reviewed By:
Department Director Required for all BOC meetings
Administrator Required for all BOC meetings
County Counsel \*Required for all legal documents
Finance Office \*Required for all contracts; other items as appropriate.
Human Resources \*If appropriate
\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

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**AGENDA ITEM COVER SHEET**  
**Morrow County Board of Commissioners**  
**(Page 2 of 2)**

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**1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

In the Middle of November Public Works had solicited Request for Qualifications for Janitorial Services Contractor for cleaning North County Buildings only in Boardman and Irrigon. A good representation from all buildings serviced consisted of Stephanie Case, Kristen Bowles, Bobbi Childers and myself scored and reviewed the five proposals. You will find the attached score sheet of the scoring from the individuals and the favorable contractor. iPro Building Services, LLC is acceptable to carry such a contract at a reasonable cost for the County. This contract is a year contract and six month review of services provided. Including Triple R Investments, LLC had declined submission.

Sheriffs Building , 205 NE Third, Irrigon -\$5,400.00  
MC Government Center, 215 NE Main St., Irrigon- \$13,524.00  
Health Dept, Building, 101 NW Boardman- \$3,960.00

Total \$22,884.00

Summary of Bids recieved - Yearly cost  
iPro Building Services, LLC \$22,884.  
Patriot Building and Grounds, \$36,884.00  
SunRise Cleaning, \$53,196.00  
Extreme Housekeeping, \$170,383.20

**2. FISCAL IMPACT:**

101.121.5.20.3464 \$22,884.00

**3. SUGGESTED ACTION(S)/MOTION(S):**

Motion to Award and Sign the Contract for Janitorial Services for the North County buildings in the yearly amount of \$22,884.00 iPro Building Services, LLC and Morrow County for 1 year.

Attach additional background documentation as needed.

**Proposed score sheet**

**11/24/2021**

**Proposer**

**Total score**

**North County Buikldings, Boardman**

**SP**

**SC**

**KB**

**BC**

**Irrigon**

**#1**

**#2**

**#4**

**#5**

**TOTAL**

<b>iPro Building Services</b>	<b>33</b>	<b>10</b>	<b>100</b>	<b>27</b>	<b>170</b>
<b>Patriot Building &amp; Grounds Maintenance</b>	<b>17</b>	<b>60</b>	<b>0</b>	<b>0</b>	<b>77</b>
<b>SunRise Cleaning and Janitorial Services LLC</b>	<b>37</b>	<b>74</b>	<b>70</b>	<b>80</b>	<b>261</b>
<b>Triple R Investments LLC</b>	<b>40</b>	<b>29</b>	<b>70</b>	<b>77</b>	<b>216</b>
<b>Xtreme Housekeeping</b>	<b>85</b>	<b>79</b>	<b>75</b>	<b>100</b>	<b>339</b>

**Review Panel**

**Sandi Putman**

**Stephanie Case**

**Kristen Bowles**

**Bobbi Childers**

**MORROW COUNTY PERSONAL/PROFESSIONAL SERVICES CONTRACT  
JANITORIAL SERVICES**

**This Contract** is between Morrow County, a political subdivision of the State of Oregon, hereafter called **County**, and **iPro Building Services, LLC** hereafter called **Contractor**. County's Contract Administrator for this contract is Darrell J. Green, Morrow County Administrator.

**1. Effective Date and Duration.** This contract shall become effective on the date this Contract has been signed by every party hereto. Unless earlier terminated or extended, this Contract period shall be for a period of one (1) year, beginning January 5, 2022 ending December 30, 2022 with an option of renewal at that time. Contractor and County agree to a performance review at six (6) months. Expiration shall not extinguish or prejudice County's right to enforce this Contract with respect to any breach of a Contractor warranty; or any default or defect in Contractor performance that has not been cured.

**2. Statement of Work.** This contract is for janitorial services. Those services may include but are not limited to the items located in the Morrow County Janitorial Specifications found in Exhibit A, herein incorporated by this reference. Contractor agrees to adhere to all state and federal rules, regulations, and laws pertaining to any particular project, including, but not limited to, the Bureau of Labor and Industries (BOLI). Contractor further agrees to perform the Work in accordance with the terms and conditions of this Contract.

**3. Consideration.** County agrees to pay Contractor the monthly rates as set forth in Contractor's Fee Schedule, found in Exhibit B, attached hereto and hereby incorporated by this reference.

**4. Contract Documents.** This contract consists of this Contract with all attached Exhibits. All attached Exhibits are hereby incorporated by reference.

**5. Independent Contractor; Responsibility for Taxes and Withholding**

a. Contractor shall perform required Work as an independent contractor. Although County reserves the right (i) to determine (and modify) the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

b. If Contractor is currently performing work for County, the State of Oregon or the Federal Government, Contractor by signature to this Contract declares and certifies that: Contractor's work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and that no rules or regulations of Contractor's employing entity (county, state or federal) would prohibit Contractor's activities under this Contract. Contractor is not an "officer," "employee," or "agent" of County, as those terms are used in ORS 30.265.

c. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, County will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any Social Security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

**6. Subcontracts and Assignment; Successors and Assigns.**

a. Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract, without County's prior written consent. In addition to any other provisions County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by Sections 6, 10, 11, 15, and 17 of this Contract as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

b. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

**7. No Third-Party Beneficiaries.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

**8. Funds Available and Authorized**

a. Contractor shall not be compensated for work performed under this contract by any other County or department of the State of Oregon. County has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract.

b. County will only pay for completed work that is accepted by County.

- 68 **9. Representations and Warranties**  
69 a. **Contractor's Representations and Warranties.** Contractor represents and warrants to County that  
70 (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract,  
71 when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in  
72 accordance with its terms, (3) the Work under this Contract shall be performed in a good and  
73 workmanlike manner and in accordance with the highest professional standards, and (4) Contractor  
74 shall, at all times during the term of this Contract be qualified, professionally competent, and duly  
75 licensed to perform the Work.  
76 b. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu  
77 of, any other warranties provided.  
78  
79 **10. Ownership of Work Product.** All Work product of Contractor that results from this Contract ("the Work  
80 Product") are the exclusive property of County. County and Contractor intend that such Work Product be  
81 deemed "works made for hire" of which County shall be deemed the author. If for any reason the Work  
82 Product is not deemed "works made for hire," Contractor hereby irrevocably assigns all of its right, title, and  
83 interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade  
84 secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such  
85 further documents and instruments as County may reasonably request in order to fully vest such right in  
86 County. Contractor forever waives any and all rights under 17 USC §106A or any other rights of  
87 identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.  
88  
89 **11. Indemnity.** Contractor shall defend, save, hold harmless, and indemnify the County, their officers,  
90 employees, agents, from and against all claims, suits, or actions, losses, damages, liabilities costs and  
91 expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor  
92 or its officers, employees, subcontractors, or agents under this Contract.  
93  
94 **12. Insurance.** Contractor shall provide insurance as required by state law and provide proof of said insurance  
95 to the Morrow County Public Works Department on an annual basis.  
96  
97 **13. Termination.**  
98 a. **Parties Right to Terminate for Convenience.** This Contract may be terminated at any time by mutual  
99 written consent of the parties.  
100 b. **County's Right to Terminate for Convenience.** County may, at its sole discretion, terminate this  
101 Contract, in whole or in part, upon 30 days' notice to Contractor.  
102 c. **Parties Right to Terminate due to uncured Breach.** This Contract may be terminated at any time by  
103 either party should a material breach by the other party remain uncured 30 days after submission of  
104 written notice being provided of the breach thereof, or a shorter period of time as may be specified  
105 within this Contract or within the applicable Schedule provided to the Contractor by the County.  
106 d. **Remedies.** In the event of termination pursuant to Sections 13a. or 13b., Contractor's sole remedy shall  
107 be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work  
108 completed and accepted by County, less previous amounts paid and any claim(s) which state has against  
109 Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this  
110 subsection, Contractor shall pay any excess to County upon demand.  
111 e. **Contractor's Tender Upon Termination.** Upon receiving a notice of termination of this Contract,  
112 Contractor shall immediately cease all activities under this Contract, unless County expressly directs  
113 otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to  
114 County all documents, information, works-in-progress and other property that are or would be  
115 deliverables had the Contract been completed. Upon County request, Contractor shall surrender to  
116 anyone County designates, all documents, research or objects or other tangible things needed to complete  
117 the Work.  
118  
119 **14. Limitation of Liabilities. EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO**  
120 **SECTION 9(a), NEITHER PARTY SHALL BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL,**  
121 **CONSEQUENTIAL OR SPECIAL DAMAGES UNDER THE CONTRACT OR (ii) ANY**  
122 **DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS**  
123 **CONTRACT IN ACCORDANCE WITH ITS TERMS.**  
124  
125 **15. Records Maintenance; Access.** Contractor shall maintain all fiscal records relating to this Contract in  
126 accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other  
127 records pertinent to this Contract in such a manner as to clearly document Contractor's performance.  
128 Contractor acknowledges and agrees that County and the Oregon Secretary of State's Office and the federal  
129 government and their duly authorized representatives shall have access to such fiscal records and other books,  
130 documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations  
131 and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal  
132 records, books, documents, papers, plans, and writings for a minimum of three years, or such longer period as  
133 may be required by applicable law, following final payment and termination of this Contract, or until the

134 conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is  
135 later.  
136

137 **16. Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws,  
138 regulations, executive orders and ordinances applicable to the Work under this Contract. Without limiting the  
139 generality of the foregoing, Contractor expressly agrees to comply with: (i) Title VI of Civil Rights Act of  
140 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and  
141 ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v)  
142 all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and  
143 regulations. County's performance under this Contract is conditioned upon Contractor's compliance with the  
144 provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference  
145 herein.  
146

147 **17. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon,  
148 Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State  
149 Corporation Division all information required by those agencies relative to this Contract. Contractor shall  
150 demonstrate its legal capacity to perform the Work under this Contract in the State of Oregon prior to entering  
151 into this Contract.  
152

153 **18. Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by  
154 fire, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable  
155 control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay  
156 or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under  
157 this contract.  
158

159 **19. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract, except for  
160 the rights and obligations set forth in Sections 1, 9, 10, 11, 13, 14, 15, 19 and 25.  
161

162 **20. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.  
163

164 **21. Notice.** Except as otherwise expressly provided in this Contract, any communication between the parties  
165 hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing  
166 the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page  
167 of this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this  
168 Section 21. Any communication or notice so addressed and mailed shall be deemed to be given five days  
169 after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt  
170 of the transmission is generated by the transmitting machine. To be effective against County, such facsimile  
171 transmission must be confirmed by telephone notice to County's Contract Administrator. Any  
172 communication or notice by personal delivery shall be deemed to be given when actually delivered.  
173

174 **22. Severability.** The parties agree that if any term or provision of this contract is declared by a court of  
175 competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and  
176 provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced  
177 as if the contract did not contain the particular term or provision held to be invalid.  
178

179 **23. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together  
180 shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to  
181 the same counterpart. Each copy of the Contract so executed shall constitute an original.  
182

183 **24. Disclosure of Social Security Number.** Contractor must provide Contractor's Social Security number  
184 unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385,  
185 OAR 125-20-410(3) and OAR 150-305.100. Social Security numbers provided pursuant to this authority  
186 will be used for the administration of state, federal and local tax laws.  
187

188 **25. Governing Law, Venue, Consent to Jurisdiction.** This Contract shall be governed by and construed in  
189 accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim,  
190 action, suit or proceeding (collectively, "Claim") between County (and/or any other County or department of  
191 the State of Oregon) and Contractor that arises from or relates to this Contract shall be brought and conducted  
192 solely and exclusively within the Circuit Court of Morrow County for the State of Oregon; provided, however,  
193 if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively  
194 within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF  
195 THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAL JURISDICTION OF SAID COURTS.  
196


197 **26. Merger.** This contract and attached Exhibits constitute the entire agreement between the parties on the  
198 subject matter hereof. There are no understandings, agreements, or representations, oral or written, not  
199 specified herein regarding this Contract. No waiver, consent, modification or change of terms of this  
200 Contract shall bind either party unless in writing and signed by both parties and all necessary state approvals

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have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

**CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**CONTRACTOR**  
**I PRO BUILDING SERVICES, LLC**

By: Gary Shelton Title: Director of Sales Date: 12-27-21  
Facsimile number: N/A Phone number: 509-608-1511  
Address: 3000 Riverview Lane Malaga WA. 98828  
Federal Tax Identification Number: 

**COUNTY**  
**MORROW COUNTY BOARD OF COMMISSIONERS**

Date: \_\_\_\_\_  
\_\_\_\_\_  
Jim Doherty, Chair  
\_\_\_\_\_  
Don Russell, Commissioner  
\_\_\_\_\_  
Melissa Lindsay, Commissioner

APPROVED AS TO FORM:  
\_\_\_\_\_  
County Counsel



## Janitorial Services Specifications

2022

Janitorial services at the locations listed below, with the frequency of cleaning noted next to each location, preferably in the Evenings of each work week.

- a) MC Health Building, 101 NW, Boardman, Once a week
- b) MC Government Center, Irrigon, 215 NE Main Ave. Irrigon Twice a week
- c) MC Irrigon Sheriff Annex Building, 205 NE Third, Irrigon Twice a week

The duties listed below represent general minimum cleaning standards. Specific items may be addressed individually.

### GENERAL CLEANING

- A. All waste paper shall be gathered, the waste paper baskets emptied, and replace liners when torn or soiled in the baskets;
- B. All paper and/or debris shall be gathered from the floor space in hallways, entrances and restrooms; Papers on the floor in offices will be place on the nearest desk;
- C. Liners shall be used to aid in trash disposal and to keep waste baskets clean; broken liners shall be replaced and soiled waste baskets washed; damaged or excessively soiled baskets shall be replaced by County;
- D. Counters and file cabinets shall be dusted; dusting will be done with standard dusting implements using dust collecting and or attracting sprays, or, where feasible, with a clean damp cloth; **no** books, files, papers, or other items of office use shall be moved or removed; dusting shall be done without disturbing such objects; high partitions, hand rails, stair well, door knobs and attention to light switches throughout the buildings. Ledges and moldings shall also be dusted, and this dusting may be done with a clean damp cloth;
- E. Drinking fountains shall be cleaned using a clean cloth or sponge around the drinking area. Standard cleaners will be used along the sides, base or stained fixtures on an "as needed" basis; With light abrasive for stains and grime.
- F. Vacuum all upholstered chairs and fabric furniture. Vacuum exposed air bars and heating outlets.
- G. Walls and ceilings shall be dusted with dust mops or wands with dust attracting applications; walls and ceilings shall not be cleaned with a cloth or sponge unless heavily soiled as the result of streaking or staining; Spot clean walls, doors, etc., removing all cobwebs, fingerprints, smears and stains.
- H. Windows shall be washed, interior, as needed, as agreed with Morrow County General Maintenance Supervisor;
- I. Window blinds and window sills shall be thoroughly cleaned of dust, bugs or stains;
- J. Storage areas shall be kept neat and tidy.

FLOORS

- A. All non-carpeted floors, including, but not limited to bathrooms, entrances, or hallways, shall be swept prior to damp-mopped; the mop used shall be kept clean and free of odor and shall not be left wet or damp; mop strings shall be removed; streaking along walls, doors, or baseboards shall be immediately cleaned;
  - B. All carpeted floors shall be vacuumed which includes offices and common areas; vacuuming shall follow all other dusting and room cleaning operations; vacuum equipment power type shall conform to standard commercial janitorial specifications; vacuuming shall extend at least six inches under desks and completely under open tables; Contractor shall move furniture or wastebaskets prior to vacuuming and shall replace according to usual office arrangement
- Carpets shall be spot cleaned as requested or needed.

OFFICES

- A. All tables, chairs, benches and other office furniture shall be dusted in accordance with the dusting specifications set forth above;
- B. Office and common area furniture shall be returned to its usual arrangement

RESTROOMS

- C. Restroom fixtures and fittings shall be cleaned using standard commercial or household non-abrasive cleaners; attention shall be given to the underside of fixture edges where grime and soap deposits accumulate; toilet bowls and sinks shall be cleaned with an abrasive cleaner paying attention to toilet bowl rings and stains in the sinks; the General Maintenance Supervisor shall be notified immediately if fixtures or fittings are found to be damaged or soiled beyond cleaning ability; fixtures and fittings include, but are not limited to, sink faucets, spouts, drains, under drains (if chromed or polished metal), urinal faucets, pipes (chromed or polished metal), toilet handles, soap dispensers and vanity fittings; Toilet bowls and urinals shall be disinfected, sanitized and deodorized; urinal screens shall be replaced; Floors shall be swept and mopped on the daily scheduled rotation.
- D. Restroom dispensers shall be cleaned and refilled;
- E. Restroom walls, partitions and doors shall be spot washed as necessary; disinfectants shall be used around urinals and toilets;
- F. Restroom mirrors shall be cleaned using standard commercial or household products with a clean cloth or paper;

Morrow County will provide paper products such as toilet paper and paper towels, as well as liquid soap and trash liners, when low on stock notify the General Maintenance supervisor. Contractors will be responsible for providing their own cleaning products and equipment.

### INSPECTION AND CORRECTION OF DEFICIENCIES

1. Performance evaluations will be given to the County noting exception in performance to the required janitorial specifications. The County will immediately notify the janitorial service provider of the reported performance exception(s).
2. The janitorial service provider must correct these deficiencies as follows:
  - a. Within 24 hours of any daily, weekly or monthly activity;
  - b. Within 24 hours for any activity listed as quarterly or semi-annual.
3. In the event the janitorial service provided by the Contractor is not satisfactory to Morrow County, the County may provide janitorial service as described in these specifications and Morrow County payment will then be reduced by the actual cost of such replacement service.

### CONFIDENTIALITY

The Janitorial service provider shall be bound to confidentiality of any information its employees may become aware of during the course of performance of janitorial tasks.

It is intended that this contract shall not be subcontracted, and that this contract shall operate as an agreement with an independent contractor as that term is defined in Oregon Revised Statutes Chapter 656.

### CJIS AND OTHER SECURITY CHECKS

#### CJIS and Other Security Checks

1. All janitorial employees shall undergo a Criminal Justice Information Systems (CJIS) state and national fingerprint-based background security check. CJIS clearance must be granted prior to being allowed unescorted access to any Morrow County Sheriff's Office facility that may contain unencrypted CJIS data.  
Morrow County government has chosen to extend the above guidelines to all county facilities in regards to janitorial services.
  - a. Prospective employees will call the Morrow County Sheriff's Office for an appointment at no cost to employee or employer, to complete the following:
    - Fingerprinting
    - Criminal Justice Information Systems Security Clearance Background Request form.
    - Confidentiality Agreement form
    - Provide current email address for CJIS training purposes
2. The janitorial service provider shall maintain an adequate pool of trained and CJIS cleared relief personnel to substitute for absent employees.
3. See CJI 5.12.1 Personnel Screening Requirements for Individuals Requiring Unescorted Access to Unencrypted CJI and Figure 16
4. The janitorial service provider understands that new employees will not be granted access to any County building until appropriate CJIS/Background Checks have been completed and personnel has been approved.

5. All janitorial personnel shall be issued an ID card with lanyard that will be worn at all times while in a County building. A sign in sheet will be posted in designated areas. Janitorial personnel are required to sign in/sign out before and after work is completed.
6. Janitorial service provider will be responsible for maintaining an updated crew list and providing the list to Public Works as appropriate.

#### SPECIAL PROVISIONS

- A. Keys to the building will be furnished by Morrow County. Any such keys must not be duplicated.
- B. The janitorial service provider must maintain a secure environment while cleaning the facility. No one is allowed into the facility other than those individuals responsible for performing janitorial services. The contractor must lock the building when leaving (see "Building Lock Up" below).

#### HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION

The janitorial service provider shall conform to all applicable Federal, State and local laws, and to the requirements of these specifications. In performing janitorial work in a Morrow County facility, the janitorial service provider shall:

Take all reasonable steps and precautions to prevent accidents and to preserve the health and safety of visitors, contractor personnel, and County personnel performing or in any way coming into contact with the performance of this contract;

Take all reasonable precautions to prevent the release of hazardous chemicals into the environment; and

Take such additional precautions as the office manager/supervisor may reasonably require for health, safety, and environmental protection.

1. **Damage Reports.** In all instances where County property or equipment is damaged, the janitorial service provider shall submit to the office manager/supervisor a full report of the facts and extent of such damage--verbally and in writing within 24 hours of the occurrence.

2. **Accident Reports.** The janitorial service provider shall comply with Morrow County, OSHA and other regulatory agency requirements for record keeping and reporting of all accidents resulting in death, trauma, or occupational illness. The janitorial service provider shall provide a verbal report to the office manager/supervisor and a written follow-up report to the office manager/supervisor within 24 hours of occurrence.

3. **Chemical Spills.** The janitorial service provider shall maintain an established plan that addresses incidental and emergency spills of any chemicals brought on-site.

4. **Hazard Communications.** The janitorial service provider must maintain two, update Material Safety Data Sheet (MSDS) files on-site; one placed in the office

manager/supervisor's office and the one in each of the janitorial service providers  
Janitor's Closet.

#### BUILDING LOCK UP

The janitorial service provider must lock and secure the building each night when leaving. Lock up procedures before leaving building, consist of:

1. Turn off bathroom exhaust fan
2. Turn off all interior lights
3. Check and lock all entrance doors, gates or any other excess to the building.
4. Properly set security alarm system (where applicable)

In locations that include a security alarm system, the janitorial service provider must also properly set the security alarm when leaving the building. Any cost incurred from security service or local police for false alarms caused by failure of the janitorial service provider to properly set the security alarm will be the responsibility of the owner/lessor. Fees charged to respond to a false alarm or because the security alarms were not set will be charged to the owner/lessor and deducted from the next month's payment.

Any additional questions maybe addressed to Sandi Pointer, Morrow County Public works 541-989-9500

CONTRACTOR FEE SCHEDULE -- JANITORIAL SERVICES

MC Government Center, 215 NE main, Irrigon – 2 day weekly - \$13,524.00 year

MC Sheriff's Building, 205 NE Third St., Irrigon- 2 day weekly \$5,400.00 year

Health Dept, Building, 101 NW Boardman- 1 day weekly - \$3,960.00 year

Total \$22,884.00



**AGENDA ITEM COVER SHEET**  
 Morrow County Board of Commissioners  
 (Page 1 of 2)

(For BOC Use)  
 Item #  
 50

**Please complete for each agenda item submitted for consideration by the Board of Commissioners**  
 (See notations at bottom of form)

Presenter at BOC: Sandi Pointer  
 Department: Public Works - General Maintenance  
 Short Title of Agenda Item: **South County Janitorial Award and Contract**  
 (No acronyms please)

Date submitted to reviewers: 12/01/2021  
 Requested Agenda Date: 01/05/2022

**This Item Involves:** (Check all that apply for this meeting.)

<input type="checkbox"/> Order or Resolution	<input type="checkbox"/> Appointments
<input type="checkbox"/> Ordinance/Public Hearing:	<input checked="" type="checkbox"/> Update on Project/Committee
<input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading	<input type="checkbox"/> Consent Agenda Eligible
<input type="checkbox"/> Public Comment Anticipated:	<input type="checkbox"/> Discussion & Action
Estimated Time:	Estimated Time:
<input type="checkbox"/> Document Recording Required	<input type="checkbox"/> Purchase Pre-Authorization
<input checked="" type="checkbox"/> Contract/Agreement	<input type="checkbox"/> Other

N/A      Purchase Pre-Authorizations, Contracts & Agreements

Contractor/Entity: **Patriot Building and Grounds Maintenance**


Contractor/Entity Address: **32396 E. Punkin Center Rd, Hermiston, OR 97838**

Effective Dates – From: **01/05/2022**      Through: **12/30/2022**

Total Contract Amount: **\$74,301.60**      Budget Line: **101.121.5.20.3464**

Does the contract amount exceed \$5,000?     Yes     No

Reviewed By:

_____ DATE _____	Department Director	Required for all BOC meetings
 _____ DATE 1/3/22	Administrator	Required for all BOC meetings
_____ DATE _____	County Counsel	*Required for all legal documents
_____ DATE _____	Finance Office	*Required for all contracts; other items as appropriate.
_____ DATE _____	Human Resources	*If appropriate

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

**Note:** All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

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## 1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):

In the Middle of November Public Works had solicited Request for Qualifications for Janitorial Services Contractor for cleaning South County Buildings only which is Heppner and Lexington. A good representation from all buildings serviced consisted of Stephanie Case, Kristen Bowles, Bobbi Childers and myself scored and reviewed the proposals. Two proposals had been presented, Triple R Investments, LLC, Had called and declined their submission. Patriot Buildings & Grounds maintenance was the single proposal recieved. You will find the attached score sheet of the scoring from the individuals and the favorable contractor. This contract is a year contract and six month review of services provided. Including in this is Triple R Investments, LLC had pulled their submission.

Bartholomew Building, Heppner	2 times a week
Courthouse, Heppner	4 times a week
Airport, Lexington	1 times a week
Sheriff & EMC, Happenr	3 times a week
Public Works/Shop, Lexington	1 times a week

Monthly Total = \$6,191.80

Yearly Total = \$74,301.60

## 2. FISCAL IMPACT:

101.121.5.20.3464 \$74,301.60

## 3. SUGGESTED ACTION(S)/MOTION(S):

Motion to Award and Sign the Contract for Janitorial Services for the South end County buildings in the amount of \$74,301.60. Patriot Buidling and Grounds Maintenance with Morrow County for one year.

Attach additional background documentation as needed.



**Propossed score sheet**

**11/24/2021**

**Proposer**

**South County Buildings, Heppner**

**Lexington**

**Total score**

**SP**

**SC**

**KB**

**BC**

**#1**

**#2**

**#4**

**#5**

**TOTAL**

					<b>0</b>
<b>Patriot Building &amp; Grounds Maintenance</b>	<b>23</b>	<b>52</b>	<b>30</b>	<b>77</b>	<b>182</b>
					<b>0</b>
<b>Triple R Investments LLC</b>	<b>75</b>	<b>44</b>	<b>77</b>	<b>83</b>	<b>279</b>

**Review Panel**

**Sandi Putman**

**Stephanie Case**

**Kristen Bowles**

**Bobbi Childers**

**MORROW COUNTY PERSONAL/PROFESSIONAL SERVICES CONTRACT  
JANITORIAL SERVICES**

**This Contract** is between Morrow County, a political subdivision of the State of Oregon, hereafter called **County**, and Patriot Building & Grounds Maintenance hereafter called **Contractor**. County's Contract Administrator for this contract is Darrell J. Green, Morrow County Administrator.

**1. Effective Date and Duration.** This contract shall become effective on the date this Contract has been signed by every party hereto. Unless earlier terminated or extended, this Contract period shall be for a period of one (1) year, beginning January 5, 2022 ending December 30, 2022 with an option of renewal at that time. Contractor and County agree to a performance review at six (6) months. Expiration shall not extinguish or prejudice County's right to enforce this Contract with respect to any breach of a Contractor warranty; or any default or defect in Contractor performance that has not been cured.

**2. Statement of Work.** This contract is for janitorial services. Those services may include but are not limited to the items located in the Morrow County Janitorial Specifications found in Exhibit A, herein incorporated by this reference. Contractor agrees to adhere to all state and federal rules, regulations, and laws pertaining to any particular project, including, but not limited to, the Bureau of Labor and Industries (BOLI). Contractor further agrees to perform the Work in accordance with the terms and conditions of this Contract.

**3. Consideration.** County agrees to pay Contractor the monthly rates as set forth in Contractor's Fee Schedule, found in Exhibit B, attached hereto and hereby incorporated by this reference.

**4. Contract Documents.** This contract consists of this Contract with all attached Exhibits. All attached Exhibits are hereby incorporated by reference.

**5. Independent Contractor; Responsibility for Taxes and Withholding**

a. Contractor shall perform required Work as an independent contractor. Although County reserves the right (i) to determine (and modify) the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

b. If Contractor is currently performing work for County, the State of Oregon or the Federal Government, Contractor by signature to this Contract declares and certifies that: Contractor's work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and that no rules or regulations of Contractor's employing entity (county, state or federal) would prohibit Contractor's activities under this Contract. Contractor is not an "officer," "employee," or "agent" of County, as those terms are used in ORS 30.265.

c. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, County will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any Social Security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

**6. Subcontracts and Assignment; Successors and Assigns.**

a. Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract, without County's prior written consent. In addition to any other provisions County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by Sections 6, 10, 11, 15, and 17 of this Contract as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

b. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

**7. No Third-Party Beneficiaries.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

**8. Funds Available and Authorized**

a. Contractor shall not be compensated for work performed under this contract by any other County or department of the State of Oregon. County has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract.

b. County will only pay for completed work that is accepted by County.

- 68 **9. Representations and Warranties**
- 69 a. **Contractor's Representations and Warranties.** Contractor represents and warrants to County that
- 70 (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract,
- 71 when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in
- 72 accordance with its terms, (3) the Work under this Contract shall be performed in a good and
- 73 workmanlike manner and in accordance with the highest professional standards, and (4) Contractor
- 74 shall, at all times during the term of this Contract be qualified, professionally competent, and duly
- 75 licensed to perform the Work.
- 76 b. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu
- 77 of, any other warranties provided.
- 78
- 79 **10. Ownership of Work Product.** All Work product of Contractor that results from this Contract ("the Work
- 80 Product") are the exclusive property of County. County and Contractor intend that such Work Product be
- 81 deemed "works made for hire" of which County shall be deemed the author. If for any reason the Work
- 82 Product is not deemed "works made for hire," Contractor hereby irrevocably assigns all of its right, title, and
- 83 interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade
- 84 secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such
- 85 further documents and instruments as County may reasonably request in order to fully vest such right in
- 86 County. Contractor forever waives any and all rights under 17 USC §106A or any other rights of
- 87 identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 88
- 89 **11. Indemnity.** Contractor shall defend, save, hold harmless, and indemnify the County, their officers,
- 90 employees, agents, from and against all claims, suits, or actions, losses, damages, liabilities costs and
- 91 expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor
- 92 or its officers, employees, subcontractors, or agents under this Contract.
- 93
- 94 **12. Insurance.** Contractor shall provide insurance as required by state law and provide proof of said insurance
- 95 to the Morrow County Public Works Department on an annual basis.
- 96
- 97 **13. Termination.**
- 98 a. **Parties Right to Terminate for Convenience.** This Contract may be terminated at any time by mutual
- 99 written consent of the parties.
- 100 b. **County's Right to Terminate for Convenience.** County may, at its sole discretion, terminate this
- 101 Contract, in whole or in part, upon 30 days' notice to Contractor.
- 102 c. **Parties Right to Terminate due to uncured Breach.** This Contract may be terminated at any time by
- 103 either party should a material breach by the other party remain uncured 30 days after submission of
- 104 written notice being provided of the breach thereof, or a shorter period of time as may be specified
- 105 within this Contract or within the applicable Schedule provided to the Contractor by the County.
- 106 d. **Remedies.** In the event of termination pursuant to Sections 13a. or 13b., Contractor's sole remedy shall
- 107 be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work
- 108 completed and accepted by County, less previous amounts paid and any claim(s) which state has against
- 109 Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this
- 110 subsection, Contractor shall pay any excess to County upon demand.
- 111 e. **Contractor's Tender Upon Termination.** Upon receiving a notice of termination of this Contract,
- 112 Contractor shall immediately cease all activities under this Contract, unless County expressly directs
- 113 otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to
- 114 County all documents, information, works-in-progress and other property that are or would be
- 115 deliverables had the Contract been completed. Upon County request, Contractor shall surrender to
- 116 anyone County designates, all documents, research or objects or other tangible things needed to complete
- 117 the Work.
- 118
- 119 **14. Limitation of Liabilities. EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO**
- 120 **SECTION 9(a), NEITHER PARTY SHALL BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL,**
- 121 **CONSEQUENTIAL OR SPECIAL DAMAGES UNDER THE CONTRACT OR (ii) ANY**
- 122 **DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS**
- 123 **CONTRACT IN ACCORDANCE WITH ITS TERMS.**
- 124
- 125 **15. Records Maintenance; Access.** Contractor shall maintain all fiscal records relating to this Contract in
- 126 accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other
- 127 records pertinent to this Contract in such a manner as to clearly document Contractor's performance.
- 128 Contractor acknowledges and agrees that County and the Oregon Secretary of State's Office and the federal
- 129 government and their duly authorized representatives shall have access to such fiscal records and other books,
- 130 documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations
- 131 and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal
- 132 records, books, documents, papers, plans, and writings for a minimum of three years, or such longer period as
- 133 may be required by applicable law, following final payment and termination of this Contract, or until the

134 conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is  
135 later.

136

137 **16. Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws,  
138 regulations, executive orders and ordinances applicable to the Work under this Contract. Without limiting the  
139 generality of the foregoing, Contractor expressly agrees to comply with: (i) Title VI of Civil Rights Act of  
140 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and  
141 ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v)  
142 all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and  
143 regulations. County's performance under this Contract is conditioned upon Contractor's compliance with the  
144 provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference  
145 herein.

146

147 **17. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon,  
148 Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State  
149 Corporation Division all information required by those agencies relative to this Contract. Contractor shall  
150 demonstrate its legal capacity to perform the Work under this Contract in the State of Oregon prior to entering  
151 into this Contract.

152

153 **18. Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by  
154 fire, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable  
155 control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay  
156 or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under  
157 this contract.

158

159 **19. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract, except for  
160 the rights and obligations set forth in Sections 1, 9, 10, 11, 13, 14, 15, 19 and 25.

161

162 **20. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.

163

164 **21. Notice.** Except as otherwise expressly provided in this Contract, any communication between the parties  
165 hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing  
166 the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page  
167 of this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this  
168 Section 21. Any communication or notice so addressed and mailed shall be deemed to be given five days  
169 after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt  
170 of the transmission is generated by the transmitting machine. To be effective against County, such facsimile  
171 transmission must be confirmed by telephone notice to County's Contract Administrator. Any  
172 communication or notice by personal delivery shall be deemed to be given when actually delivered.

173

174 **22. Severability.** The parties agree that if any term or provision of this contract is declared by a court of  
175 competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and  
176 provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced  
177 as if the contract did not contain the particular term or provision held to be invalid.

178

179 **23. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together  
180 shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to  
181 the same counterpart. Each copy of the Contract so executed shall constitute an original.

182

183 **24. Disclosure of Social Security Number.** Contractor must provide Contractor's Social Security number  
184 unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385,  
185 OAR 125-20-410(3) and OAR 150-305.100. Social Security numbers provided pursuant to this authority  
186 will be used for the administration of state, federal and local tax laws.

187

188 **25. Governing Law, Venue, Consent to Jurisdiction.** This Contract shall be governed by and construed in  
189 accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim,  
190 action, suit or proceeding (collectively, "Claim") between County (and/or any other County or department of  
191 the State of Oregon) and Contractor that arises from or relates to this Contract shall be brought and conducted  
192 solely and exclusively within the Circuit Court of Morrow County for the State of Oregon; provided, however,  
193 if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively  
194 within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF  
195 THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAL JURISDICTION OF SAID COURTS.


196

197 **26. Merger.** This contract and attached Exhibits constitute the entire agreement between the parties on the  
198 subject matter hereof. There are no understandings, agreements, or representations, oral or written, not  
199 specified herein regarding this Contract. No waiver, consent, modification or change of terms of this  
200 Contract shall bind either party unless in writing and signed by both parties and all necessary state approvals

201 have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the  
202 specific instance and for the specific purpose given. The failure of County to enforce any provision of this  
203 Contract shall not constitute a waiver by County of that or any other provision.  
204


205 **CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT**  
206 **CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND**  
207 **BY ITS TERMS AND CONDITIONS.**  
208

209  
210 **CONTRACTOR**  
211 **PATRIOT BUILDING & GROUNDS MAINTENANCE**

212  
213 By:  Title: OWNER Date: 12/28/2021

214  
215 Facsimile number: \_\_\_\_\_ Phone number: 541-561-7266

216  
217 Address: 32396 E. PUNKIN CTR. RD. HERMISTON OR. 97838

218  
219 Federal Tax Identification Number: 

220  
221  
222 **COUNTY**  
223 **MORROW COUNTY BOARD OF COMMISSIONERS**

224 Date: \_\_\_\_\_

225 \_\_\_\_\_

226 \_\_\_\_\_

227 \_\_\_\_\_

228 \_\_\_\_\_  
229 Jim Doherty, Chair

230 \_\_\_\_\_

231 \_\_\_\_\_  
232 Don Russell, Commissioner

233 \_\_\_\_\_

234 \_\_\_\_\_  
235 Melissa Lindsay, Commissioner

236 APPROVED AS TO FORM:  
237 \_\_\_\_\_

238 \_\_\_\_\_

239 \_\_\_\_\_

240 \_\_\_\_\_

241 \_\_\_\_\_

242 County Counsel

243 \_\_\_\_\_

244 \_\_\_\_\_

## Janitorial Services Specifications

2022

Janitorial services at the locations listed below, with the frequency of cleaning noted next to each location, preferably in the Evenings of each work week.

- a) MC Bartholomew Building, 110 N. Court, Heppner Two Days a week  
*Request Tues. And Thurs.*
- b) MC Courthouse, Heppner, 100 S. Court, Heppner Four days a week
- c) MC Lexington Airport, 65820 Airport Road, Lexington, Once a week
- d) MC Sheriff, Heppner/Emergency Management 325 Willow View Dr., Heppner, three days a week, *Request is Mon., Wed. and Fri.*
- e) MC Public Works Office and Shop, 365 W. Hwy 74, Lexington Once weekly.

The duties listed below represent general minimum cleaning standards. Specific items may be addressed individually.

### GENERAL CLEANING

- A. All waste paper shall be gathered, the waste paper baskets emptied, and replace liners when torn or soiled in the baskets;
- B. All paper and/or debris shall be gathered from the floor space in hallways, entrances and restrooms; Papers on the floor in offices will be place on the nearest desk;
- C. Liners shall be used to aid in trash disposal and to keep waste baskets clean; broken liners shall be replaced and soiled waste baskets washed; damaged or excessively soiled baskets shall be replaced by County;
- D. Counters and file cabinets shall be dusted; dusting will be done with standard dusting implements using dust collecting and or attracting sprays, or, where feasible, with a clean damp cloth; **no** books, files, papers, or other items of office use shall be moved or removed; dusting shall be done without disturbing such objects; high partitions, hand rails, stair well, door knobs and attention to light switches throughout the buildings. Ledges and moldings shall also be dusted, and this dusting may be done with a clean damp cloth;
- E. Drinking fountains shall be cleaned using a clean cloth or sponge around the drinking area. Standard cleaners will be used along the sides, base or stained fixtures on an "as needed" basis; With light abrasive for stains and grime.
- F. Vacuum all upholstered chairs and fabric furniture. Vacuum exposed air bars and heating outlets.
- G. Walls and ceilings shall be dusted with dust mops or wands with dust attracting applications; walls and ceilings shall not be cleaned with a cloth or sponge unless heavily soiled as the result of streaking or staining; Spot clean walls, doors, etc., removing all cobwebs, fingerprints, smears and stains.
- H. Windows shall be washed, interior, as needed, as agreed with Morrow County General Maintenance Supervisor;

- I. Window blinds and window sills shall be thoroughly cleaned of dust, bugs or stains;
- J. Storage areas shall be kept neat and tidy.

#### FLOORS

- A. All non-carpeted floors, including, but not limited to bathrooms, entrances, or hallways, shall be swept prior to damp-mopped; the mop used shall be kept clean and free of odor and shall not be left wet or damp; mop strings shall be removed; streaking along walls, doors, or baseboards shall be immediately cleaned;
  - B. All carpeted floors shall be vacuumed which includes offices and common areas; vacuuming shall follow all other dusting and room cleaning operations; vacuum equipment power type shall conform to standard commercial janitorial specifications; vacuuming shall extend at least six inches under desks and completely under open tables; Contractor shall move furniture or wastebaskets prior to vacuuming and shall replace according to usual office arrangement
- Carpets shall be spot cleaned as requested or needed.

#### OFFICES

- A. All tables, chairs, benches and other office furniture shall be dusted in accordance with the dusting specifications set forth above;
- B. Office and common area furniture shall be returned to its usual arrangement

#### RESTROOMS

- C. Restroom fixtures and fittings shall be cleaned using standard commercial or household non-abrasive cleaners; attention shall be given to the underside of fixture edges where grime and soap deposits accumulate; toilet bowls and sinks shall be cleaned with an abrasive cleaner paying attention to toilet bowl rings and stains in the sinks; the General Maintenance Supervisor shall be notified immediately if fixtures or fittings are found to be damaged or soiled beyond cleaning ability; fixtures and fittings include, but are not limited to, sink faucets, spouts, drains, under drains (if chromed or polished metal), urinal faucets, pipes (chromed or polished metal), toilet handles, soap dispensers and vanity fittings; Toilet bowls and urinals shall be disinfected, sanitized and deodorized; urinal screens shall be replaced; Floors shall be swept and mopped on the daily scheduled rotation.
- D. Restroom dispensers shall be cleaned and refilled;
- E. Restroom walls, partitions and doors shall be spot washed as necessary; disinfectants shall be used around urinals and toilets;
- F. Restroom mirrors shall be cleaned using standard commercial or household products with a clean cloth or paper;

Morrow County will provide paper products such as toilet paper and paper towels, as well as liquid soap and trash liners, when low on stock notify the General Maintenance

supervisor. Contractors will be responsible for providing their own cleaning products and equipment.

#### INSPECTION AND CORRECTION OF DEFICIENCIES

1. Performance evaluations will be given to the County noting exception in performance to the required janitorial specifications. The County will immediately notify the janitorial service provider of the reported performance exception(s).
2. The janitorial service provider must correct these deficiencies as follows:
  - a. Within 24 hours of any daily, weekly or monthly activity;
  - b. Within 24 hours for any activity listed as quarterly or semi-annual.
3. In the event the janitorial service provided by the Contractor is not satisfactory to Morrow County, the County may provide janitorial service as described in these specifications and Morrow County payment will then be reduced by the actual cost of such replacement service.

#### CONFIDENTIALITY

The Janitorial service provider shall be bound to confidentiality of any information its employees may become aware of during the course of performance of janitorial tasks.

It is intended that this contract shall not be subcontracted, and that this contract shall operate as an agreement with an independent contractor as that term is defined in Oregon Revised Statutes Chapter 656.

#### CJIS AND OTHER SECURITY CHECKS

##### CJIS and Other Security Checks

1. All janitorial employees shall undergo a Criminal Justice Information Systems (CJIS) state and national fingerprint-based background security check. CJIS clearance must be granted prior to being allowed unescorted access to any Morrow County Sheriff's Office facility that may contain unencrypted CJIS data.  
Morrow County government has chosen to extend the above guidelines to all county facilities in regards to janitorial services.
  - a. Prospective employees will call the Morrow County Sheriff's Office for an appointment at no cost to employee or employer, to complete the following:
    - Fingerprinting
    - Criminal Justice Information Systems Security Clearance Background Request form.
    - Confidentiality Agreement form
    - Provide current email address for CJIS training purposes
2. The janitorial service provider shall maintain an adequate pool of trained and CJIS cleared relief personnel to substitute for absent employees.
3. See CJI 5.12.1 Personnel Screening Requirements for Individuals Requiring Unescorted Access to Unencrypted CJI and Figure 16



4. The janitorial service provider understands that new employees will not be granted access to any County building until appropriate CJIS/Background Checks have been completed and personnel has been approved.
5. All janitorial personnel shall be issued an ID card with lanyard that will be worn at all times while in a County building. A sign in sheet will be posted in designated areas. Janitorial personnel are required to sign in/sign out before and after work is completed.
6. Janitorial service provider will be responsible for maintaining an updated crew list and providing the list to Public Works as appropriate.

#### SPECIAL PROVISIONS

- A. Keys to the building will be furnished by Morrow County. Any such keys must not be duplicated.
- B. The janitorial service provider must maintain a secure environment while cleaning the facility. No one is allowed into the facility other than those individuals responsible for performing janitorial services. The contractor must lock the building when leaving (see "Building Lock Up" below).

#### HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION

The janitorial service provider shall conform to all applicable Federal, State and local laws, and to the requirements of these specifications. In performing janitorial work in a Morrow County facility, the janitorial service provider shall:

Take all reasonable steps and precautions to prevent accidents and to preserve the health and safety of visitors, contractor personnel, and County personnel performing or in any way coming into contact with the performance of this contract;

Take all reasonable precautions to prevent the release of hazardous chemicals into the environment; and

Take such additional precautions as the office manager/supervisor may reasonably require for health, safety, and environmental protection.

1. **Damage Reports.** In all instances where County property or equipment is damaged, the janitorial service provider shall submit to the office manager/supervisor a full report of the facts and extent of such damage--verbally and in writing within 24 hours of the occurrence.

2. **Accident Reports.** The janitorial service provider shall comply with Morrow County, OSHA and other regulatory agency requirements for record keeping and reporting of all accidents resulting in death, trauma, or occupational illness. The janitorial service provider shall provide a verbal report to the office manager/supervisor and a written follow-up report to the office manager/supervisor within 24 hours of occurrence.

3. Chemical Spills. The janitorial service provider shall maintain an established plan that addresses incidental and emergency spills of any chemicals brought on-site.

4. Hazard Communications. The janitorial service provider must maintain two, update Material Safety Data Sheet (MSDS) files on-site; one placed in the office manager/supervisor's office and the one in each of the janitorial service providers Janitor's Closet.

#### BUILDING LOCK UP

The janitorial service provider must lock and secure the building each night when leaving. Lock up procedures before leaving building, consist of:

1. Turn off bathroom exhaust fan
2. Turn off all interior lights
3. Check and lock all entrance doors, gates or any other excess to the building.
4. Properly set security alarm system (where applicable)

In locations that include a security alarm system, the janitorial service provider must also properly set the security alarm when leaving the building. Any cost incurred from security service or local police for false alarms caused by failure of the janitorial service provider to properly set the security alarm will be the responsibility of the owner/lessor. Fees charged to respond to a false alarm or because the security alarms were not set will be charged to the owner/lessor and deducted from the next month's payment.

Any additional questions maybe addressed to Sandi Pointer, Morrow County Public works 541-989-9500

CONTRACTOR FEE SCHEDULE -- JANITORIAL SERVICES

Bartholomew Building, Heppner 2 times a week

Courthouse, Heppner 4 times a week

Airport, Lexington 1 times a week

Sheriff & EMC, Happner 3 times a week

Public Works/Shop, Lexington 1 times a week

Monthly Total = \$6,191.80

Yearly Total = \$74,301.60



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
5d

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Lt. Kristen Bowles/Undersheriff Bowles
Department: Morrow County Sheriff's Office
Short Title of Agenda Item:
(No acronyms please) New Phones System for 9-1-1
Phone Number (Ext): 5130
Requested Agenda Date: Next available

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity: Vesta
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: N/A Budget Line: N/A
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Department Director Required for all BOC meetings
Administrator Required for all BOC meetings
County Counsel \*Required for all legal documents
Finance Office \*Required for all contracts; other items as appropriate.
Human Resources \*If appropriate
\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

---

## 1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):

Morrow County Sheriff's Office Communications Center is on Schedule for a new phone system for 9-1-1 through the OEM program.

## 2. FISCAL IMPACT:

There is no fiscal impact as this is paid for by the state. We sign off on the contract through HGAC and send in the request for purchase.

## 3. SUGGESTED ACTION(S)/MOTION(S):

Move to approve and accept the bid to purchase the system.

Attach additional background documentation as needed.

**Kristen Bowles**

---

**From:** WARREN Michael \* OMD <michael.warren@mil.state.or.us>  
**Sent:** Monday, December 6, 2021 11:22 AM  
**To:** Shannon Hickey; Kristen Bowles  
**Subject:** RE: VESTA 911 - New Hardware system Quote

**STOP and VERIFY - This message came from outside of Morrow County Government.**

---

Lt. Bowles,

Here is your revised DRAFT NTE. This is based on three (3) positions (two (2) workstations, and one (1) CommandPOST.

MSI3459424B - Morrow County (3 positions) two (2) workstation, one (1) CommandPOST	Proposed	Eligible	First Year NTE
VESTA 9-1-1	\$85,351.17	\$73,293.83	\$73,293.83
VESTA CommandPOST	\$19,535.72	\$17,862.13	\$17,862.13
VESTA Map Local	\$23,923.57	\$18,289.30	\$18,289.30
Managed Services	\$54,552.26	\$49,433.61	\$49,433.61
VESTA Services	\$107,192.75	\$102,283.66	\$63,011.66
	<b>\$290,555.47</b>	<b>\$261,162.53</b>	<b>\$221,890.53</b>
1st Year PAF	\$221,890.53		
2nd Year PAF	\$9,818.00		
3rd Year PAF	\$9,818.00		
4th Year PAF	\$9,818.00		
5th Year PAF	\$9,818.00		
	<b>\$261,162.53</b>		

Please let me know if you have questions before we issue your final NTE. Thanks!



**Michael Warren, ENP**  
**9-1-1 Technical Services Coordinator**  
State 9-1-1 Program Section  
Oregon Office of Emergency Management  
Office 503-378-2255  
Mobile 971-719-1205  
[michael.warren@state.or.us](mailto:michael.warren@state.or.us)



## Kristen Bowles

---

**From:** Garret Winter <GWinter@daywireless.com>  
**Sent:** Friday, December 17, 2021 3:02 PM  
**To:** Kristen Bowles  
**Cc:** Shannon Hickey; Matthew Potter  
**Subject:** Morrow Co SO VESTA Hardware Refresh New System -  
**Attachments:** Morrow Co SO OR VESTA SOW sign.pdf

**STOP and VERIFY - This message came from outside of Morrow County Government.**

---

Hello Kristen,

Please complete - page 73 - invoice to and ship to  
Please sign on - page 83

Once complete, please send the completed packet back to me so that I can obtain counter signatures -  
Thank you!

I'll call you Monday or Tuesday for follow up.

Have a great weekend,  
Garret

Thank you,  
**Garret Winter**  
Wireless Systems Account Manager – East of the Cascades  
541-321-3013

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Motorola Solutions, Inc.  
3131 Elliott Ave, Suite 200  
Seattle, WA 98121

206-441-2101

December 14, 2021

Morrow County Sheriffs Department  
Attention: Lt. Kristen Bowles  
325 Willow View Drive  
Heppner, OR 97836

RE: Proposal for VESTA Emergency Call Handling System

Dear Lt. Bowles,

Motorola Solutions, Inc. (Motorola Solutions) appreciates the opportunity to provide Morrow County Sheriffs Department ("Customer") quality communications equipment and services. Motorola Solutions project team has taken great care to propose a solution to address your needs and provide exceptional value.

Motorola Solutions is pleased to provide you a proposal for a three answering position VESTA Emergency Call Handling customer premise-based system. The proposal is turnkey and includes a total of five years of support. As the incumbent solution provider Motorola Solutions is excited to assist Customer with this endeavor. This response package consists of all the requirements specifically outlined in our onsite conversations, along with optional features.

Motorola Solutions' VESTA<sup>®</sup> 9-1-1 solution is tackling some of the toughest dilemmas by pioneering the consolidation of Next-Generation 9-1-1 call handling into an integrated solution to simplify your operations. Motorola Solutions' NG911 architecture provides a robust, cost-effective system with implementation, maintenance and support that is exceptional in the industry.

This proposal is subject to the Houston-Galveston Area Council ("H-GAC") agreement entered into between Motorola Solutions and H-GAC dated September 28, 2021, and the terms of the enclosed Communications System and Services Agreement ("CSSA") and its addenda, which operates as an End User Agreement under Article 2 of the H-GAC Contract Special Provisions. This proposal shall remain valid for 90 days from the date of this cover letter. Customer may accept this proposal by simply issuing a purchase order incorporating this proposal.

We thank you for the opportunity to furnish you with "best in class" solutions and we hope to strengthen our relationship in implementing this project. Our goal is to provide you with the best solutions and services available in the industry.

Should you have any questions or inquiries please contact your Motorola Solutions Representative, Shannon Hickey at 415-516-9145 or via email at [Shannon.hickey@motorolasolutions.com](mailto:Shannon.hickey@motorolasolutions.com).

Best regards,



Chris Lentz  
Area Sales Manager

Enclosure



December 14, 2021

Morrow County Sheriffs Department  
Attention: Lt. Kristen Bowles  
325 Willow View Drive  
Heppner, OR 97836

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Best regards,



Chris Lentz  
Area Sales Manager

Enclosure



# MORROW COUNTY, OREGON

NEXT GENERATION VESTA 9-1-1

DECEMBER 15, 2021

## HARDWARE REFRESH FIRM PRICE PROPOSAL

The design, technical, pricing, and other information ("Information") furnished with this submission is proprietary and/or trade secret information of Motorola Solutions, Inc. ("Motorola Solutions") and is submitted with the restriction that it is to be used for evaluation purposes only. To the fullest extent allowed by applicable law, the Information is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the Information without the express written permission of Motorola Solutions.

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SECTION 1

# INTRODUCTION

Motorola Solutions is proud to present a VESTA® 9-1-1 call handling Hardware Refresh in response to Morrow County's request. As part of this proposal, the following additional options are offered.

- VESTA CommandPost
- VESTA Optional 3<sup>rd</sup> Call-Taker Position
- VESTA SMS
- VESTA RapidSOS for Enhance Citizen data – Advanced VESTA License is required to be purchased to receive this feature
- CommandCentral Cloud Base Services – Citizen Input & Smart Transcription
- VESTA Managed Detection and Response Services

Today, the VESTA 9-1-1 solution is the industry standard comprehensive NG9-1-1 solution. It offers PSAP's increased product features, operational efficiencies, and reliability along with stable, centralized call handling for individual or multiple PSAP locations.

The VESTA 9-1-1 solutions are designed to meet growing community needs and emerging 9-1-1 technology. Morrow County is assured the solutions proposed herein will comply and meet both the E9-1-1 requirements of today and the NG9-1-1 requirements of tomorrow. By selecting Motorola Solutions, Morrow County can be confident they are partnering with the leading provider of Public Safety 9-1-1 solutions and selecting the highest possible level of service to the visitors, citizens, and public safety professionals of their region.



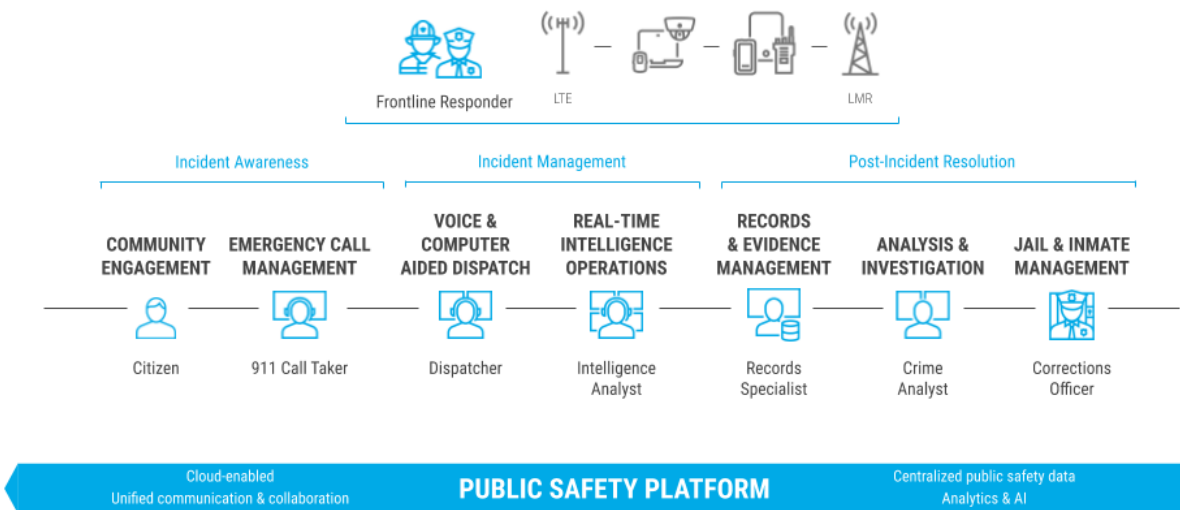


VESTA 9-1-1 is an integral part of Motorola Solutions' end-to-end Public Safety Software Enterprise driving the integration of a complete Command Center suite. From answering thousands of emergency calls and text messages to processing video, disparate evidence and records, Motorola Solutions is helping agencies transform into intelligence-driven command centers, enabling them to make more informed decisions resulting in better outcomes. Learn more about [Motorola Solutions'](#) wide-ranging product portfolio.

END-TO-END PUBLIC SAFETY SOFTWARE SUITE



# COMMANDCENTRAL



SECTION 2

# SOLUTION DESCRIPTION

## 2.1 BACKGROUND

Morrow County is currently a standalone VESTA System operating with five (5) Call-Taker positions with software version R6.HF2 with Security Management.

## 2.2 SOLUTION REVIEW

Morrow County have requested a hardware refresh on their existing VESTA system, which has recently surpassed the 5-year mark. The new system will reduce the number of Call-Taker positions from five (5) to three (3), making the 3<sup>rd</sup> position a CommandPost. The hardware refresh will include the replacement of 3 workstations positions, servers, gateways, and switches. A software application upgrade from R6 HF2 to R7.7 is also included. The remaining two (2) positions will be decommissioned and will no longer be in use

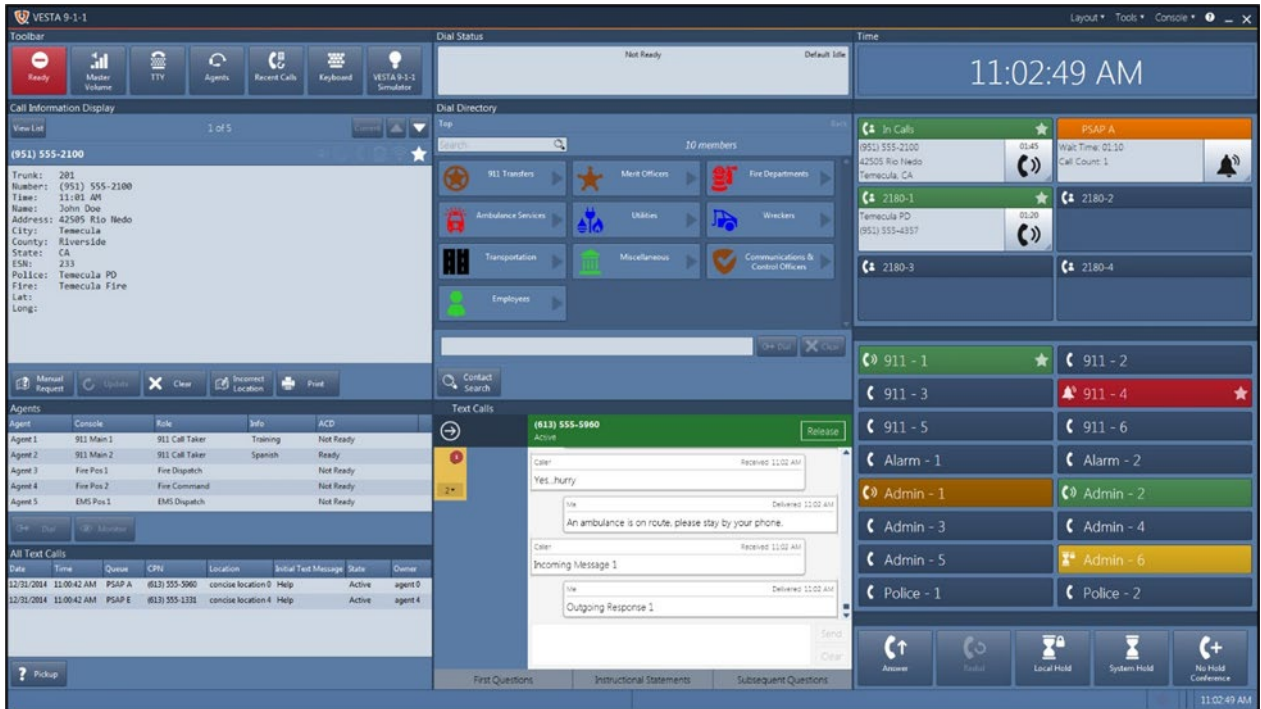
The new solution will leverage existing investment and licensing where applicable while offering support for both current and future NG9-1-1 technologies.

As part of this proposal, Motorola Solutions included the following optional features and positions for consideration:

- VESTA 3<sup>rd</sup> Call-Taker Workstation positions
- VESTA CommandPost
- VESTA SMS
- VESTA RapodSOS
- CommandCentral Cloud Base Services – Citizen Input & Smart Transcription
- VESTA Managed Detection and Response Services

Morrow County will reuse/provide the following peripherals at all locations:

- Provide or Reuse the Netclock 9483+3 port
- Reuse Existing Headset
- ALI Modem (if applicable)
- UPS



Fully Configurable VESTA 9-1-1 Solution

## 2.3 SUMMARY OF OFFER

The proposal includes a comprehensive NG9-1-1 Call Handling solution for one PSAP location.

The configuration proposed is based on information provided by Morrow County during a review of system requirements. Any changes in the proposed system or equipment will require a change order, which may incur additional costs.

### Morrow County Sheriff Office

- (2) Call Taker positions with single 24-inch LED monitors, VESTA 9-1-1 Basic Operations license

At each position:

- 48-key Genovation keypad with 25ft cable
- Sound Arbitration Unit (SAM)
- SAM External Speaker kit
- Handset and Cord
- VESTA® Map Local per seat license
- VESTA® 9-1-1 IRR per seat license
- VESTA® Activity View per seat license
- (8) CAMA Trunks

- (16) FXO ports
- (1) VESTA 9-1-1 Admin Printer
- MIS - Call management and reporting system
  - VESTA® 9-1-1 Activity View System License
    - ◆ (1) VESTA® 9-1-1 Activity View Administrative Workstations
- GIS Informational System
  - Map Local R4 Base
    - ◆ (2) \*GB RAM DRR4 3200 Z2 G5
    - ◆ (2) Monitors 24" FP Wide
- Morrow County will reuse existing NetClock or provide Motorola Solutions with a Time Synchronization device that is NTP compliant.
- (1) VESTA® CommandPOST – portable laptop position, docking station, (2)-24-inch monitors ((1) for VESTA and (1) for Map Local), keyboard and mouse, 48-key Genovation keypad, Sound Arbitration Unit (SAM), VESTA 9-1-1 Basic Operations License
  - VESTA Map Local per seat license
  - VESTA® 9-1-1 IRR per seat license
  - VESTA® Activity View per seat license
- Training provided – see Equipment List for details.
  - VESTA 9-1-1 Agent
  - VESTA 9-1-1 Admin for Standard
  - CommandPOST
  - E-Learning VESTA 9-1-1 Activity View
  - E-Learning VESTA Map Local Agent
  - E-Learning VESTA Map Local GIS Data Hub
- **Optional:**
  - VESTA® SMS - integrated Text-To-9-1-1 services – customer is responsible for TCC services and network charges
    - ◆ E-Learning VESTA 9-1-1 SMS Agent Delta
    - ◆ E-Learning VESTA 9-1-1 SMS Admin Delta
  - RapidSOS Integration via the Enhanced Data Window
  - CommandCentral Cloud-based Services
    - ◆ (15) Named User License bundle for Citizen Input and Smart Transcription Subscription(s)
  - VESTA® Managed Detection and Response Service
    - ◆ ActiveEye Security Management
    - ◆ Strategic Threat Intelligence
  - (1) Optional 2<sup>nd</sup> CommandPost position

– (1) Optional 3<sup>rd</sup> Workstation Call-Taker Position

**System-wide**

- Morrow County-wide data collection and reporting services on all 9-1-1 transactions
- System and component level monitoring, alarming, diagnostics and reporting services
- Basic GIS management services to support the VESTA Map implementation
- All-inclusive software support, updates, and upgrades for the contract term
- 24/7/365 help desk, trouble ticketing and customer support services
- Installation, testing, training, maintenance and on-site support services by Motorola Solutions
- Project management services for the planning, design, testing, installation and operation of systems for contract term

SECTION 3

# PRODUCT DESCRIPTION

The following descriptions are new or optional products proposed in addition to the hardware refresh.

## 3.1 DATA MANAGEMENT

### 3.1.1 Activity View

The Activity View management application provides real-time monitoring of PSAP activities. The Activity View management application may be configured by the user to display the status of:

- Call taker status
- Group status
- Group ACD status
- Incoming trunks
- Administrative lines
- Active calls

A user may also configure custom message colors and set a variety of thresholds which will trigger color changes.

The Activity View application also supports a Display Panels feature allowing a user to configure a display output that is compatible with large screen (wall-mount) monitors and/or projectors.

The Activity View management application can also display up to five (5) marquee messages to inform call-takers of upcoming events.

NOTE: It is recommended that the Activity View application be installed on a separate workstation from the VESTA 9-1-1 call-taker application due to the amount of CPU and network resources required. If installed on the same workstation as the VESTA 9-1-1 call-taker application, both applications should not be running at the same time.

## 3.2 GEOGRAPHIC INFORMATION SYSTEM (GIS)

To meet the needs of PSAPs of varying sizes, Motorola Solutions can provide a suite of geographic information systems (GIS) display and update products. Each GIS display product supports the following capabilities:

- Display wireline addresses based upon street centerline or point data
- Accurately plot Phase I & II wireless calls, including showing the uncertainty (if provided)

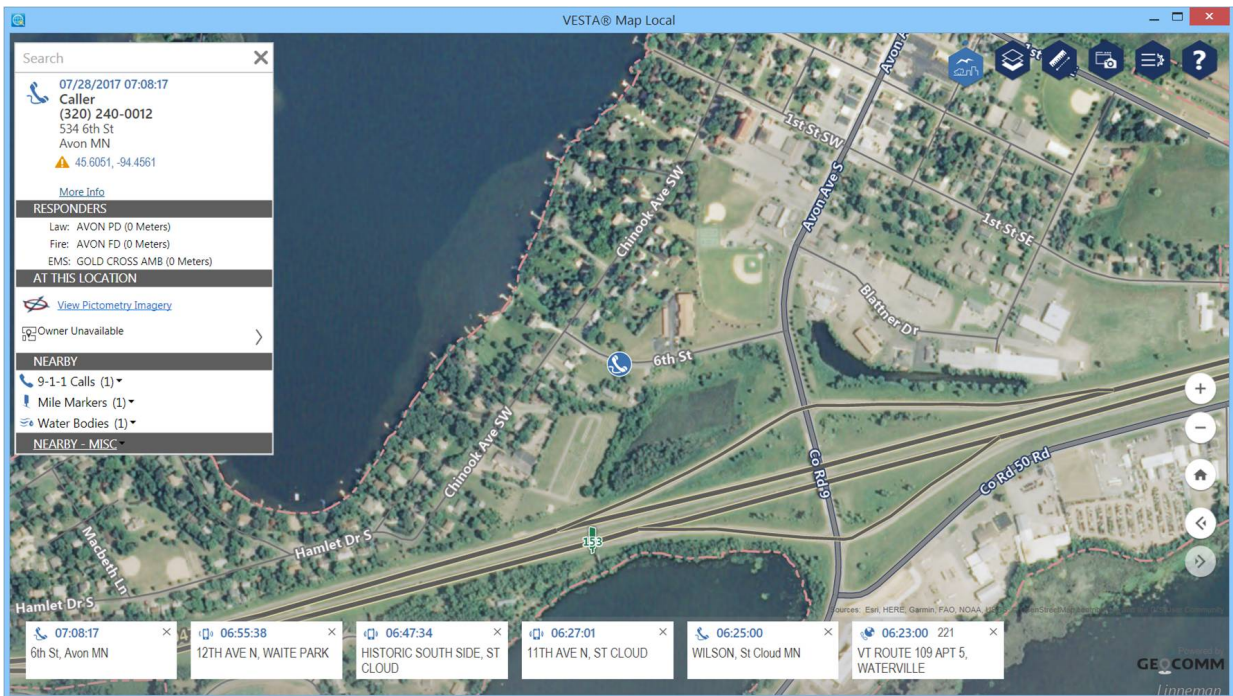


- Accurately plot SMS/Text-to-9-1-1 calls based on the location information provided with the call
- Update the caller's location when ALI or location information rebids are performed on the VESTA 9-1-1 call taker console
- Integration with Pictometry and aerial imagery (optional)

### 3.2.1 VESTA Map Local

VESTA Map Local is a subset of VESTA Map that is run locally on the workstation, rather than being network dependent. This allows greater flexibility for use in smaller sites that may not have dedicated network resources to support the full VESTA Map product. VESTA Map Local provides all of the following features:

- Provides a detailed, easy-to-use interface for viewing and managing incidents on digital maps
- Displays call types (wireline, Phase I and II, VoIP and Telematics) on the map using unique icons for a comprehensive view
- Supports Internet delivery of online and 3rd party data such as ArcGIS online, Rapid SOS, etc.
- Streamlines Call Handling processes by displaying 9-1-1 call type and location information as layers versus disparate system views.



VESTA Map Local

#### **RapidSOS Enhanced Location**

To help the PSAP gain greater location accuracy, the RapidSOS NG911 Clearinghouse data is available from the VESTA Map Local solution.



The benefit of integrating with the RapidSOS NG911 Clearinghouse includes:

- Security – The location is stored securely in the NG911 Clearinghouse, an access-controlled NENA i3 – compliant Location Information Server (LIS) and the Additional Data Repository (ADR)
- Speed of Delivery – Upon delivery of a 9-1-1 call, VESTA automatically queries the NG911 Clearinghouse, providing location information at the same time Phase 1 location data arrives
- Location Display – RapidSOS supplemental location data is displayed alongside the ALI location (when available), not instead of the ALI location



RapidSOS Enhanced Location





SECTION 4

# OPTIONAL FEATURES

## 4.1 VESTA SMS - OPTIONAL

The VESTA SMS solution allows VESTA 9-1-1 systems to connect directly to Text Control Centers (TCCs) using standards-based MSRP protocol for delivery of text messages directly to VESTA console users. Some of the features of the VESTA SMS solution are:

- Standards based Text-to-9-1-1 solution
- Easy and flexible to operate
- Supports multiple text queues
- Text capability may be assigned to user roles
- Allows transfer of text calls within a single multi-PSAP system

## 4.2 ENHANCED DATA WINDOW - OPTIONAL

The Enhanced Data Window provides additional data content to the VESTA 9-1-1 console, which can help a Telecommunicator better assist a 9-1-1 caller.

Motorola Solutions and RapidSOS understand that every second counts in an emergency and that Telecommunicators and first responders need location accuracy to save lives. Through the integration of the RapidSOS NG911 Clearinghouse into VESTA, PSAPs now have the capability for improved situational awareness and improved decision making.

When a call comes in from an enabled smartphone, Telecommunicators will see location & enhanced data (if available) on the Enhanced Data Window in addition to the ALI on the VESTA console. The additional location data is based on Advanced Mobile Location (AML) from mobile devices.



RapidSOS Information Displays in Enhanced Data View

## 4.3 VESTA COMMANDPOST - OPTIONAL

The VESTA CommandPOST call processing solution is a portable call-taking position designed to allow a call-taker to move to another location, reconnect to their host system, and begin taking 9-1-1 (with ANI/ALI) and administrative calls. All features of the traditional VESTA 9-1-1 position are preserved. In order to use Instant Recall Recording (IRR), the VESTA CommandPOST must be used with the SAM module. The VESTA CommandPOST call processing solution can connect to the host system via:

- Public Internet connection using VPN
- Private IP network with/without VPN connection
- IP satellite network with/without VPN connection

The VESTA CommandPOST typically consists of the following components:

- Hardened laptop computer (refer to hardware specification for latest model)
- SAM (Sound Arbitration Unit)
- All required cables
- Weather-resistant rolling case with cut foam liner
- Docking station (optional)
- Additional battery (optional)
- External monitor (optional)
- External mouse & keyboard (optional)





CommandPOST Ruggedized Mobile Package

## 4.4 COMMANDCENTRAL CLOUD-BASED SERVICES - OPTIONAL

### 4.4.1 Citizen Input -Optional

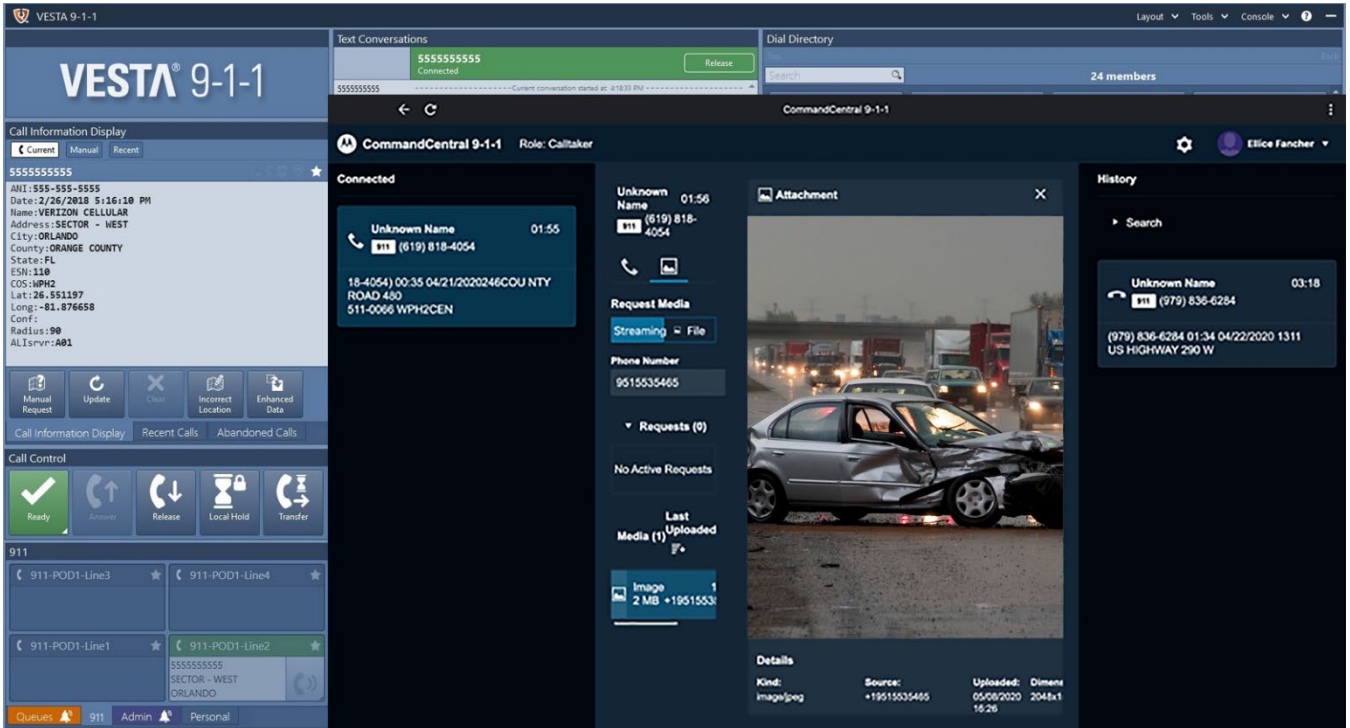
Citizen Input is part of the CommandCentral portfolio of services available on a subscription basis to emergency communications agencies. Citizen Input provides VESTA 9-1-1 customers the opportunity to take steps towards realizing the benefits of NG9-1-1 content including streaming/recorded video and photo attachments. Offering PSAPs experience with cloud-based services in a flexible yet controlled environment, Citizen Input can be deployed with current CPE platforms extending capabilities with no impact to call handling functionality.

Citizen Input requires VESTA 9-1-1, Release 7.2 and above and a FortiGate 60E Firewall for each PSAP using the service.

Citizen Input provides the following features:

- Allows citizens to send video, photographs and data to the PSAP
- No app download required on citizen's device
- Provides a controlled, permission-based approach to managing visual content
- Stores visuals as part of the call detail history

- Content is approved by the PSAP before it can be submitted and viewed
- Once authorized, an SMS containing a URL is sent to the citizen's phone that placed the 9-1-1 call. The citizen uses the URL to send the video or photo to the PSAP
- Viewing can be stopped at any time and all content is captured as permanent records; storage and strong evidence protection protocols are enforced
- Visual content is linked to VESTA 9-1-1 call records for audit purposes and ease of tracking



Citizen Input allows a citizen to send video, photographs and data to the PSAP enhancing operations and improving call handling efficiency. We know PSAPs are uncomfortable about allowing video and photographs into the PSAPs and we are addressing this concern with a controlled, permissions-based approach where visuals are not accepted unless the PSAP authorizes submission. All digital evidence collected from callers using Citizen Input is stored and tracked in a CommandCentral storage tool. Storage is included with a subscription to Citizen Input.

Unlimited access to user training videos and Quick Reference Cards (QRC) are included in the Citizen Input subscription service. The comprehensive videos are sufficient to educate each user and have them ready to begin using Citizen Input in a short amount of time.

If additional one-on-one training is desired, Train-the-Trainer (TTT) Remote or Onsite is available for an optional one-time fee. Remote Train-the-Trainer training includes 4 hours of remote consultation and training for up to 8 students. Onsite TTT training includes 4 hours of onsite consultation and training for up to 8 students.

## 4.4.2 Smart Transcription - Optional

CommandCentral Smart Transcription is a cloud-based service that takes the 9-1-1 call audio and transcribes it real-time into a searchable transcript, making it available for live call monitoring to



increase situational awareness across an entire agency. It preserves the transcript in long-term, secure storage for post-call analysis.

Smart Transcription is offered as a subscription service and works on VESTA 9-1-1, Release 7.2 and above.

Smart Transcription provides the following features:

- Integrated real-time audio transcription from VESTA 9-1-1
- Real-time and post-call transcription
- Keywords and full text search capability
- Quick search and review historical transcripts
- Agent, console and call metadata provided
- No app download required on citizen device
- Security processes built into the service to reduce the risk of cyberattacks
- Ability for supervisors to monitor transcripts
- Transcripts stored, along with metadata, for investigations, case summaries or locating conversation patterns over time
- Short learning curve for call takers since there are no changes on how they answer voice and text calls today on their VESTA 9-1-1 system
- No impact to VESTA 9-1-1 call handling functionality



## 4.5 VESTA MANAGED DETECTION AND RESPONSE - OPTIONAL

VESTA Managed Detection and Response reduces the risk that a cybersecurity threat will impact system availability, integrity, and confidentiality. Qualified cybersecurity analysts with extensive experience working on VESTA 9-1-1 mission-critical systems will monitor the Customer's system for signs of cybersecurity threats.

The VESTA Managed Detection and Response service is performed by Motorola Solutions' Network and Security Operations Center (NSOC) using specialized monitoring elements. The NSOC's expert cybersecurity analysts monitor for alerts 24x7x365. If an event that may represent a threat is detected, analysts will investigate and initiate an appropriate Customer engagement. Customer engagements may include, but are not limited to, requesting additional information from the Customer, continuing to monitor the event for further development, or informing the Customer to enact the Customer's documented Incident Response plan.

NSOC analysts rely on monitoring elements to detect signs of a potential threat impacting the Customer's VESTA 9-1-1 system. The following subsections describes these elements.

### 4.5.1 ActiveEye Security Management

Motorola Solutions' ActiveEye Security Management platform collects and analyzes security event streams from ActiveEye Remote Security Sensors in the Customer's VESTA 9-1-1 system, using security orchestration and advanced analytics to identify the most important security events from applicable systems.



The platform automates manual investigation tasks, verifies activity with external threat intelligence sources, and learns what events will require rapid response action. The goal is to reduce time to resolution and contain any security event.

The Customer will receive access to the ActiveEye platform as part of this service. ActiveEye will serve as a single interface to display system security information. Using ActiveEye, the Customer will be able to configure alerts and notifications, review security data, and perform security investigations.

- **ActiveEye Remote Security Sensor** - One or more ActiveEye Remote Security Sensors (AERSS) will be deployed into the VESTA 9-1-1 system to deliver the service. These sensors monitor geo-diverse sites in the system for security events and pass security information to the ActiveEye platform.
- **Log Collection / Analytics** - The AERSS deployed in the system collect logs and other security information from applicable servers, workstations, switches, routers, and firewalls. This information is forwarded to the ActiveEye platform, which uses advanced analytics to identify signs of cybersecurity incidents.
- **Intrusion Detection System** - The AERSS deployed in the system includes an Intrusion Detection System (IDS) that constantly monitors traffic passing across, into, or out of the VESTA 9-1-1 system. The IDS analyzes traffic for signs of malicious activity in real time, and performs packet level and flow level analysis to enable communications modeling. This information is used to identify anomalous behavior that is not captured by pre-defined traffic signatures, including traffic using encrypted connections. The IDS forwards detected suspicious activity to the NSOC for further analysis.
- **Service Dependencies** - It is mandatory that all VESTA Managed Detection and Response customers also subscribe to the Application Monitoring and Response service for VESTA 9-1-1. In the absence of an active Application Monitoring and Response service for VESTA 9-1-1, the Vesta Managed Detection and Response for VESTA 9-1-1 service cannot be delivered.

## 4.5.2 Strategic Threat Intelligence

With Strategic Threat Intelligence, Motorola Solutions provides continuous dark web monitoring, alerts and notifications, customer risk reviews, organization-specific threat intelligence, and industry-level threat intelligence. Trained cybersecurity analysts will search the dark web looking for indications that any of the Customer's systems, customer user accounts in the monitored domain, or data sets have been compromised. In addition, cybersecurity analysts will search for evidence that the Customer's organization or primary applications may be the target of a threat actor campaign.

Motorola Solutions cybersecurity analysts will develop threat reports and review them with the Customer. Analysts perform threat intelligence gathering using a combination of automated and human methods. They review threat intelligence findings during normal US business hours 8x5 on standard US business days: Monday through Friday 8AM to 5PM local time, excluding US Holidays.

- **Dedicated Cybersecurity Experts** - Motorola Solutions maintains highly trained cybersecurity experts skilled in monitoring the dark web and surface web that will perform threat intelligence gathering on your behalf, alerting you to threats and indications of compromise.
- **Customer Risk Review** - Make staying informed on threats to your organization easier with customer risk reviews. Motorola Solutions cybersecurity experts will walk the Customer through threat intelligence findings and provide other information that may contextualize the threats the Customer faces.





- **Focused Agency Threat Intelligence Report** - Reporting to key stakeholders in your organization is easy with a prepared customer threat intelligence report tailored to your organization.
- **Public Safety Industry Threat Report** - Stay current with threats that are facing the Public Safety industry at large with the Motorola Solutions' Public Safety Industry Threat Report.

**Service Dependencies** – Motorola Solutions Strategic Threat Intelligence may be purchased a la carte or in combination with other Managed Cybersecurity Services for VESTA 9-1-1.

SECTION 5

# SERVICE/WARRANTY

Motorola Solutions, Inc. (Motorola Solutions) has the most comprehensive service organization in the Land Mobile Industry. Since 1947, we have been building a unique service team, national in scope, but local in its ability to respond to Morrow County's diverse needs. As product and system complexity has evolved over the years, the Motorola Solutions Global Solutions and Service Division has responded by developing new service products and programs to match the evolution. This ensures that we have the ability to provide service products to effectively maintain your system.

Routine system monitoring, network connectivity issues and ongoing cyber threats eat up valuable time and resources. At Motorola Solutions, we understand the complexities and challenges associated with maintaining communications integrity. It's why we proudly offer our Network Security Operations Center (NSOC), a best-in-class solution for 24/7 monitoring and 9-1-1 systems management.

We tailor our Service Delivery Plans to support the individual needs of our customers. We do this by leveraging our Service Delivery Management team who is focused on the servicing of your system so you can focus on the operations. Our Service Delivery Manager will maintain close communications with Morrow County to continually monitor and assess our services at all stages and adapt to meet your needs where necessary.

Our goal is to build a service relationship you can trust and count on to grow with your needs and the demands of Next Generation 9-1-1 emerging technologies.

## 5.1 MOTOROLA SOLUTIONS WARRANTY

Motorola Solutions' will be providing Morrow County with 24x7x365 support during the 1-year warranty period.

In addition, Motorola Solutions provides a customized support package to meet your needs. We have included the following additional services in your support plan. After the first year, these services may be purchased under a separate agreement.

## 5.2 ONSITE INFRASTRUCTURE RESPONSE

Motorola Solutions' On-Site Response service gives you that advantage by making available our network of expert support resources located all across North America to provide on-site support when you need it. These Motorola Solutions certified field technicians arrive at your door equipped and ready to do what it takes to get your system running at optimum capacity.

Using Motorola Solutions-approved test equipment, service procedures and backed by Motorola Solutions centralized technical resources, technicians from your local authorized service center are dispatched to your site. The technicians perform diagnostics, remove components for repair, and reinstall new or reconditioned components. When it is a response to a call for help, Motorola Solutions On-Site Response service guarantees technician dispatch, site arrival, and problem resolution.



Motorola Solutions field technicians average 35-60 hours of technical training per year and 15-25 years of solution experience that aid in the quick and timely resolution of your service issues. Motorola Solutions on-site technicians are also backed up by technical consultants and field engineering support across the county when the situation calls for a more specialized expertise. We recognize that your communication system is critical to your operation and our support strategy of local and centralized support is our promise to you that we will do whatever it takes to keep it working at peak efficiency.

Motorola Solutions' On-Site Response service is a vital component of an intelligent communication support plan that keeps your business running, your costs down, and helps you stay focused on your goals.

## 5.3 TECHNICAL SUPPORT SERVICE

Motorola Solutions Technical Support Service assures you maximum preparedness with on-demand technical support, commitment to restoration, and whatever it takes to enable immediate communication via your wireless network! The skilled professionals and advanced systems at the Motorola Solutions System.

Support Center is there to keep your network running at peak performance 24 hours a day, 7 days a week.

Technical Support provides:

- Expert technologists trained in troubleshooting to analyze, isolate and correct problems to get your system issue(s) resolved quickly.
- Best-in-class Remote Diagnosis capabilities: advanced diagnostics and fully equipped test labs, if applicable, based on system type.
- Automated test systems to quickly diagnose boards.
- Shared knowledge database constantly updated for technologists to utilize to reduce cycle time.
- Immediate access to Network Designers and Engineers.
- Rigorous and defined case and escalation management process and procedures.
- Motorola Solutions technologists participate in ongoing training programs.
- Customer case performance reports available upon request.

## 5.4 SOFTWARE SUPPORT

Due to normal advancements in technology, individual components within the E911 platform will require periodic update and replacement to mitigate network vulnerabilities and address technology obsolescence. Software Agreement complements the lifecycle of the E911 system by providing periodic software updates which safeguard and enhance the operation, and extend the lifespan of the E911 system. The Software Agreement provides system release software for VESTA.

Updated software incorporates the latest advancements in technology and provides improvement in network security. Regular updates ensure commercial software remains within the OEM support coverage and may provide operational enhancements of previously purchased features. The Software Agreement not only provides a simple approach to updating the system, but owners can also realize up to 80% cost savings compared to individual procurement of software updates. The fixed price annual subscription also provides an approach for consistent budget planning and cost containment against unexpected changes. The Software Agreement is a flexible lifecycle management solution that



allows the system owner to implement updates on their own schedule and incur hardware and implementation services expense at the time of upgrade:

- Minor releases may include security updates, patches and service pack updates for Microsoft Windows and Server OS, Red Hat Linux, Sun Solaris and any VESTA software service packs that may be available.
- Major releases include VESTA system release software to improve the system functionality and operation from previous releases as well as significant new feature enhancements that are available for purchase.

## 5.5 MONITORING AND RESPONSE

Monitoring and Response Service can help keep your network at optimum availability, so it is ready to serve mission-critical communications needs. By watching over the network continuously, Network Monitoring Service takes action whenever needed, and resolves network problems. We often intervene and correct the problem before you even know a problem exists. Monitoring and Response Service provides improved productivity and enhanced network performance, which in turn helps to increase your technology Return-On-Investment (ROI).

Using a combination of network monitoring software, automated alerts, and remote diagnostics inquiries, our technologists actively monitor your network to maximize network uptime and overall preparedness for the expected and unexpected. Upon receiving an alert, our team immediately performs a series of diagnostics to assess the problem. Often the situation can be resolved remotely, but when additional attention is required, local field technicians are dispatched immediately to your site to achieve restoration.

Monitoring and Response Service is a vital component of an intelligent communication support plan that keeps your business operating smoothly, your costs down, and assures maximum preparedness at all times.

Specifically, Monitoring and Response Service provides:

- Improved network availability.
- Remote and timely resolution to minimize downtime.
- Cost efficiencies.
- Optimize time at site due to assessment and knowledge transfer before dispatch.
- Minimize unnecessary trips to site.
- Mitigate need for 24x7 operations monitoring center.
- Detailed Reports.





SECTION 6

# STATEMENT OF WORK – VESTA 9-1-1

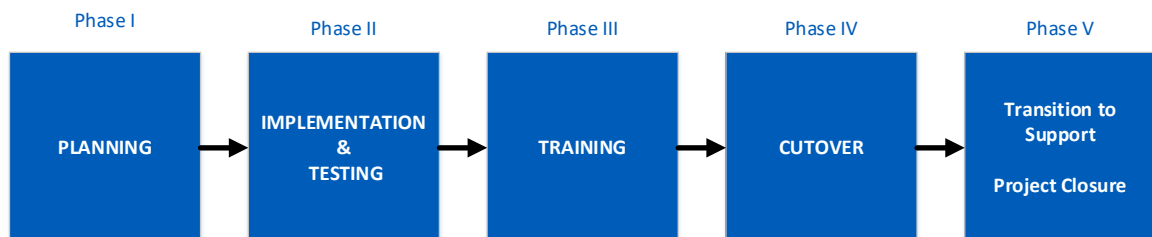
Implementation Planning is an iterative process. It begins during the planning stage and continues until the Next Generation 9-1-1 (NG9-1-1) VESTA 9-1-1 system from Motorola Solutions, Inc. (Motorola Solutions) is formally migrated and accepted by the agency. The Project Manager (PM), working with the project team, is responsible for formulating the required plan to implement and communicate the support process for the VESTA 9-1-1 solution.

## 6.1 IMPLEMENTATION METHODOLOGY

Your VESTA 9-1-1 system is a large project involving complexity, contingencies, and collaborations with multiple parties. Successful implementation requires an organized and systematic approach to project management.

Your Project Manager and Motorola Solutions Project Manager will play a particularly important role in this process by communicating back to their teams the project plan, project status, risks, and next steps. The project will use an MS Project Schedule and Project Status Report, which will provide a consistent vehicle for communication, management, reporting of progress and detection of potential progress delays.

Our project management methodology is also based upon the Project Management Institute's (PMI) Project Management Body of Knowledge (PMBOK). Our methodology will incorporate one primary goal; align the project with your overall expectations. Unless otherwise requested, Motorola Solutions will implement the project using a "phased" process.



## 6.2 PHASE I - PLANNING

Phase I is the period in which the project is formally launched, the project design is finalized, the Project Management Plan (PMP) is finalized and resources are scheduled. Upon the agency contract award the Motorola Solutions PM coordinates Phase 1 activities with you to ensure that the project scope has been assessed, and that all deliverables have been captured in the Motorola Solutions Project Schedule. The PMP will be the control document for Motorola Solutions deliverables for the implementation, as will other critical dates or milestones that are integral to the project.

The specific objectives of the planning phase include:

- Expound on specific strategies and project options
- Confirm NG9-1-1 project scope
- Finalize the solution design
- Finalize plans for solution delivery strategies and resources. The solution is reviewed to align each primary stakeholder with a common vision and strategy for unified team design and planning.
- Determine aspects of the 9-1-1 system that are subject to change within the scope of the project. Much of this entails identifying and collecting information from project stakeholders.

Prior to collecting the detailed information that will be used in the course of the project, it is important for the team to understand the overall project goals and the criteria that will govern their decision-making.

The project principles and constraints are communicated to all team members so that all design, integrations, and deployment decisions can be assessed. Guided by the project principles and constraints, more detail information is then collected. This includes conducting site visits and the Project Launch, Call Flow and Design Review Meeting.

The original configuration proposed was based on information provided by Morrow County during a review of system requirements. Any changes in the proposed system or equipment will require a change order, which may incur additional costs.

## 6.2.1 Project Kick-off Meeting

The project kick-off meeting is scheduled as soon as possible following receipt of the contract. One of the main objectives of the meeting is to ensure that all project participants begin the project with a clear and shared understanding of the project and project expectations. During this meeting:

- Process owners are identified
- Key project milestones and objectives are introduced and discussed
- Review the overall project “As Purchased” design and Statement of Work (SOW).
- First review of the draft project plan

## 6.2.2 Project Workflow and Design Review Meeting

The project call flow and design review meetings are scheduled with you to be held at the site. The purpose of the Call Flow and Design Review (CDR) meeting is to obtain a comprehensive understanding of your current operational environment and desired future workflow through interactive discussions. It is also to assist in understanding how the new VESTA 9-1-1 system can be configured to meet the operational needs.

During this meeting, Motorola Solutions will gather critical information with your agency to set up and program the VESTA 9-1-1 system, including detailed review of trunks, lines and circuits. Motorola Solutions will work with you to document the final system design elements that will be used for all aspects of the programming and configuration of your VESTA 9-1-1 system. Design discussions and decisions will include but are not limited to:

- Detailed review of the “As Purchased” system design
- Detailed review of call flow and system design
- Detail review of CommandPOSTs
- Detail review of Network Requirements



- Detail review of Network Components (routers and switches)
- Detailed review of the project Roles and Responsibilities of the collective team
- Site walks for Environmental Review & Intra-system interfaces
  - Environmental:
    - ◆ Power: outlets, power draw, UPS, generator
    - ◆ Cabling: positions, training room, backroom
  - Adjuncts:
    - ◆ CAD: ALI spill to CAD
    - ◆ Recorder
    - ◆ Mapping
    - ◆ PBX
  - Physical space, furniture, & logistics
  - External interfaces: door access, alarms

It is important that your key operational decision makers participate in these design meetings. It is critical that you and Motorola Solutions understand the responsibilities of each entity in this process. The detailed discovery and full disclosure of all facets of the Call Flow (how the different types of trunks, lines and circuits that are answered at the PSAP locations are routed to and answered by the current communications systems) and the Work Flow (how Call Takers and Dispatchers interact with callers and each other) is critical in the design of the new system. This will ensure a smooth and comprehensive transition.

### 6.2.3 Project Plan Approval

Once the system design has been finalized, the Motorola Solutions PM will schedule resources for site implementation.

Motorola Solutions resources will be scheduled and dates communicated to the team members via the Motorola Solutions Project Schedule. The Motorola Solutions Schedule will be drafted and forwarded to team members for review and comment. This “First Pass” schedule will be used to present you with the initial deployment schedule. Once all feedback and changes have been received and integrated into the schedule, the Master Project Schedule will be created and communicated by Motorola Solutions. Once published and a baseline established, the Master Schedule will only be changed as per appropriately submitted change requests.

The Planning Phase ends when:

- The Project Plan has been approved
- System design and Call Flow are complete
- The Master Project Schedule has been developed and a consensus among concerned parties reached regarding deliverables and milestones
- A draft site cut plan has been developed
- A draft Acceptance Test Plan has been developed
- The materials purchased from Motorola Solutions ship to the site

## 6.3 PHASE II – INSTALLATION AND TESTING

Phase II is the period of time in which site preparation, site installation and testing take place. The project’s implementation is accomplished to the degree that is possible without actually going “live”, while minimizing disruption of the site’s ongoing operations. The Motorola Solutions PM will



coordinate the Phase II activities with you to minimize interference with other site activities, while ensuring that Motorola Solutions' implementation and testing are completed as per the Project Plan and the Master Project Schedule. Implementation and Testing milestones and deliverables will be documented and managed via the Master Project Schedule.

During this phase the components of the solution, including applications, servers, network components and data flow, are configured and readied for deployment. All network, regional and premise components are delivered, and the equipment rooms and other facilities are made ready.

### 6.3.1 Solution Staging

The process starts with the staging of the system equipment in Temecula, CA. Your site equipment is assembled, configured and burned in with your specific site information, including but not limited to, system software, IP addresses, machine names, and line and trunk data. Your equipment is also quality-checked for any defects or errors, then packaged and shipped to site.

Staging increases efficiency by leveraging our technical expertise to help prevent out-of-box failures and performing initial configurations before equipment arrives on-site. Less on site installation time is required by staging and testing equipment in our Temecula facility. You have assurance that each site's equipment is configured and tested, reducing the risk of onsite equipment issues.

Once staged in Temecula your system will be shipped to your site for inventory and installation.

### 6.3.2 Site Installation

The following outlines the general steps that will be required for system installation. Additional detail and steps will be added during project meetings.

- Unpack and inventory equipment
- Placement of racks/cabinet
- If new cabling is required:
  - Run cable from Motorola Solutions Connector Blocks to backboard for all 9-1-1 trunks
  - Run cable from Motorola Solutions Connector Blocks to backboard for all administrative lines
  - Run LAN cables from Motorola Solutions rack/cabinet to all Motorola Solutions workstations; this includes providing an adequate number of cable runs for the voice/network, logging recorder, and any other equipment that may be required
  - Run LAN cables from any IP phones to the Motorola Solutions rack (if applicable)
- Physical installation of all new VESTA 9-1-1 servers and associated components at the identified backrooms (Host A & B)
- Physical installation of any network equipment required: switches, routers, etc. and associated cabling provided by Motorola Solutions
- Physical installation of all new peripheral devices at all sites
- For each site, configure and make operable the system as documented in the Detail Design Document to include:
  - Configure all new VESTA 9-1-1 system servers.
  - Configure all new workstations purchased for the sites
  - Perform Router Configuration
  - Perform Firewall Configuration
- Manage all appropriate data and accounts for the VESTA 9-1-1 system



- Perform installation and configuration of the Motorola Solutions provided MIS solution.

### 6.3.3 Testing

Our plan includes performing various required tests using the agency's actual infrastructure, which is beneficial for the following reasons:

- Testing will be performed on the production solution – actual hardware
- Testing will be performed in the actual environment
- Testing will allow you to easily observe the process

Testing is one of the major aspects of your VESTA 9-1-1 project and its success will require combined concentrated effort by your personnel and Motorola Solutions.

Upon contract award, Motorola Solutions PM will work closely with you to review the System Acceptance Test Plan and make mutual agreed upon changes to the Test Plan. At the completion of the implementation, your designated participants and Motorola Solutions will execute the test plan that displays the system is functioning and configured as designed and document test results.

### 6.3.4 Lockdown

The Implementation and Testing Phase ends when:

- Site Implementation is complete
- The site testing has been completed to the degree agreed upon during the project planning process

At the conclusion of the site's implementation and testing, a lockdown (configuration freeze) period will begin and remain in effect until system cutover. During implementation and training, vendors/providers of each subsystem will have the opportunity to perform pre-approved nominal system testing without making any user application and configuration changes. The site lockdown will be scheduled via the Master Project Schedule.

### 6.3.5 Customer Responsibilities During Installation

Responsibilities shall include, but are not limited to:

- Use reasonable efforts to provide supporting information to aid in the solution of any problems discovered during installation, implementation or post installation phases of this project
- Provide appropriate schedule notification and facility availability for VESTA 9-1-1 on-site services and training
- Notify and coordinate schedule changes with Motorola Solutions, which may require a Change Order (and potentially additional charges) dependent upon the change
- Assume sole responsibility for the accuracy and completeness of Customer-supplied data
- Provide dedicated (2) 20A 110V UPS protected power outlets for the facilities and appropriate grounding, or as determined by the site survey, for the proper operation of the emergency telephone and computer systems described herein
- Assume full responsibility for mutually approved base map file, including, but not limited to: X / Y coordinates, structure address, street centerlines, ESN boundaries, City boundaries; maintain this file and use it to update the VESTA 9-1-1 system
- Provide a complete ESRI-based GIS formatted map (shapefile) thirty to sixty days prior to on-site system installation

- Updates to the base map file, performed by personnel designated, will be transferred to the system per Motorola Solutions instructions
- Provide a floor plan outlining where Motorola Solutions provided equipment is to be installed and position numbers for Call Taker, Dispatch, and Supervisor positions
- Ensure the operating environment is fully functional and meets VESTA 9-1-1 minimum operating requirements
- Provide the applicable broadband service for the VESTA 9-1-1 Virtual Private Network (VPN) for remote monitoring, support and troubleshooting connectivity
- Provide for, move, test and make operational or otherwise deliver CAMA trunks, administrative lines and other PSTN connections to the backboard demarcation at least 14 days prior to installation start date
- Provide for, move, test and make operational or otherwise deliver two (2) ALI circuit connections to the backboard demarcation at least 14 days prior to installation start date
- Provide facility specific work and activity, including, but not limited to, construction, core drilling, grounding, and any electrical or conduit needed to support the implementation
- Assist Motorola Solutions in securing any required security clearances, identification tags and other requirements for access to areas within the facility necessary for Motorola Solutions personnel to complete their project responsibilities under this agreement
- Provide the tap to the network clock, if applicable. This includes all interfaces necessary, preferably to provide the name/address of a timeserver on the network.
- Document and supply configuration information on the existing CPE
- Make available at the equipment rack, all remote access lines terminated on RJ 11 or RJ 45 jacks or contract with Motorola Solutions as required
- Ensure that or contract with Motorola Solutions to guarantee Intermediate Distribution Frame (IDF), wall boards and/or interconnect points appear in the immediate area where VESTA 9-1-1 servers are installed



## 6.4 PHASE III – CUTOVER

Cutover is the primary focus of your NG9-1-1 project, its success will require a methodical focus on planning, executing, and monitoring. The cutover plan includes the fallback process to restore the system to the pre-migration operation in the event of a catastrophic failure.

The Cutover Plan defines the sequenced procedures and steps that will occur in the Cutover Phase to bring new equipment to an operational state, as well to transition services from the current equipment to the new. Appropriate safeguards are built in to ensure a cutover with minimal operational impact.

The Cutover Phase is the major transition point for the project. Motorola Solutions provided systems are brought on line and site's operations shift from the old equipment to the new equipment. Motorola Solutions' PM will work with your team to minimize the disruption for each PSAP. To that end, during the Planning Phase the decision will be made for the cutover plan. Examples of cutover options are as follows:

- **Flash Cut:** A flash cut requires a coordinated migration of 9-1-1 traffic to the PSAPs. Workstations at a site are cut over to the NG9-1-1. The benefit of a flash cut is that the PSAP personnel do not require temporary relocation to another PSAP that might not have the same radio or Computer Aided Dispatch (CAD) system, resulting in less disruption.



- Relocation Cut: You may choose to vacate their PSAP and operate at the alternate PSAP while their PSAP is upgraded. Once the upgrade is finished the personnel would systematically move to the new VESTA 9-1-1 system

The Draft Cutover Plan will specify specific tasks and responsibilities for Motorola Solutions provided systems, materials, and services. The Cutover Phase will be scheduled via the Master Project Schedule.

## 6.4.1 Motorola Solutions Responsibilities During Cutover

The Motorola Solutions PM will coordinate assignment of appropriate Motorola Solutions technical staff to support the transition to the new VESTA 9-1-1 system. Resource assignments will be planned and tracked via the Motorola Solutions Project Schedule.

- Pre-cut and Post-cut site testing will be performed in accordance with Motorola Solutions System Acceptance Test Plan that will be provided based on the type of system(s) purchased
- The Motorola Solutions PM will track Motorola Solutions issues and/ or exceptions noted during the site cutover and report updates to your team for updates to the Issues Control Log
- The Cutover Phase will end when the project team agrees that all cutover objectives have been met

At the conclusion of the Cutover Phase, a meeting will be held with the project team members to discuss the cutover, any remaining Motorola Solutions issues, and to review the Post-Cutover Support Plan.

## 6.4.2 Customer Responsibilities During Cutover

The agency is responsible for the following during cutover:

- Schedule appropriate personnel to support the cutover
- Assume responsibility for cutover activities that are beyond the scope of Motorola Solutions deliverables as delineated in the approved Project Plan
- Coordinate third party services and/or activities during the cutover that are not Motorola Solutions deliverables, but may affect Motorola Solutions systems and/ or services. This includes, but is not limited to Telco's, third party vendors, or other organizations that are participating in the cutover

## 6.5 PHASE IV – PROJECT CLOSURE

Once all sites are operational and the post-cutover coverage is complete, the Project will move to closure phase. The project closure phase is the process of completing any open issues associated with the deployment of your project and to transition the project from Implementation to Support.

Project closure will occur when:

- All sites have cutover to the new VESTA 9-1-1 systems
- All on-site post cutover support has been completed
- All System Acceptance Testing has been successfully executed and approved by Morrow County
- Morrow County has signed the Site Acceptance document

The Motorola Solutions PM will ensure all issues have been resolved or assigned for resolution. Any open issues at time of closure are to be transitioned to Motorola Solutions Technical Support, Site Installation, and Verification Package.

## 6.5.1 Site Installation and Verification Package

Motorola Solutions will provide “as-built” documentation:

- CPE inventory, including a complete list of installed equipment
- Solution Overview / Detailed System Document
- System Diagrams
- IP Schema and Naming Convention
- Bandwidth Estimates
- System Acceptance Test
- Other documentation as mutually agreed to by the parties

SECTION 7

# OPTIONAL STATEMENT OF WORK – CITIZEN INPUT AND SMART TRANSCRIPTION

This Statement of Work (SOW) describes the deliverables to be furnished to Morrow County, and the tasks to be performed by Motorola Solutions, Inc, its subcontractors, and by Morrow County, in order to implement the cloud base service outlined in this proposal. This SOW provides the most current understanding of the work required by both parties to ensure a successful project implementation.

It is understood that this SOW may be revised during contract negotiations or during the Contract Design Review (CDR), and through any other Change Orders that may occur during the execution of the project. If there are changes to the Scope of Work, those changes must be reflected in this SOW before becoming binding on either party. This SOW will be an Exhibit to the Contract negotiated between Motorola Solutions and Morrow County. After contract execution, changes to the SOW must be made through the formal contract Change Order process as set forth in the Contract.

## 7.1 CONTRACT

### 7.1.1 Contract Award

Morrow County and Motorola Solutions execute the contract and both parties receive all the necessary documentation.

### 7.1.2 Contract Administration

#### **Motorola Solutions Responsibilities**

- Assign a Project Manager as the single point of contact with authority to make project decisions.
- Assign resources necessary for project implementation.
- Set up the project in the Motorola Solutions information system.
- Schedule the project kickoff meeting with Morrow County.

#### **Customer Responsibilities**

- Assign a Project Manager as the single point of contact responsible for Morrow County -signed approvals.
- Assign other resources necessary to ensure completion of project tasks for which Morrow County is responsible.

#### **Completion Criteria**

- Motorola Solutions internal processes are set up for project management.
- Both Motorola Solutions and Morrow County assign all required resources.

- Project kickoff meeting is scheduled.

### 7.1.3 Project Kickoff

#### Motorola Solutions Responsibilities

- Conduct a project kickoff meeting during the Contract Design Review (CDR) phase of the project.
- Ensure key project team participants attend the meeting.
- Review the roles of the project participants.
- Review the resource and scheduling requirements with Morrow County.
- Review the Project Schedule with Morrow County to address upcoming milestones and/or events.

#### Customer Responsibilities

- Morrow County's key project team participants attend the meeting.
- Review Motorola Solutions and Morrow County responsibilities.

#### Completion Criteria

- Project kickoff meeting completed.
- Meeting notes identify the next action items.

## 7.2 ORDER PROCESSING

### 7.2.1 Process Equipment List

#### Motorola Solutions Responsibilities

- Validate Equipment List by checking for valid model numbers, versions, compatible options to main equipment, and delivery data.
- Enter order into Motorola Solutions' Configure Price Quote (CPQ) system.
- Reconcile the equipment list(s) to the Contract.

#### Customer Responsibilities

- Provide shipping location(s).
- Complete and provide Tax Certificate information verifying tax status of shipping location.

#### Completion Criteria

- Verify that the Equipment List contains the correct model numbers, version, options, and delivery data.
- Trial validation completed.
- Bridge the equipment order to the manufacturing facility.

## 7.3 MANUFACTURING AND STAGING

### 7.3.1 Manufacture Motorola Solutions Equipment



#### **Motorola Solutions Responsibilities**

- Manufacture the Motorola Solutions and non-Motorola Solutions equipment necessary for the system based on equipment order.

#### **Customer Responsibilities**

- N/A

#### **Completion Criteria**

- Ordered equipment shipped to either the field or staging facility.

### **7.3.2 Staging**

#### **Motorola Solutions Responsibilities**

- Pack for shipment to final destination.
- Arrange for shipment to the field.

#### **Customer Responsibilities**

- Morrow County to provide shipment location.

#### **Completion Criteria**

- Equipment ready for shipment to the field.

## **7.4 SYSTEM INSTALLATION**

### **7.4.1 Install Call Handling Equipment**

#### **Motorola Solutions Responsibilities**

- Remote Field Engineering to complete all on-premise installation and configuration activities.

#### **Customer Responsibilities**

- Provide access to the sites, as necessary.
- Install and test internet connection that meets minimum requirement (100mbps).
- Installation of the required firewall when applicable.

#### **Completion Criteria**

- Fixed Network Equipment installation completed and ready for optimization.

### **7.4.2 Fixed Call Handling Equipment Installation Complete**

- All fixed network equipment installed and accepted by the Morrow County.



## 7.5 FINALIZE

### 7.5.1 Resolve Punch List

#### **Motorola Solutions Responsibilities**

- Work with Morrow County to resolve punch list items, documented during the installation and configuration phase.

#### **Customer Responsibilities**

- Assist Motorola Solutions with resolution of identified punch list items by providing support, such as access to the sites, equipment and system, and approval of the resolved punch list item(s).

#### **Completion Criteria**

- All punch list items resolved and approved by Morrow County.

## 7.6 PROJECT ADMINISTRATION

### 7.6.1 Project Status Meetings

#### **Motorola Solutions Responsibilities**

- Motorola Solutions' Project Manager, or designee, will attend all project status meetings with Morrow County, as determined during the CDR.
- Record the meeting minutes and provide reports as required.
- The agenda will include the following:
  - Overall project status compared to the Project Schedule.
  - Product or service related issues that may affect the Project Schedule.
  - Status of the action items and the responsibilities associated with them, in accordance with the Project Schedule.
  - Any miscellaneous concerns of either Morrow County or Motorola Solutions.

#### **Customer Responsibilities**

- Attend meetings.
- Respond to issues in a timely manner.

#### **Completion Criteria**

- Completion of the meetings and submission of meeting minutes.

### 7.6.2 Change Order Process

Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price, Performance Schedule, or both, and will reflect the adjustment in a change order. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.











SECTION 8

# OPTIONAL STATEMENT OF WORK – MANAGED DETECTION AND RESPONSE SERVICE

In accordance with the terms and conditions of the Agreement, this Statement of Work (SOW), including all of its subsections and attachments, defines the principal activities and responsibilities of all parties for the delivery of Motorola Solutions (“Motorola”) cybersecurity services as presented in this proposal to Morrow County (hereinafter referred to as “Customer”).

In the event of a conflict between the terms and conditions of an Agreement and the terms and conditions of this SOW, this SOW will control as to the inconsistency only.

## 8.1 VESTA MANAGED DETECTION AND RESPONSE

Motorola will provide managed detection and response monitoring continuously 24x7x365, and respond to detected events in accordance with Section 8.1.1 Priority Level Definitions and Response Times.

### **Inclusions**

VESTA Managed Detection and Response Monitoring provides Intrusion Detection System monitoring for traffic across the entire on-premises VESTA 9-1-1 system. Only select VESTA 9-1-1 on-premises system components support Log Collection / Analytics.

### **Motorola Responsibilities**

- Provide, maintain, and when necessary, replace hardware and software required to monitor VESTA 9-1-1 system elements. This includes the ActiveEye Remote Security Sensors (AERSS) and all software operating on it.
- Coordinate with the Customer to maintain authentication credentials where necessary.
- Coordinate with the Customer on any system changes necessary to integrate the AERSS into the system and establish necessary connectivity.
- Maintain trained and accredited technicians.
- Monitor the Customer’s system 24x7x365 for malicious or unusual activity.
- Respond to cybersecurity incidents in the Customer’s system in accordance with Section 8.1.1 Priority Level Definitions and Response Times.
- Work with the Customer to ensure that all devices within the system that support logging have properly configured Syslog which is forwarding events to the AERSS.

**Customer Responsibilities**

- VESTA Managed Detection and response requires a connection from the Customer’s system to Motorola’s NSOC and to the Internet. Establish connectivity with sufficient bandwidth before service commences.
- Allow Motorola continuous remote access to monitor the system. This includes keeping the connection plugged-in, providing passwords, and working with Motorola to understand and maintain proper privileges.
- Provide continuous utility service to any Motorola equipment installed or used at the Customer’s premises to support delivery of this service.
- Provide Customer contact information necessary to complete the Customer Support Plan.
- Provide Motorola-dispatched field service technicians with physical access to service equipment when required.
- Comply with the terms of the applicable license agreements between Customer and the non-Motorola software copyright owners.
- Cooperate with Motorola and perform all acts that are reasonable or necessary to enable Motorola to provide the services described in this SOW.

**Exclusions**

VESTA Managed Detection and Response excludes services to perform physical containment and/or remediation of confirmed cybersecurity incidents, remote or onsite. The Customer may choose to purchase additional Incident Response professional services to assist in the creation of and/or execution of a Customer’s Incident Response Plan.

**8.1.1 Priority Level Definitions and Response Times**

Incident Priority	Incident Definition	Response Times
Critical P1	Security incidents that have caused, or are suspected of causing significant and/or widespread damage to the functionality of or information stored within the system. Efforts to recover from the incident may be significant. Examples: Malware that is not quarantined by anti-virus Evidence of communication with suspected malicious actors	Response provided 24 hours, 7 days a week, including US Holidays.
High P2	Security incidents that have localized impact, but have the potential to become more serious if not quickly addressed. Effort to recover from the incident may be moderate to significant. Examples: Malware that is quarantined by anti-virus Multiple behaviors observed in the system that are consistent with known attacker techniques	Response provided 24 hours, 7 days a week, including US Holidays.

Incident Priority	Incident Definition	Response Times
Medium P3	<p>Security incidents potentially indicative of an attacker performing reconnaissance or initial attempts at accessing the system. Effort to recover from the incident may be low to moderate.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>Suspected unauthorized attempts to log into user accounts</li> <li>Suspected unauthorized changes to system configurations (firewalls, user accounts, etc.)</li> <li>Observed failures of security components</li> </ul>	<p>Response provided 8 x 5 on standard business days, which is normally Monday through Friday 8AM to 5PM local time, excluding US Holidays.</p>
Low P4	<p>These are typically informational in nature or are service requests from the Customer.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• User account creation or deletion</li> <li>• Privilege change for existing accounts</li> </ul>	<p>Response provided 8 x 5 on standard business days, which is normally Monday through Friday 8AM to 5PM local time, excluding US Holidays.</p>

## 8.2 STRATEGIC THREAT INTELLIGENCE

### Motorola Responsibilities

- Coordinate with the Customer to collect relevant information necessary to execute threat intelligence searches on the dark web.
- Deliver a monthly risk report detailing threat intelligence specific to the Customer.
- Provide the Customer with a monthly Public Safety Industry intelligence report detailing threat intelligence related to the Public Safety community as a whole.
- Hold recurring formal risk reviews with the Customer to evaluate threats facing the Customer and intelligence discoveries. This review also serves as an opportunity to refine the list of critical information the threat team needs to proactively search for.
- Alert the Customer immediately when critical threats or information breaches are discovered.

### Customer Responsibilities

- Coordinate with Motorola to maintain relevant information necessary to execute threat intelligence searches on the dark web.
- Obtain for Motorola all rights, if any, that may be necessary to permit requested threat intelligence searches on the dark web.

### 8.2.1 Scope Limitations & Clarifications

#### Service Limitations

Cybersecurity services are inherently limited and will not guarantee that the Customer's system will be error-free or immune to security breaches as a result of any or all of the services described in this proposal. Motorola does not warrant or guarantee that this service will identify all cybersecurity incidents that occur in the Customer's system. Services and deliverables are limited by, among other things, the evolving and often malicious nature of cyber threats, conduct/attacks, as well as the



complexity/disparity and evolving nature of Customer computer system environments, including supply chains, integrated software, services, and devices.

### **Customer and Third Party Information**

The Customer understands and agrees that Motorola may obtain, use and/or create and use anonymized, aggregated and/or generalized Customer data, such as data relating to actual and potential security threats and vulnerabilities, for its lawful business purposes, including improving its services and sharing and leveraging such information for the benefit of Customer, other customers, and other interested parties. For purposes of this engagement, so long not specifically identifying the Customer, Customer Data shall not include, and Motorola shall be free to use, share and leverage security threat intelligence and mitigation data generally, including without limitation, third party threat vectors and IP addresses, file hash information, domain names, malware signatures and information, information obtained from third party sources, indicators of compromise, and tactics, techniques, and procedures used learned or developed in the course of providing services.



SECTION 9

# EQUIPMENT LIST

## 9.1 MORROW COUNTY PSAP

### VESTA® 9-1-1

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<i>Note: Existing (2) VESTA 9-1-1 support valid through 3/31/2022. Upgrade and no-charge licenses are applicable only while existing support is active. Full charge licenses are required if existing support expires.</i>			
		<b>VESTA® 9-1-1</b>			
2	870899-0104R7.7U	V911 R7.7 DOC/MED UPG	0.00	EA	\$0.00
2	873099-03002U	V911 CAD INTF LIC UPGD	0.00	EA	\$0.00
		<b>VM Small Server Bundle</b>			
		<i>Note: The Small Server Bundle is for PSAP's up to 10 positions with an annual call volume of 100,000 or less.</i>			
1	853031-DLSSVRSG2	V-DL SVR BNDL SML SGL	21,788.22	EA	\$21,788.22
1	870890-75001	VIRTUAL MEDIA SET R7.0 015D	0.00	EA	\$0.00
2	06500-00201	2-POST RELAY RACK MNT KIT	176.61	EA	\$353.22
2	04000-68009	V-SVR BASIC SPT 5YR	509.53	EA	\$1,019.06
		<b>VESTA® 9-1-1 Activity View</b>			
2	873099-00802	V911 ACT VIEW LIC PER ST	950.04	EA	\$1,900.08
1	873099-00702	V911 ACTIV VIEW SYS LIC	4,433.52	EA	\$4,433.52
1	809800-35124	V911 ACT VIEW SW SPT 5YR	2,660.32	EA	\$2,660.32
		<b>Administrative Workstations</b>			
1	61000-409615SFF	WKST Z2 G5 SFF SSD W/O OS	1,414.02	EA	\$1,414.02
1	04000-00441	WINDOWS 10 LTSC LIC	100.49	EA	\$100.49
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	\$393.82
1	809800-00102	GENERIC WKST CFG FEE	459.80	EA	\$459.80
		<b>VESTA® 9-1-1 Basic Operations</b>			
2	PS-0SQ-VSML-M	VS BSC MLTP SEAT LIC NFREE	0.00	EA	\$0.00
2	SS-0SQ-VSSL-5Y	SPT VS BSC 5YR	5,139.96	EA	\$10,279.92
		<b>VESTA® 9-1-1 IRR Module</b>			
2	873099-00502U	V911 IRR LIC UPGD	0.00	EA	\$0.00
2	809800-35114	V911 IRR SW SPT 5YR	741.97	EA	\$1,483.94

<b>VESTA® Workstation Equipment</b>					
2	61000-409615SFF	WKST Z2 G5 SFF SSD W/O OS	1,414.02	EA	<b>\$2,828.04</b>
2	04000-00441	WINDOWS 10 LTSC LIC	100.49	EA	<b>\$200.98</b>
2	65000-00261	NIC PCIE SNGL ADPTR CARD	90.34	EA	<b>\$180.68</b>
2	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$787.64</b>
2	64007-50025	KEYPAD 48-KEY USB CBL 25FT	255.78	EA	<b>\$511.56</b>
2	853030-00302	V911 SAM HDWR KIT	2,052.33	EA	<b>\$4,104.66</b>
2	853004-00401	SAM EXT SPKR KIT	207.06	EA	<b>\$414.12</b>
2	02800-20501	HDST 4W MOD ELEC MIC BLK	39.59	EA	<b>\$79.18</b>
2	03044-20000	HDST CORD 12FT 4W MOD BLK	4.06	EA	<b>\$8.12</b>
2	809800-35109	V911 IWS CFG	266.95	EA	<b>\$533.90</b>
2	809800-35108	V911 IWS STG FEE	400.93	EA	<b>\$801.86</b>
1	870890-07501	CPR/SYSPREP MEDIA IMAGE	0.00	EA	<b>\$0.00</b>
<b>VESTA® 9-1-1 Admin Printer</b>					
1	64040-60020	PRNTR USB/ETHERNET B/W LJ <i>Note: Laserjet Black and White printer. Recommended monthly volume, 250 to 1,500 pages</i>	422.24	EA	<b>\$422.24</b>
1	65000-13403	CBL USB 2.0 A/B 10FT	4.06	EA	<b>\$4.06</b>
<b>Network Equipment</b>					
<i>Note: Firewall supports Remote and Internet Access for Managed Services, Remote position access and RapidSOS.</i>					
1	03800-03070	FIREWALL 60F	637.98	EA	<b>\$637.98</b>
1	03800-03075	WARR FIREWALL 60F 5YR	661.13	EA	<b>\$661.13</b>
1	809800-00201	VPN CFG SVCS	194.88	EA	<b>\$194.88</b>
1	809800-00200	CFG NTKW DEVICE	168.49	EA	<b>\$168.49</b>
2	04000-09206	SWITCH 9200 24-PORT 24X7 5YR	5,161.29	EA	<b>\$10,322.58</b>
<b>Peripherals &amp; Gateways</b>					
2	2213937-1-SR1	FXO GATEWAY MP118 8-PORT	1,639.23	EA	<b>\$3,278.46</b>
2	04000-42002	FXS GATEWAY 4-PORT	895.23	EA	<b>\$1,790.46</b>
1	870890-76301	MP114 FIRMWARE	0.00	EA	<b>\$0.00</b>
4	04000-00180	SW SPT ANALOG GATEWAY 5YR	400.93	EA	<b>\$1,603.72</b>
<b>ALI/CAD Output</b>					
1	04000-00159	BLKBX TL159A 8-PORT DATACAST	416.15	EA	<b>\$416.15</b>
8	65000-00262	KIT CBL RJ11 ADPTR DB25	17.26	EA	<b>\$138.08</b>
1	04000-RS232	BLKBX TL601A-R2 DATASHARE	458.78	EA	<b>\$458.78</b>
1	04000-01014-10	CBL SRL DB25M/DB9F 10FT	12.18	EA	<b>\$12.18</b>
<b>Rack &amp; Peripheral Equipment</b>					
1	06500-55053	7FT EQUIPMENT RACK 19IN	366.42	EA	<b>\$366.42</b>
1	63000-192610	MNTR LCD 19IN	234.47	EA	<b>\$234.47</b>

1	04000-00809	KVM 8-PORT SWITCH USB  <b>Time Synchronization Equipment</b> Note: Customer to provide NTP compliant device.	454.72	EA	<b>\$454.72</b>
			<b>Subtotal</b>		<b>\$77,901.95</b>

### VESTA® CommandPOST

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<i>Note: Existing (1) VESTA 9-1-1 support valid through 3/31/2022. Upgrade and no-charge licenses are applicable only while existing support is active. Full charge licenses are required if existing support expires.</i>			
1	873099-00802	<b>VESTA® 9-1-1 Activity View</b> V911 ACT VIEW LIC PER ST	950.04	EA	<b>\$950.04</b>
1	PS-0SQ-VSML-M	<b>VESTA® 9-1-1 Basic Operations</b> VS BSC MLTP SEAT LIC NFREE	0.00	EA	<b>\$0.00</b>
1	SS-0SQ-VSSL-5Y	SPT VS BSC 5YR	5,139.96	EA	<b>\$5,139.96</b>
		<b>VESTA® 9-1-1 IRR Module</b>			
1	873099-00502U	V911 IRR LIC UPGD	0.00	EA	<b>\$0.00</b>
1	809800-35114	V911 IRR SW SPT 5YR	741.97	EA	<b>\$741.97</b>
		<b>CommandPOST Hardware</b>			
1	61050-G819607	LAPTOP ZBOOK POWER G7 W/O OS	1,851.34	EA	<b>\$1,851.34</b>
1	04000-00441	WINDOWS 10 LTSC LIC	100.49	EA	<b>\$100.49</b>
1	65000-00263	DOCK STATION THUNDERBOLT KIT	543.03	EA	<b>\$543.03</b>
1	64021-10025	KYBD/MOUSE BNDL	44.66	EA	<b>\$44.66</b>
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$393.82</b>
1	64007-50025	KEYPAD 48-KEY USB CBL 25FT	255.78	EA	<b>\$255.78</b>
1	853004-00301	CPOST SAM HDWR KIT	2,834.90	EA	<b>\$2,834.90</b>
1	853004-00401	SAM EXT SPKR KIT	207.06	EA	<b>\$207.06</b>
1	809800-35109	V911 IWS CFG	266.95	EA	<b>\$266.95</b>
1	809800-35108	V911 IWS STG FEE	400.93	EA	<b>\$400.93</b>
1	870890-07501	CPR/SYSPREP MEDIA IMAGE	0.00	EA	<b>\$0.00</b>
		<b>VESTA® Map Local</b>			
1	871391-40101.0	VMAP LOCAL BASE LIC ONLY	2,679.60	EA	<b>\$2,679.60</b>
1	809800-46010	VMAP LOCAL BASE SPT 5YR	2,411.64	EA	<b>\$2,411.64</b>
1	6400C-40051	8GB RAM ZBOOK 15 G5/G6/G7	212.14	EA	<b>\$212.14</b>
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$393.82</b>



		<i>Note: Includes (2) Calltaker Workstations, (1) Management Console, (1) Activity View Admin Workstation</i>			
4	04000-00399	M&R WKST AGENT LIC	154.28	EA	<b>\$617.12</b>
4	809800-16381	M&R PM AV WKST SRVC 5YR	3,219.58	EA	<b>\$12,878.32</b>
		<b>Monitoring, PM &amp; AV Service: IP Devices</b>			
		<i>Note: Includes (2) Virtual Host/Machines, (2) MDS Servers, (4) Gateways, (1) Firewall, (2) Cisco Switches</i>			
11	04000-00400	M&R NETWORK/IP AGENT LIC	85.26	EA	<b>\$937.86</b>
11	809800-16347	M&R IP DEVICE SRVC 5YR	1,659.53	EA	<b>\$18,254.83</b>
			<b>Subtotal</b>		<b>\$51,178.40</b>

### Optional Parts/Spares

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<i>Note: Spares not quoted per customer request.</i>			
			<b>Subtotal</b>		<b>\$0.00</b>

### VESTA® Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
5	809800-51009	<b>Project Management Services</b> PROJECT MGMT - SUPPORT <i>Note: Support PM is Remote only.</i>	1,287.02	DY	<b>\$6,435.10</b>
		<b>Data Migration</b> <i>Note: VM to VM VESTA server migration not offered for sites below VESTA 9-1-1 R7.0.</i>			
1	809800-17035	<b>MSI Direct Services</b> MSI Direct Site Readiness Svcs <i>Note: Cold Install/Rack and Stack</i>	8,650.63	EA	<b>\$8,650.63</b>
1	809800-51010	MSI Direct PM	2,970.00	EA	<b>\$2,970.00</b>
1	809800-00132	MSI DIRECT ENGINEERING SERVICES	25,951.89	EA	<b>\$25,951.89</b>
1	809800-17045	MSI DIRECT MAINT SVC - 5YR	40,500.00	EA	<b>\$40,500.00</b>
		<b>Training</b>			
2	000001-06701	V9-1-1 AGENT TRNG	1,298.19	EA	<b>\$2,596.38</b>

1	000001-06704	<p><i>Note: VESTA® 9-1-1 Agent bundle includes (1) 1/2 day class of Agent training for up to 8 students. Includes trainer's daily training expenses and travel. VESTA® 9-1-1 Agent training does not include training on the SIP phones. SIP phone training is a separate class and can be quoted upon request.</i></p> <p>V9-1-1 ADMIN FOR STD</p> <p><i>Note: VESTA® 9-1-1 Admin bundle includes (1) 1 1/2 day class of Admin training for up to 8 students. Includes trainer's daily training expenses and travel.</i></p>	4,325.93	EA	<b>\$4,325.93</b>
1	000001-06075	E-LEARN V9-1-1 ACT-VIEW TRNG	531.86	EA	<b>\$531.86</b>
1	000001-06795	CPOST ON-SITE TRNG	0.00	EA	<b>\$0.00</b>
		<p><i>Note: On-site training included as part of the VESTA® 9-1-1 Admin training using customer equipment. CommandPOST positions must be configured to the network/firewall prior to training. This is a 15 minute demonstration on how to use the CommandPOST position.</i></p>			
2	000001-69012	E-LEARN VESTA MAP LOCAL AGENT TRNG	316.68	EA	<b>\$633.36</b>
		<p><i>Note: VESTA Map Local Agent training course. Only offered as a computer-based training course. Maximum number of students per class is 10.</i></p>			
1	000001-69014	E-LEARN VMAP LOCAL SYS GIS DATA HUB TRNG	107.59	EA	<b>\$107.59</b>
		<p><i>Note: VESTA Map Local GIS Hub training course. Only offered as a computer-based training course. Maximum number of students per class is 5.</i></p>			
			<b>Subtotal</b>		<b>\$92,702.75</b>

## 9.2 OPTIONAL FEATURE PRICING

### 9.2.1 VESTA SMS

#### VESTA® 9-1-1

Qty.	Part No.	Description	HGAC Price	U/M	Total
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		<b>VESTA® SMS</b>			
		<i>Note: Customer is responsible for Text Control Center (TCC) services and network charges.</i>			
2	870891-66301	VESTA 9-1-1 SMS LIC	0.00	EA	<b>\$0.00</b>
1	809810-00102	V911 ADV DATA LVL 1 ANNUAL SUB <i>Note: Annual Subscription - Year 1</i>	0.00	EA	<b>\$0.00</b>
1	809810-00102	V911 ADV DATA LVL 1 ANNUAL SUB <i>Note: Annual Subscription - Year 2</i>	0.00	EA	<b>\$0.00</b>
1	809810-00102	V911 ADV DATA LVL 1 ANNUAL SUB <i>Note: Annual Subscription - Year 3</i>	0.00	EA	<b>\$0.00</b>
1	809810-00102	V911 ADV DATA LVL 1 ANNUAL SUB <i>Note: Annual Subscription - Year 4</i>	0.00	EA	<b>\$0.00</b>
1	809810-00102	V911 ADV DATA LVL 1 ANNUAL SUB <i>Note: Annual Subscription - Year 5</i>	0.00	EA	<b>\$0.00</b>
2	03800-03070	FIREWALL 60F <i>Note: Firewall supports Call and Text Handling for ESInet Interface Module (EIM), Text to 9-1-1 and Direct PSAP Interconnect (DPI).</i>	637.98	EA	<b>\$1,275.96</b>
2	03800-03075	WARR FIREWALL 60F 5YR	661.13	EA	<b>\$1,322.26</b>
2	809800-00200	CFG NTWK DEVICE	168.49	EA	<b>\$336.98</b>
			<b>Subtotal</b>		<b>\$2,935.20</b>

### Managed Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<b>Monitoring, PM &amp; AV Service: IP Devices: SMS Firewalls</b> <i>Note: Includes (2) Firewalls for EIM/SMS</i>			
2	04000-00400	M&R NETWORK/IP AGENT LIC	85.26	EA	<b>\$170.52</b>
2	809800-16347	M&R IP DEVICE SRVC 5YR	1,659.53	EA	<b>\$3,319.06</b>
		<b>Monitoring, PM &amp; AV Service: IP Devices: ASN Server</b> <i>Note: SMS and RapidSOS share the same ASN server. If both are purchased, do not duplicate M&amp;R for ASN servers.</i> <i>Note: Includes (1) ASN Node 1, (1) ASN Repo VM, (1) ASN Node 2</i>			
3	04000-00400	M&R NETWORK/IP AGENT LIC	85.26	EA	<b>\$255.78</b>
3	809800-16347	M&R IP DEVICE SRVC 5YR	1,659.53	EA	<b>\$4,978.59</b>
			<b>Subtotal</b>		<b>\$8,723.95</b>

### VESTA® Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<b>MSI Direct Services</b>			



1	809800-17035	MSI Direct Site Readiness Svcs <i>Note: Cold Install/Rack and Stack</i>	888.50	EA	<b>\$888.50</b>
1	809800-51010	MSI Direct PM	990.00	EA	<b>\$990.00</b>
1	809800-00132	MSI DIRECT ENGINEERING SERVICES	2,665.49	EA	<b>\$2,665.49</b>
<b>Services to Support VESTA® SMS</b>					
90	809800-17006-SMS	FIELD ENG-EXPRESS SMS	79.17	EA	<b>\$7,125.30</b>
43	809800-51007-SMS	SMS COORDINATION	100.49	UN	<b>\$4,321.07</b>
1	000001-06805-SMS	E-LEARN V9-1-1 SMS ADMIN DELTA TR - SMS SVC <i>Note: Remote Field Engineering support to perform the configuration of VESTA SMS. Services include:</i> <i>* Firewall Configuration</i> <i>* VESTA 911 / VESTA SMS configuration</i> <i>* Import of VESTA SMS VM's (if applicable)</i> <i>* Preparation of screen layouts</i> <i>* TCC Testing</i> <i>* Carrier Testing</i> <i>* Express Field Engineering Services</i> <i>* Remote Project Management</i> <i>* E-Learn SMS Admin Delta Training Course</i>	530.85	EA	<b>\$530.85</b>
1	000001-06806	<b>Training</b> E-LEARN V9-1-1 SMS AGENT DELTA TRNG <i>Note: E-Learning for VESTA SMS AGENT is a computer-based training course. The course is for up to a maximum of 10 students. E-Learning course is available for each student for 365 days.</i>	316.68	EA	<b>\$316.68</b>
			<b>Subtotal</b>		<b>\$16,837.89</b>

## 9.2.2 VESTA RapidSOS

### VESTA® 9-1-1

Qty.	Part No.	Description	HGAC Price	U/M	Total
1	809810-00103	<b>VESTA RapidSOS</b> V911 ADV DATA LVL 2 STD ANNUAL SUB <i>Note: Annual Subscription - Year 1</i>	803.88	EA	<b>\$803.88</b>
1	809810-00103	V911 ADV DATA LVL 2 STD ANNUAL SUB <i>Note: Annual Subscription - Year 2</i>	803.88	EA	<b>\$803.88</b>
1	809810-00103	V911 ADV DATA LVL 2 STD ANNUAL SUB <i>Note: Annual Subscription - Year 3</i>	803.88	EA	<b>\$803.88</b>
1	809810-00103	V911 ADV DATA LVL 2 STD ANNUAL SUB	803.88	EA	<b>\$803.88</b>

1	809810-00103	<i>Note: Annual Subscription - Year 4</i> V911 ADV DATA LVL 2 STD ANNUAL SUB <i>Note: Annual Subscription - Year 5</i>	803.88	EA	<b>\$803.88</b>
3	PA-0AD-VSSL	<b>VESTA® 9-1-1 Basic/Prime to VESTA® 9-1-1 Advanced Licenses</b> <i>Note: VESTA Advanced Per Seat licenses and support required if RapidSOS is purchased.</i>	0.00	EA	<b>\$0.00</b>
3	SA-0AD-VSSL-5Y	VADV LIC ADD-ON SPT VADV ADD-ON 5YR	1,401.72	EA	<b>\$4,205.16</b>
			<b>Subtotal</b>		<b>\$8,224.56</b>

### Managed Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<b>Monitoring, PM &amp; AV Service: IP Devices: ASN Server</b> <i>Note: SMS and RapidSOS share the same ASN server. If both are purchased, do not duplicate M&amp;R for ASN servers.</i> <i>Note: Includes (1) ASN Node 1, (1) ASN Repo VM, (1) ASN Node 2</i>			
3	04000-00400	M&R NETWORK/IP AGENT LIC	85.26	EA	<b>\$255.78</b>
3	809800-16347	M&R IP DEVICE SRVC 5YR	1,659.53	EA	<b>\$4,978.59</b>
			<b>Subtotal</b>		<b>\$5,234.37</b>

### VESTA® Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
1	809800-17035	<b>MSI Direct Services</b> MSI Direct Site Readiness Svcs <i>Note: Cold Install/Rack and Stack</i>	196.25	EA	<b>\$196.25</b>
1	809800-51010	MSI Direct PM	990.00	EA	<b>\$990.00</b>
1	809800-00132	MSI DIRECT ENGINEERING SERVICES	588.75	EA	<b>\$588.75</b>
			<b>Subtotal</b>		<b>\$1,775.00</b>

## 9.2.3 CommandCentral Cloud Service – Citizen Input & Smart Transcription

### Citizen Input / Smart Transcription

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<b>VESTA® 9-1-1 Citizen Input and Smart Transcription</b>			
1	870899-60002.0	V911 CLOUD INTERFACE - NO API	0.00	EA	<b>\$0.00</b>
3	873090-11302	V911 SMART TRANSCPT LIC	0.00	EA	<b>\$0.00</b>
3	873090-11301	V911 CITIZEN INPUT LIC	0.00	EA	<b>\$0.00</b>

15	809800-35605	CI/ST BUNDLE NAMED USER 5YR  <b>VESTA® 9-1-1 Citizen Input and Smart Transcription Implementation Services</b> <i>Note: System Implementation services are required for installation of Citizen Input / Smart Transcription bundle.</i>	2,040.00	EA	<b>\$30,600.00</b>
3	809800-16990	CI / ST BUND SYS IMP- PER POS	140.00	EA	<b>\$420.00</b>
1	809800-16991	CI / ST BUND SYS IMP- 1ST AGENCY/ SITE  <i>Note: Citizen Input and Smart Transcription requires a firewall (60E or 60F) per site for internet connectivity.</i>	7,160.00	EA	<b>\$7,160.00</b>
			<b>Subtotal</b>		<b>\$38,180.00</b>

## 9.2.4 VESTA Managed Detection and Response Services (MDR)

### VESTA Managed Detection and Response

Qty.	Part No.	Description	HGAC Price	U/M	Total
1	CYBER-SM-SML5Y	<b>VESTA® 9-1-1 Security Monitoring - Small</b> CYBERSECURITY SM, SML 5YR	125,000.00	0	<b>\$125,000.00</b>
			<b>Subtotal</b>		<b>\$125,000.00</b>

### VESTA® Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
16	809800-17007	<b>Cybersecurity FE Services</b> FIELD ENG-STANDARD	107.59	EA	<b>\$1,721.44</b>
			<b>Subtotal</b>		<b>\$1,721.44</b>

## 9.2.5 2<sup>nd</sup> CommandPost

### VESTA® CommandPOST

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<i>Note: Existing (1) VESTA 9-1-1 support valid through 3/31/2022. Upgrade and no-charge licenses are applicable only while existing support is active. Full charge licenses are required if existing support expires.</i>			
1	873099-00802	<b>VESTA® 9-1-1 Activity View</b> V911 ACT VIEW LIC PER ST	950.04	EA	<b>\$950.04</b>



1	PS-0SQ-VSML-M	<b>VESTA® 9-1-1 Basic Operations</b> VS BSC MLTP SEAT LIC NFEE	0.00	EA	<b>\$0.00</b>
1	SS-0SQ-VSSL-5Y	SPT VS BSC 5YR	5,139.96	EA	<b>\$5,139.96</b>
<b>VESTA® 9-1-1 IRR Module</b>					
1	873099-00502U	V911 IRR LIC UPGD	0.00	EA	<b>\$0.00</b>
1	809800-35114	V911 IRR SW SPT 5YR	741.97	EA	<b>\$741.97</b>
<b>CommandPOST Hardware</b>					
1	61050-G819607	LAPTOP ZBOOK POWER G7 W/O OS	1,851.34	EA	<b>\$1,851.34</b>
1	04000-00441	WINDOWS 10 LTSC LIC	100.49	EA	<b>\$100.49</b>
1	65000-00263	DOCK STATION THUNDERBOLT KIT	543.03	EA	<b>\$543.03</b>
1	64021-10025	KYBD/MOUSE BNDL	44.66	EA	<b>\$44.66</b>
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$393.82</b>
1	64007-50025	KEYPAD 48-KEY USB CBL 25FT	255.78	EA	<b>\$255.78</b>
1	853004-00301	CPOST SAM HDWR KIT	2,834.90	EA	<b>\$2,834.90</b>
1	853004-00401	SAM EXT SPKR KIT	207.06	EA	<b>\$207.06</b>
1	809800-35109	V911 IWS CFG	266.95	EA	<b>\$266.95</b>
1	809800-35108	V911 IWS STG FEE	400.93	EA	<b>\$400.93</b>
1	870890-07501	CPR/SYSPREP MEDIA IMAGE	0.00	EA	<b>\$0.00</b>
<b>VESTA® Map Local</b>					
1	871391-40101.0	VMAP LOCAL BASE LIC ONLY	2,679.60	EA	<b>\$2,679.60</b>
1	809800-46010	VMAP LOCAL BASE SPT 5YR	2,411.64	EA	<b>\$2,411.64</b>
1	6400C-40051	8GB RAM ZBOOK 15 G5/G6/G7	212.14	EA	<b>\$212.14</b>
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$393.82</b>
<b>VESTA Map Local Installation</b>					
1	809800-17007	FIELD ENG-STANDARD <i>Note: Onsite installation/configuration of RAM VML software, map build per workstation.</i>	107.59	EA	<b>\$107.59</b>
<b>Subtotal</b>					<b>\$19,535.72</b>

## VESTA® Services

Qty.	Part No.	Description	HGAC Price	U/M	Total
<b>MSI Direct Services</b>					
1	809800-17035	MSI Direct Site Readiness Svcs <i>Note: Cold Install/Rack and Stack</i>	944.41	EA	<b>\$944.41</b>
1	809800-51010	MSI Direct PM	965.88	EA	<b>\$965.88</b>
1	809800-00132	MSI DIRECT ENGINEERING SERVICES	2,833.22	EA	<b>\$2,833.22</b>
1	809800-17045	MSI DIRECT MAINT SVC - 5YR	13,500.00	EA	<b>\$13,500.00</b>
<b>Subtotal</b>					<b>\$18,243.50</b>

## 9.2.6 3<sup>rd</sup> Optional Call-Taker Workstation Position

### VESTA® 9-1-1

Qty.	Part No.	Description	HGAC Price	U/M	Total
		<i>Note: Existing (1) VESTA 9-1-1 support valid through 3/31/2022. Upgrade and no-charge licenses are applicable only while existing support is active. Full charge licenses are required if existing support expires.</i>			
1	873099-00802	<b>VESTA® 9-1-1 Activity View</b> V911 ACT VIEW LIC PER ST	950.04	EA	<b>\$950.04</b>
1	PS-0SQ-VSML-M	<b>VESTA® 9-1-1 Basic Operations</b> VS BSC MLTP SEAT LIC NFEE	0.00	EA	<b>\$0.00</b>
1	SS-0SQ-VSSL-5Y	SPT VS BSC 5YR	5,139.96	EA	<b>\$5,139.96</b>
		<b>VESTA® 9-1-1 IRR Module</b>			
1	873099-00502U	V911 IRR LIC UPGD	0.00	EA	<b>\$0.00</b>
1	809800-35114	V911 IRR SW SPT 5YR	741.97	EA	<b>\$741.97</b>
		<b>VESTA® Workstation Equipment</b>			
1	61000-409615SFF	WKST Z2 G5 SFF SSD W/O OS	1,414.02	EA	<b>\$1,414.02</b>
1	04000-00441	WINDOWS 10 LTSC LIC	100.49	EA	<b>\$100.49</b>
1	65000-00261	NIC PCIE SNGL ADPTR CARD	90.34	EA	<b>\$90.34</b>
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$393.82</b>
1	64007-50025	KEYPAD 48-KEY USB CBL 25FT	255.78	EA	<b>\$255.78</b>
1	853030-00302	V911 SAM HDWR KIT	2,052.33	EA	<b>\$2,052.33</b>
1	853004-00401	SAM EXT SPKR KIT	207.06	EA	<b>\$207.06</b>
1	02800-20501	HDST 4W MOD ELEC MIC BLK	39.59	EA	<b>\$39.59</b>
1	03044-20000	HDST CORD 12FT 4W MOD BLK	4.06	EA	<b>\$4.06</b>
1	809800-35109	V911 IWS CFG	266.95	EA	<b>\$266.95</b>
1	809800-35108	V911 IWS STG FEE	400.93	EA	<b>\$400.93</b>
			<b>Subtotal</b>		<b>\$12,057.34</b>

### VESTA® Map Local

Qty.	Part No.	Description	HGAC Price	U/M	Total
1	871391-40101.0	<b>VESTA® Map Local</b> VMAP LOCAL BASE LIC ONLY	2,679.60	EA	<b>\$2,679.60</b>
1	809800-46010	VMAP LOCAL BASE SPT 5YR	2,411.64	EA	<b>\$2,411.64</b>
		<b>VESTA® Map Local - Additional Hardware</b>			
1	64000-40120	8GB RAM DRR4 3200 Z2 G5	149.21	EA	<b>\$149.21</b>
1	63000-241692	MNTR 24IN FP WIDE SCR LED	393.82	EA	<b>\$393.82</b>
		<b>VESTA Map Local Installation</b>			
1	809800-17007	FIELD ENG-STANDARD	107.59	EA	<b>\$107.59</b>



		<i>Note: Onsite installation/configuration of RAM VML software, map build per workstation.</i>			
			<b>Subtotal</b>		<b>\$5,741.86</b>

### Managed Services

<b>Qty.</b>	<b>Part No.</b>	<b>Description</b>	<b>HGAC Price</b>	<b>U/M</b>	<b>Total</b>
		<b>Monitoring, PM &amp; AV Service: Workstations</b> <i>Note: Includes (1) Calltaker Workstation</i>			
1	04000-00399	M&R WKST AGENT LIC	154.28	EA	<b>\$154.28</b>
1	809800-16381	M&R PM AV WKST SRVC 5YR	3,219.58	EA	<b>\$3,219.58</b>
			<b>Subtotal</b>		<b>\$3,373.86</b>

### VESTA® Services

<b>Qty.</b>	<b>Part No.</b>	<b>Description</b>	<b>HGAC Price</b>	<b>U/M</b>	<b>Total</b>
		<b>MSI Direct Services</b>			
1	809800-17035	MSI Direct Site Readiness Svcs <i>Note: Cold Install/Rack and Stack</i>	8,650.63	EA	<b>\$8,650.63</b>
1	809800-51010	MSI Direct PM	2,970.00	EA	<b>\$2,970.00</b>
1	809800-00132	MSI DIRECT ENGINEERING SERVICES	25,951.89	EA	<b>\$25,951.89</b>
1	809800-17045	MSI DIRECT MAINT SVC - 5YR	40,500.00	EA	<b>\$40,500.00</b>
			<b>Subtotal</b>		<b>\$78,072.53</b>



SECTION 10

# PRICING SUMMARY

*Pricing is based on the HGAC Contract*

Summary by Expense Category/Component - 5 YEAR	
<b><u>Single Backroom VESTA 9-1-1</u></b>	
Hardware/Software	\$ 86,367.85
Implementation, Project Management and Training	\$ 53,386.24
Software Support	\$ 77,572.85
24x7 Onsite Maintenance	\$ 40,500.00
<b>Quote Subtotal</b>	<b>\$ 257,826.94</b>
<b>VESTA 9-1-1 Quote Total</b>	<b>\$ 257,826.94</b>
<i>Optional Items SMS</i>	\$ 28,497.04
<i>Optional Items RapidSOS</i>	\$ 15,233.93
<i>Optional Citizen Input / Smart Transcription</i>	\$ 38,180.00
<i>Optional VESTA Managed Detection &amp; Response</i>	\$ 126,721.44
<i>Optional VESTA CommandPOST</i>	\$ 37,779.22
<i>Optional VESTA Calltaker Workstation</i>	\$ 39,416.56
<b>Optional Items Quote Total</b>	<b>\$ 285,828.19</b>

\* Quote is valid for 90 days from the date of this proposal.





SECTION 11

# COMMUNICATIONS SYSTEM AND SERVICES AGREEMENT

## Communications System and Services Agreement

Motorola Solutions, Inc. ("Motorola") and Morrow County Sheriff Office ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the System and Services, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

WHEREAS, Customer desires to purchase from Motorola and Motorola desires to sell to Customer a Communications System; and

WHEREAS, Houston-Galveston Area Council ("H-GAC"), acting as the agent for various local governmental entities who are "End Users" under interlocal agreements (including Customer) has solicited proposals for radio communications equipment and conducted discussions with Motorola concerning its proposal and, where applicable, in accordance with the competitive procurement procedures of Texas law; and

WHEREAS, on September 28, 2021, H-GAC and Motorola entered into a contract (the "Contract"), which provides that End Users may purchase radio communications equipment from Motorola pursuant to certain terms contained therein; and

WHEREAS, pursuant to Article 2 of the Contract Special Provisions, Motorola and Customer now wish to enter into this Agreement to delineate the specific terms of the purchase of radio communications equipment from Motorola by Customer.

For good and valuable consideration, the Parties agree as follows:

### Section 1 ATTACHMENTS

1.1. EXHIBITS. The Exhibits listed below are exhibits related to the System sale and implementation. These Exhibits are incorporated into and made a part of this Agreement.

Exhibit A "Motorola Software License Agreement"

Exhibit B "Payment"

Exhibit C Technical and Implementation Documents

C-1 "System Description" dated 12/17/2021

C-2 "Pricing Summary & Equipment List" dated 12/17/2021

C-3 "Implementation Statement of Work" dated 12/17/2021

C-4 "Acceptance Test Plan" or "ATP" dated 12/17/2021

C-5 "Performance Schedule" dated 12/17/2021

Exhibit D "System Acceptance Certificate"

1.2. ADDENDUM (ADDENDA). Customer may elect to purchase professional or subscription services in addition to the System and related services. Any such services will be governed by the terms in the main body of the Agreement and an applicable Addendum containing terms specific to such service. Such Addenda will be labeled with the name of the service being purchased.

1.3 ORDER OF PRECEDENCE. In interpreting this Agreement and resolving any ambiguities: 1) the main body of this Agreement takes precedence over the exhibits (unless otherwise specified in an exhibit), and any inconsistency between Exhibits A through D will be resolved in their listed order, and 2) The applicable service Addendum will take precedence over the main body of the Agreement and the Exhibits.

### Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

**“Acceptance Tests”** means those tests described in the Acceptance Test Plan.

**“Addendum (Addenda)”** is the title of the document(s) containing a specific set of terms and conditions applicable to a particular service or other offering beyond the Communication System and System implementation services. The terms in the Addendum are applicable only to the specific service or offering described therein.

**“Administrative User Credentials”** means an account that has total access over the operating system, files, end user accounts and passwords at either the System level or box level. Customer’s personnel with access to the Administrative User Credentials may be referred to as the Administrative User.

**“Beneficial Use”** means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

**“Confidential Information”** means all information consistent with the fulfillment of this Agreement that is (i) disclosed under this Agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this Agreement are considered Confidential Information. Confidential Information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

**“Contract Price”** means the price for the System and implementation Services, excluding applicable sales or similar taxes and freight charges. Further, unless otherwise stated in Exhibit B, “Payment” or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

**“Deliverables”** means all written information (such as reports, specifications, designs, plans, drawings, analytics, Solution Data, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under this Agreement. The Deliverables, if any, are more fully described in the Statement of Work.

**“Derivative Proprietary Materials”** means derivatives of the Proprietary Materials that Motorola may from time to time, including during the course of providing the Services, develop and/or use and/or to which Motorola provides Customer access.

**“Effective Date”** means that date upon which the last Party executes this Agreement.

**“Equipment”** means the hardware components of the Solution that Customer purchases from Motorola under this Agreement. Equipment that is part of the System is described in the Equipment List.

**“Feedback”** means comments or information, in oral or written form, given to Motorola by Customer in connection with or relating to Equipment or Services, during the term of this Agreement.

**“Force Majeure”** means an event, circumstance, or act that is beyond a Party’s reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause.

**“Motorola Software”** means software that Motorola or its affiliated companies owns.

**“Non-Motorola Software”** means software that a party other than Motorola or its affiliated companies owns.

**“Open Source Software”** (also called “freeware” or “shareware”) means software with either freely obtainable source code, license for modification, or permission for free distribution.

**“Proprietary Materials”** means certain software tools and/or other technical materials, including, but not limited to, data, modules, components, designs, utilities, subsets, objects, program listings, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications which Motorola has developed prior to, or independently from, the provision of the Services and/or which Motorola licenses from third parties.

**“Proprietary Rights”** means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

**“Services”** means system implementation, maintenance, support, subscription, or other professional services provided under this Agreement, which may be further described in the applicable Addendum and/or SOW.

**“Software”** (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

**“Software License Agreement”** means the Motorola Software License Agreement (Exhibit A).

**“Software Support Policy” (“SwSP”)** means the policy set forth at [https://www.motorolasolutions.com/content/dam/msi/secure/services/software\\_policy.pdf](https://www.motorolasolutions.com/content/dam/msi/secure/services/software_policy.pdf) describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. This policy may be modified from time to time at Motorola’s discretion.

**“Solution”** means the combination of the System(s) and Services provided by Motorola under this Agreement.

**“Solution Data”** means Customer data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution and Services.

**“Specifications”** means the functionality and performance requirements that are described in the Technical and Implementation Documents.

**“SUA” or “SUA II”** means Motorola’s Software Upgrade Agreement program.

**“Subsystem”** means a major part of the System that performs specific functions or operations. Subsystems are described in the Technical and Implementation Documents.

**“System”** means the Equipment, including incidental hardware and materials, Software, and design, installation and implementation services that are combined together into an integrated system; the System(s) is (are) described in the Technical and Implementation Documents.

**“System Acceptance”** means the Acceptance Tests have been successfully completed.

**“System Data”** means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

**“Warranty Period”** for System Hardware, Software, or services related to system implementation means one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addendum, Warranty Period for other Services means ninety (90) days from performance of the Service.

### **Section 3 SCOPE OF AGREEMENT AND TERM**

3.1. **SCOPE OF WORK.** Motorola will provide, install and test the System(s), and perform its other contractual responsibilities to provide the Solution, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. **CHANGE ORDERS.** Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price or applicable subscription fees, Performance Schedule, or both, and will reflect the adjustment in a change order or Addendum. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. **TERM.** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the date of Final Project Acceptance or expiration of the Warranty Period, or completion of the Services, whichever occurs last. The term and the effective date of recurring Services will be set forth in the applicable Addendum.

3.4. **ADDITIONAL EQUIPMENT OR SOFTWARE.** For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Agreement, the expiration date of the Agreement, and must specify the pricing and delivery terms. The Parties agree that, notwithstanding expiration of the Agreement, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through the Motorola Solutions Customer Portal eCommerce Shop, and this Agreement will be the “Underlying Agreement” for those eCommerce transactions rather than the eCommerce Shop Terms and Conditions of Sale. eCommerce Shop registration and other information may be found at <https://www.motorolasolutions.com/en-us/registration> and the shop support telephone number is (800) 814-0601.

3.5. **MOTOROLA SOFTWARE.** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.6. **NON-MOTOROLA SOFTWARE.** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software

pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software.

3.7. **SUBSTITUTIONS.** At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.

3.8. **OPTIONAL EQUIPMENT OR SOFTWARE.** This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

#### **Section 4 SERVICES**

4.1. If Customer desires and Motorola agrees to continue Services beyond the Term, Customer's issuance and Motorola's acceptance of a purchase order for Services will serve as an automatic extension of the Agreement for purposes of the continuing Services. Only the terms and conditions applicable to the performance of Services will apply to the extended Agreement.

4.2. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the applicable maintenance and support Statements of Work. Support for the Motorola Software will be in accordance with Motorola's established Software Support Policy. Copies of the SwSP can be found at [https://www.motorolasolutions.com/content/dam/msi/secure/services/software\\_policy.pdf](https://www.motorolasolutions.com/content/dam/msi/secure/services/software_policy.pdf) and will be sent by mail, email or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. Unless already included in the Contract Price, if Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed by the parties in writing, the terms and conditions in this Agreement applicable to maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum, SUA Addendum, the applicable Statements of Work, and the proposal, (if applicable). These collective terms will govern the provision of such Services.

To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer's purchase order will not affect the applicability of this Agreement. Motorola's proposal may include a cover page entitled "Service Agreement" or "Installation Agreement", as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference

4.3. **PROFESSIONAL AND SUBSCRIPTION SERVICES.** If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement

and Motorola's proposal for such additional services.

4.4. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed, accessed, will remain Motorola's property, will be deemed proprietary, Confidential Information. This Confidential Information will be promptly returned at Motorola's request.

4.5. TOOLS. All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under 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, be liable for any loss or damage to this property, 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. Upon termination of the contract for any reason, Customer shall return to Motorola all equipment delivered to Customer.

4.6. COVENANT NOT TO EMPLOY. During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering Services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

4.7. CUSTOMER OBLIGATIONS. If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph.

4.8. ASSUMPTIONS. If any assumptions or conditions contained in this Agreement, applicable Addenda or Statements of Work prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.

4.9. NON-PRECLUSION. If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

4.10. PROPRIETARY MATERIALS. Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.

4.11. ADDITIONAL SERVICES. Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.



**Section 5 PERFORMANCE SCHEDULE**

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

**Section 6 CONTRACT PRICE, PAYMENT AND INVOICING**

6.1. Customer affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service, if any, and that sufficient funds have been appropriated in accordance with applicable law. The Customer will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Agreement. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

6.2. CONTRACT PRICE. The Contract Price in U.S. dollars is \$ 257,826.94. If applicable, a pricing summary is included with the Payment schedule in Exhibit B. Motorola has priced the Services, Software, and Equipment as an integrated System. A change in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Fees for professional, SUA, and/or subscription services which are not included in the Contract Price may be listed in Exhibit B, the pricing pages of the proposal, or the applicable Addendum.

6.3. INVOICING AND PAYMENT. Motorola will submit invoices to Customer according to the Payment schedule in Exhibit B. Invoices will be mailed or emailed to Customer pursuant to Section 6.5, Invoicing and Shipping Addresses. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For reference, the Federal Tax Identification Number for Motorola is 36-1115800.

6.4. FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

6.5. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

E-INVOICE. To receive invoices via email:

Customer Account Number: \_\_\_\_\_  
Customer Accounts Payable Email: \_\_\_\_\_  
Customer CC(optional) Email: \_\_\_\_\_

The address which is the ultimate destination where the Equipment will be delivered to Customer is:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

Customer may change this information by giving written notice to Motorola.

## **Section 7 SITES AND SITE CONDITIONS**

7.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the worksites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. If the Statement of Work so indicates, Motorola may assist Customer in the local building permit process.

7.2. SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

7.3. SITE ISSUES. If a Party determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.

## **Section 8 TRAINING**

Any training to be provided by Motorola to Customer will be described in the applicable Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

## **Section 9 SYSTEM ACCEPTANCE**

9.1. COMMENCEMENT OF ACCEPTANCE TESTING. Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan.

9.2. SYSTEM ACCEPTANCE. System Acceptance will occur upon successful completion of the Acceptance Tests. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes the System has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System

that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

9.3. BENEFICIAL USE. Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System.

9.4. FINAL PROJECT ACCEPTANCE. Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.

## **Section 10 REPRESENTATIONS AND WARRANTIES**

10.1. SYSTEM FUNCTIONALITY. Motorola represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Motorola is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System or for reasons or parties beyond Motorola's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or Customer changes to load usage or configuration outside the Specifications.

10.2. EQUIPMENT WARRANTY. During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Equipment.

10.3. SOFTWARE WARRANTY. Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. If System Acceptance is delayed beyond six (6) months after shipment of the Motorola Software by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Motorola Software. **Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.**

10.4. EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

10.5. SERVICE WARRANTY. During the Warranty Period, Motorola warrants that the Services will be provided in a good and workmanlike manner and will conform in all material respects to the applicable

Statement of Work. Services 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. Customer acknowledges that the Deliverables may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "recommendations"). Motorola makes no warranties concerning those recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the recommendations and the results to be realized from implementing them.

10.6. **WARRANTY CLAIMS.** To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid Equipment or Software warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. These actions will be the full extent of Motorola's liability for the warranty claim. In the event of a valid Services warranty claim, 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. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

10.7. **ORIGINAL END USER IS COVERED.** These express limited warranties are extended by Motorola to the original user purchasing the System or Services for commercial, industrial, or governmental use only, and are not assignable or transferable.

10.8. **DISCLAIMER OF OTHER WARRANTIES.** THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

## **Section 11 DELAYS**

11.1. **FORCE MAJEURE.** Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.

11.2. **PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER.** If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment schedule as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

## **Section 12 DISPUTES**

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

12.1. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the

laws of the State in which the System is installed.

12.2. **NEGOTIATION.** Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute (“Notice of Dispute”). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

12.3. **MEDIATION.** The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party (“Notice of Mediation”). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

12.4. **LITIGATION, VENUE and JURISDICTION.** If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the System is installed. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

12.5. **CONFIDENTIALITY.** All communications pursuant to subsections 12.2 and 12.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

### **Section 13      DEFAULT AND TERMINATION**

13.1. **DEFAULT BY A PARTY.** If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer’s cure plan.

13.2. **FAILURE TO CURE.** If a defaulting Party fails to cure the default as provided above in Section 13.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes the System through a third Party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges. In the event Customer elects to terminate this Agreement for any reason other than default, Customer shall pay Motorola for the conforming Equipment and/or Software delivered and all services performed.

### **Section 14      INDEMNIFICATION**

14.1. **GENERAL INDEMNITY BY Motorola.** Motorola will indemnify and hold Customer harmless from

any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, if Customer gives Motorola prompt, written notice of any claim or suit. Customer will cooperate with Motorola in its defense or settlement of the claim or suit. This Section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

14.2. GENERAL INDEMNITY BY CUSTOMER. Customer will indemnify and hold Motorola harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Motorola to the extent it is caused by the negligence of Customer, its other contractors, or their employees or agents, while performing their duties under this Agreement, if Motorola gives Customer prompt, written notice of any the claim or suit. Motorola will cooperate with Customer in its defense or settlement of the claim or suit. This Section sets forth the full extent of Customer's general indemnification of Motorola from liabilities that are in any way related to Customer's performance under this Agreement.

#### 14.3. PATENT AND COPYRIGHT INFRINGEMENT.

14.3.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

14.3.2 If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

14.3.3 Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola 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 Motorola Product; (c) Motorola 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 Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

14.3.4. This Section 14 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies

provided in this Section 14 are subject to and limited by the restrictions set forth in Section 15.

## **Section 15      LIMITATION OF LIABILITY**

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or implementation and other one-time Services with respect to which losses or damages are claimed. With respect to all subscription or other ongoing Services and unless as otherwise provided under the applicable Addenda, Motorola's total liability will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services preceding the incident giving rise to the claim. 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, LOSS TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

## **Section 16      CONFIDENTIALITY AND PROPRIETARY RIGHTS**

### **16.1.    CONFIDENTIAL INFORMATION.**

16.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this Agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this Agreement and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this Agreement; (iii) not copy, reproduce, reverse engineer, decompile, or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) only use the Confidential Information as needed to fulfill this Agreement.

16.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this Agreement. Additionally, the Recipient may disclose Confidential Information to the extent required by a judicial or legislative order or proceeding, or by any applicable federal or state open records act or freedom of information act requirements provided that it gives the Discloser prompt prior notice of the intended disclosure and an opportunity to respond or object to the disclosure, if permissible.

16.1.3. All Confidential Information remains the property of the Discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely

necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

16.2. PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS. Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

16.3 VOLUNTARY DISCLOSURE. Except as required to fulfill its obligations under this Agreement, Motorola will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Motorola be required to provide any data related to cost and pricing.

#### 16.4 DATA AND FEEDBACK.

16.4.1 To the extent permitted by law, Customer owns all right, title and interest in System Data created solely by it or its agents (hereafter, "Customer Data"), and grants to Motorola the right to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data.

16.4.2 Motorola owns all right, title and interest in data resulting from System Data that is or has been transformed, altered, processed, aggregated, correlated or operated on (hereafter, "Derivative Data").

16.4.3 Any Feedback given by Customer is and will be entirely voluntary and, even if designated as confidential, will not create any confidentiality obligation for Motorola. Motorola will be free to use, reproduce, license or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Motorola's receipt of the Feedback does not imply or create recognition by Motorola of either the novelty or originality of any idea. The parties further agree that all fixes, modifications and improvements made to Motorola products or services conceived of or made by Motorola that are based, either in whole or in part, on the Feedback are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements to the Motorola product or service will vest solely in Motorola.

### **Section 17 GENERAL**

17.1. TAXES. The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within thirty (30) days after the



date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

17.2. **ASSIGNABILITY AND SUBCONTRACTING.** 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. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.3. **WAIVER.** Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

17.4. **SEVERABILITY.** If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

17.5. **INDEPENDENT CONTRACTORS.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

17.6. **HEADINGS AND SECTION REFERENCES.** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

17.7. **NOTICES.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt.

17.8. **COMPLIANCE WITH APPLICABLE LAWS.** Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer

in FCC or other matters.

17.9 FUTURE REGULATORY REQUIREMENTS. The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

17.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

17.11. ADMINISTRATOR LEVEL ACCOUNT ACCESS. If applicable to the type of System purchased by Customer, Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant access to the Administrative User Credentials to those personnel with the training and experience to correctly use them. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola System support personnel. Customer understands that changes made as the Administrative User can significantly impact the performance of the System. Customer agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made using the Administrative User Credentials may impact Motorola's ability to perform Services or other obligations under the Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will pay Motorola on a time and materials basis for resolving the issue.

17.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 (Motorola Software); Section 3.6 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection 10.8 (Disclaimer of Implied Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); and Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17.

17.13. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of

this Agreement, even if a representative of each Party signs that document.

The Parties hereby enter into this Agreement as of the Effective Date.

**Motorola Solutions, Inc.**

**Customer**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Ken Rey

Name: \_\_\_\_\_

Title: VP of Sales

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Insert text here

## Exhibit A

### MOTOROLA SOFTWARE LICENSE AGREEMENT

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and \_\_\_\_\_ ("Licensee").

For good and valuable consideration, the parties agree as follows:

#### Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means 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 such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

#### Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary software or products containing embedded or pre-loaded proprietary software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the proprietary software and affiliated documentation.

#### Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; and (ii) identify the Open Source Software (or specify where that license may be found).

3.3 TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERSEDES THE SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

#### **Section 4 LIMITATIONS ON USE**

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4 Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and

security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

## **Section 5 OWNERSHIP AND TITLE**

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

## **Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY**

6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, 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. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

## **Section 7 TRANSFERS**

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than CPS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

## **Section 8      TERM AND TERMINATION**

8.1      Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2      Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3      Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

## **Section 9      Commercial Computer Software**

9.1      *This Section 9 only applies to U.S. Government end users.* The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.

9.2      If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

## **Section 10     CONFIDENTIALITY**

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

## **Section 11      LIMITATION OF LIABILITY**

The Limitation of Liability provision is described in the Primary Agreement.

## **Section 12      NOTICES**

Notices are described in the Primary Agreement.

## **Section 13      GENERAL**

13.1. **COPYRIGHT NOTICES.** The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. **COMPLIANCE WITH LAWS.** Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3 **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

13.4. **ASSIGNMENTS AND SUBCONTRACTING.** Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.5. **GOVERNING LAW.** This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State to which the Software is shipped if Licensee is a sovereign government entity, or the internal substantive laws of the State of Illinois if Licensee is not a sovereign government entity. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.6. **THIRD PARTY BENEFICIARIES.** This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing,



any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.7. SURVIVAL. Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.8. ORDER OF PRECEDENCE. In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.9. SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.

**Exhibit B**  
**PAYMENT**

Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a check, cashier’s check, or wire transfer drawn on a U.S. financial institution. If Customer has purchased additional Professional or Subscription services, payment will be in accordance with the applicable addenda. Payment for the System purchase will be in accordance with the following milestones.

**System Purchase:**

**1. 100% of Contract Price due upon installation of equipment before testing and acceptance**

Motorola shall make partial shipments of equipment and will request payment upon shipment of such equipment. In addition, Motorola shall invoice for installations completed on a site-by-site basis or when professional services are completed, when applicable. The value of the equipment shipped/services performed will be determined by the value shipped/services performed as a percentage of the total milestone value. Unless otherwise specified, contract discounts are based upon all items proposed and overall system package. For invoicing purposes only, discounts will be applied proportionately to the FNE and Subscriber equipment values to total contract price. Overdue invoices will bear simple interest at the maximum allowable rate by state law.

The chart below outlines the hourly labor rates for Motorola System Integration resources to be used. The staffing requirements shall be multiplied by the appropriate rate per resource in the table below. The hourly labor rates are fully burdened. The hourly rates per resource type and level are listed in Table 1.

Levels	Resource Types			
	Project Management	System Engineering	System Technologist	Project Administration
4	\$ 290.00	\$ 300.00	\$ 280.00	\$ 200.00
3	\$ 240.00	\$ 250.00	\$ 240.00	\$ 180.00
2	\$ 220.00	\$ 220.00	\$ 220.00	\$ 170.00
1	\$ 190.00	\$ 210.00	\$ 210.00	\$ 160.00

Table 1 - Hourly Rates

These rates apply to ordinary days and times (Monday to Friday during the hours 8am to 5pm). Additional surcharges may apply to work done outside these timeframes. The minimum charge for any resource will be 4 hours. Travel expenses are not included in these rates and may be charged separately. The qualifications of each type and level of resource are defined in the tables found at <https://www.motorolasolutions.com/content/dam/msi/secure/services/labor-rates-exhibit-160408.pdf>. All Motorola System Integration personnel assigned to this project will be classified according these levels. Project Administrative roles are varied and their specific duties and qualifications will be determined by the complexity and requirements of each project.

**EXHIBIT D**

**System Acceptance Certificate**

**Customer Name:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

This System Acceptance Certificate memorializes the occurrence of System Acceptance. Motorola and Customer acknowledge that:

1. The Acceptance Tests set forth in the Acceptance Test Plan have been successfully completed.
2. The System is accepted.

Customer Representative:

Motorola Representative:

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FINAL PROJECT ACCEPTANCE:**

Motorola has provided and Customer has received all deliverables, and Motorola has performed all other work required for Final Project Acceptance.

Customer Representative:

Motorola Representative:

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **MAINTENANCE, SUPPORT AND LIFECYCLE MANAGEMENT ADDENDUM**

This Addendum to the Communications System and Services Agreement or other previously executed Agreement currently in force, as applicable (“Primary Agreement”) provides additional or different terms and conditions to govern the sale of Maintenance, Support and Lifecycle Management services. The terms in this Addendum are integral to and incorporated into the Primary Agreement signed by the Parties.

### **1. DEFINITIONS**

All capitalized terms not otherwise defined herein shall have the same meaning as defined in the Primary Agreement.

"MUA" means Microwave Upgrade Agreement (MUA).

"NUA" means Network Upgrade Agreement (NUA).

“SUA” or “SUA II” means Motorola’s Software Upgrade Agreement program for Motorola’s P25 radio system.

### **2. SCOPE**

Motorola will provide Maintenance and Support Services and/or Lifecycle Management as further described in the applicable Statement of Work, or attachment to Motorola’s proposal for additional services.

### **3. TERMS AND CONDITIONS**

The terms of the Primary Agreement combined with the terms of this Addendum will govern the products and services offered pursuant to this Addendum. To the extent there is a conflict between the terms and conditions of the Primary Agreement and the terms and conditions of this Addendum, this Addendum takes precedence.

#### **3.1 MAINTENANCE AND SUPPORT SERVICES**

3.1.1 PURCHASE ORDER ACCEPTANCE. Purchase orders for additional, continued, or expanded maintenance and software support, during the Warranty Period or after the Warranty Period, become binding only when accepted in writing by Motorola.

3.1.2 START DATE. The “Start Date” for Maintenance and Support Services will be indicated in the proposal or a cover page entitled “Service Agreement”.

3.1.3 AUTO RENEWAL. Unless the cover page or SOW specifically states a termination date or one Party notifies the other in writing of its intention to discontinue the Services, this Agreement will renew for an additional one (1) year term on every anniversary of the Start Date. At the anniversary date, Motorola may adjust the price of the Services to reflect

the renewal rate.

3.1.4 TERMINATION. Written notice of intent to terminate must be provided thirty (30) days or more prior to the anniversary date. If Motorola provides Services after the termination or expiration of this Addendum, the terms and conditions in effect at the time of termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

3.1.5 EQUIPMENT DEFINITION. For maintenance and support services, Equipment will be defined to mean the hardware specified in the applicable SOW or attachments to the maintenance and support proposal.

3.1.6 ADDITIONAL HARDWARE. If Customer purchases additional hardware from Motorola that becomes part of the System, the additional hardware may be added to this Addendum and will be billed at the applicable rates after the warranty period for that additional equipment expires. Such hardware will be included in the definition of Equipment.

3.1.7 MAINTENANCE. Equipment will be maintained at levels set forth in the manufacturer's product manuals and routine procedures that are prescribed by Motorola will be followed. Motorola parts or parts of equal quality will be used for Equipment maintenance.

3.1.8 EQUIPMENT CONDITION. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Addendum. 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 maintenance and support fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically maintained for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to maintain that Equipment.

3.1.9 EQUIPMENT FAILURE. 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 Addendum and applicable SOW.

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

#### 3.1.11 EXCLUDED SERVICES.

a) 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.

b) Unless specifically included in this Addendum, 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.

3.1.12 TIME AND PLACE. Service will be provided at the location specified in this Addendum and/or the SOW. When Motorola performs maintenance, support, or installation 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 Addendum or applicable SOW, 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 Addendum or applicable SOW, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

3.1.13 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.

## 3.2 **LIFECYCLE MANAGEMENT SERVICES**

3.2.1 The Software License Agreement included as Exhibit A to the Primary Agreement applies to any Motorola Software provided as part of the Lifecycle Management transactions.

3.2.2 The term of this Addendum is [REDACTED] years, commencing on [REDACTED], 201[REDACTED]. The Lifecycle Management Price for the [REDACTED] years of services is \$ [REDACTED], excluding applicable sales or use taxes but including discounts as more fully set forth in the pricing pages. Because the Lifecycle Management is a subscription service as more fully described in the applicable Lifecycle Management Statement of Work, payment from Customer is due in advance and will not be in accordance with any Payment Milestone Schedule.

3.2.3 The System upgrade will be scheduled during the subscription period and will be performed when Motorola's system upgrade operation resources are available. Because there might be a significant time frame between when this Addendum is executed and when a System upgrade transaction is performed, Motorola may substitute any of the promised Equipment or Software so long as the substitute is equivalent or superior to the initially promised Equipment or Software.

3.2.4 Acceptance of a Lifecycle Management transaction occurs when the Equipment (if any) and Software are delivered and the Lifecycle Management services are fully performed; there is no Acceptance Testing with a Lifecycle Management transaction.

3.2.5 The Warranty Period for any Equipment or Motorola Software provided under a Lifecycle Management transaction will commence upon shipment and not on System Acceptance or Beneficial Use, and is for a period of ninety (90) days rather than one (1) year. The ninety (90) day warranty for Lifecycle Management services is set forth in the Lifecycle Management Statement of Work.

3.2.6 In addition to the description of the Lifecycle Management services and exclusions provided in the Lifecycle Management Statement of Work, the following apply:

- a) Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment.
- b) Lifecycle Management services exclude 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.
- c) Unless specifically included in this Addendum or the Lifecycle Management Statement of Work, Lifecycle Management services exclude items that are consumed in the normal operation of the Equipment; accessories; 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.
- d) Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available during the performance of the Lifecycle Management services.

3.2.7 The Lifecycle Management annualized price is based on the fulfillment of the two year cycle. If Customer terminates this service during a two year cycle, except for Motorola's default, then Customer will be required to pay for the balance of payments owed for the two year cycle if a major system release has been implemented before the point of termination.

3.2.8 If Customer terminates this service and contractual commitment before the end of the [redacted] year term, for any reason other than Motorola's default, then the Customer will pay to Motorola a termination fee equal to the discount applied to the last three years of service payments related to the [redacted] year commitment.

#### 4. PAYMENT

4.1 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 the Customer must pay each invoice in U.S. dollars within thirty (30) days of the invoice date. Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity.

4.2 INFLATION ADJUSTMENT. For multi-year agreements, at the end of the first year of the Agreement and each year thereafter, a CPI percentage change calculation shall be performed using the U.S. Department of Labor, Consumer Price Index, all Items, Unadjusted Urban Areas (CPI-U). Should the annual inflation rate increase greater than 3% during the previous year, Motorola shall have the right to increase all future maintenance prices by the CPI increase amount exceeding 3%. All items, not seasonally adjusted shall be used as the measure of CPI for this price adjustment. Measurement will take place once the annual average for the new year has been posted by the Bureau of Labor Statistics. For purposes of illustration, if in year 5 the CPI reported an increase of 8%, Motorola may increase the Year 6 price by 5% (8%-3% base).

5. ENTIRE AGREEMENT. This Addendum, any related attachments, and the Primary Agreement, constitutes the entire agreement of the Parties regarding the subject matter of this Addendum and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Addendum may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Addendum, even if a representative of each Party signs that document.

END



## Subscription Software Agreement

This Subscription Software Agreement (the “**Subscription Software Agreement**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below (“**Customer**”). Motorola and Customer will each be referred to herein as a “**Party**” and collectively as the “**Parties**”. This Agreement (as defined below) is effective as of the date of the last signature (the “**Effective Date**”).

### 1. Agreement.

**1.1. Scope; Agreement Documents.** This Subscription Software Agreement governs Customer’s purchase of cloud-based software as a service products and other software which is licensed to Customer by Motorola on a subscription basis (“**Subscription Software**”) and related services, which may be recurring or one-time (“**Services**”) provided by Motorola. Subscription Software and Services are collectively referred to as the “**Software and Services**”. Additional terms and conditions applicable to specific Software and Services are set forth in one or more addenda attached to this Subscription Software Agreement (each an “**Addendum**”, and collectively the “**Addenda**”). In addition, the Parties may agree upon statements of work, schedules, technical specifications, and other ordering documents setting forth the Software and Services to be purchased by Customer and provided by Motorola and additional rights and obligations of the Parties (the “**Ordering Documents**”). To the extent required by applicable procurement law, a proposal submitted by Motorola in response to a competitive procurement process will be included within the meaning of the term Ordering Documents. This Subscription Software Agreement, the Addenda, and any Ordering Documents collectively form the Parties’ “**Agreement**”.

**1.2. Order of Precedence.** Each Addendum will control with respect to conflicting terms in this Subscription Software Agreement, but only as applicable to the Software and Services described in such Addendum. Each Ordering Document will control with respect to conflicting terms in this Subscription Software Agreement or any Addenda, but only as applicable to the Software and Services described on such Ordering Document.

### 2. Subscription Software.

**2.1. Delivery.** During the applicable Subscription Term (as defined below), Motorola will provide to Customer the Subscription Software set forth in an Ordering Document, in accordance with the terms of the Agreement. Motorola will provide Customer advance notice (which may be provided electronically) of any planned downtime. Delivery will occur upon Customer’s receipt of credentials required for access to the Subscription Software or upon Motorola otherwise providing access to the Subscription Software. If agreed upon in an Ordering Document, Motorola will also provide Services related to such Subscription Software.

**2.2. Modifications.** Motorola may modify the Subscription Software, recurring Services and any related systems so long as their functionality (as described in the applicable Ordering Document) is not materially degraded. Documentation (as defined below) for the Subscription Software may be updated to reflect such modifications. For clarity, new features or enhancements that are added to any Subscription Software or Services may be subject to additional Fees.

**2.3. User Credentials.** If applicable, Motorola will provide Customer with administrative user credentials for the Subscription Software, and Customer will ensure such administrative user credentials are accessed and used only by Customer’s employees with training on their proper

use. Customer will protect, and will cause its Authorized Users to protect, the confidentiality and security of all user credentials, including any administrative user credentials, and maintain user credential validity, including by updating passwords. Customer will be liable for any use of the Subscription Software through such user credential (including through any administrative user credentials), including any changes made to the Subscription Software or issues or user impact arising therefrom. To the extent Motorola provides Services to Customer in order to help resolve issues resulting from changes made to the Subscription Software through user credentials, including through any administrative user credentials, or issues otherwise created by Authorized Users, such Services will be billed to Customer on a time and materials basis, and Customer will pay all invoices in accordance with the payment terms below.

**2.4. Beta Services.** If Motorola makes any beta version of a software application (“**Beta Service**”) available to Customer, Customer may choose to use such Beta Service at its own discretion, provided, however, that Customer will use the Beta Service solely for purposes of Customer’s evaluation of such Beta Service, and for no other purpose. Customer acknowledges and agrees that all Beta Services are offered “as-is” and without any representations or warranties or other commitments or protections from Motorola. Motorola will determine the duration of the evaluation period for any Beta Service, in its sole discretion, and Motorola may discontinue any Beta Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies.

**2.5. Customer Obligations.** Customer will ensure that information Customer provides to Motorola in connection with receipt of Software and Services are accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to provide the Software and Services and perform its other duties under this Agreement. Unless the applicable Ordering Document states otherwise, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions or Customer information, decisions, or approvals described in this Section. If any assumptions in the Ordering Documents or information provided by Customer prove to be incorrect, or if Customer fails to perform any of its obligations under this Agreement, Motorola’s ability to perform its obligations may be impacted and changes to the Agreement, including the scope, Fees, and performance schedule may be required.

**2.6. Documentation.** Software and Services may be delivered with documentation for the equipment, software, or data that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information (collectively, “**Documentation**”). Documentation is and will be owned by Motorola, unless otherwise expressly agreed in an Addendum or Ordering Document that certain Documentation will be owned by Customer. Motorola hereby grants Customer a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Software and Services.

**2.7. Authorized Users.** Customer will ensure its employees and Authorized Users comply with the terms of this Agreement and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users’ names, passwords and login credentials for access to Software and Services. “**Authorized Users**” are Customer’s employees, full-time contractors engaged for the purpose of supporting the Software and Services that are not competitors of Motorola, and the entities (if any) specified in an Ordering Document or otherwise approved by Motorola in writing (email from an authorized Motorola signatory accepted), which may include affiliates or other Customer agencies.

**2.8. Support of Downloaded Clients.** If Customer purchases any Subscription Software that requires a client installed locally on Customer-Provided Equipment, Customer will be responsible for downloading and installing the current version of such client, as it may be updated from time to time. Motorola will use reasonable efforts to continue supporting any version of a client for forty-five (45) days following its release, but Motorola may update the current version of its client at any time, including for bug fixes, product improvements, and feature updates, and Motorola makes no representations or warranties that any Subscription Software will support prior versions of a client.

**2.9. Export Control.** Customer, its employees, and any other Authorized Users will not access or use the Software and Services in any jurisdiction in which the provision of such Software and Services is prohibited under applicable laws or regulations (a “**Prohibited Jurisdiction**”), and Customer will not provide access to the Software and Services to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Authorized Users are not named on any U.S. government list of persons prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it and its Authorized Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Authorized Users to access or use the Subscription Software or Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Authorized Users will comply with all applicable laws regarding the transmission of technical data exported from the U.S. and the country in which Customer, its employees, and the Authorized Users are located.

### **3. Term and Termination.**

**3.1. Subscription Terms.** The duration of Customer’s subscription to the first Subscription Software and any recurring Services ordered under this Subscription Software Agreement (or the first Subscription Software or recurring Service, if multiple are ordered at once) will commence upon delivery of such Subscription Software (and recurring Services, if applicable) and will continue for a twelve (12) month period or such longer period identified in an Ordering Document (the “**Initial Subscription Period**”). Following the Initial Subscription Period, Customer’s subscription to the Subscription Software and any recurring Services will automatically renew for additional twelve (12) month periods (each, a “**Renewal Subscription Year**”), unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. (The Initial Subscription Period and each Renewal Subscription Year will each be referred to herein as a “**Subscription Term**”.) Motorola may increase Fees prior to any Renewal Subscription Year. In such case, Motorola will notify Customer of such proposed increase no later than thirty (30) days prior to commencement of such Renewal Subscription Year. Unless otherwise specified in the applicable Ordering Document, if Customer orders any additional Subscription Software or recurring Services under this Subscription Software Agreement during an in-process Subscription Term, the subscription for each new Subscription Software or recurring Service will (a) commence upon delivery of such Subscription Software or Service, and continue until the conclusion of Customer’s then-current Subscription Term (a “**Partial Subscription Year**”), and (b) automatically renew for Renewal Subscription Years thereafter, unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. Thus, unless otherwise specified in the applicable Ordering Document, the Subscription Terms for all Subscription Software and recurring Services hereunder will be synchronized.

**3.2. Term.** The term of this Subscription Software Agreement (“**Term**”) will commence on the Effective Date and continue until the expiration or termination of all Subscription Terms under this Subscription Software Agreement, unless this Subscription Software Agreement is earlier terminated in accordance with the terms herein.

**3.3. Termination.**

3.3.1. For Default. Either Party may terminate the Agreement or the applicable Addendum or Ordering Document if the other Party breaches a material obligation under the Agreement and does not cure such breach within thirty (30) days after receipt of notice of the breach or fails to produce a cure plan within such period of time. Notwithstanding the foregoing, Motorola may terminate the Agreement (or any Addendum or Ordering Documents hereunder), or suspend delivery of Subscription Software or Services, immediately upon notice to Customer if (a) Customer breaches **Section 10.3 – Subscription Software License**, **Section 10.4 – End User Licenses**, or **Section 10.5 – Customer Restrictions** of this Subscription Software Agreement, or any other provision related to Subscription Software license scope or restrictions set forth in an Addendum or Ordering Document, or (b) it determines that Customer's use of the Subscription Software poses, or may pose, a security or other risk or adverse impact to any Subscription Software, Motorola, Motorola's systems, or any third party (including other Motorola customers). Customer acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Subscription Software and Documentation, and that Customer's breach of the Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Customer breaches this Agreement, in addition to termination, Motorola will be entitled to all available remedies at law or in equity (including immediate injunctive relief).

3.3.2. Addenda; Ordering Documents. Each Addendum and Ordering Document may be separately terminable as set forth therein.

3.3.3. Wind Down of Subscription Software. Motorola may terminate any Ordering Document and Subscription Term, in whole or in part, in the event Motorola plans to cease offering the applicable Subscription Software or Service to customers.

**3.4. Suspension of Services.** Motorola may terminate or suspend any Software and Services under an Ordering Document if Motorola determines: (a) the related Subscription Software license has expired or has terminated for any reason; (b) the applicable Subscription Software is being used on a hardware platform, operating system, or version not approved by Motorola; (c) Customer fails to make any payments when due; or (d) Customer fails to comply with any of its other obligations or otherwise delays Motorola's ability to perform.

**3.5. Effect of Termination or Expiration.** Upon termination for any reason or expiration of this Subscription Software Agreement, an Addendum, or an Ordering Document, Customer and the Authorized Users will stop use of any Subscription Software and return or destroy (at Motorola's option) all Motorola Confidential Information in their possession or control and, as applicable, provide proof of such destruction. If Customer has any outstanding payment obligations under this Agreement, Motorola may accelerate and declare all such obligations of Customer immediately due and payable by Customer. Notwithstanding the reason for termination or expiration, Customer must pay Motorola for Software and Services already delivered. Customer has a duty to mitigate any damages under this Agreement, including in the event of default by Motorola and Customer's termination of this Agreement.

**4. Payment and Invoicing.**

**4.1. Fees.** Unless otherwise provided in an Ordering Document, Customer will prepay an annual subscription fee for each Subscription Software and recurring Service, and pay any fees

specified for other Services provided hereunder in accordance with the applicable Addendum or Ordering Document (the “**Fees**”), before the commencement of each Subscription Term. For any Partial Subscription Year, the applicable annual subscription Fee will be prorated based on the number of months in the Partial Subscription Year. The annual subscription Fee for Subscription Software and recurring Services may include certain one-time Fees, such as start-up fees, license fees, or other fees set forth in an Ordering Document. Motorola will have the right to suspend the Subscription Software and any recurring Services if Customer fails to make any payments when due. Fees may be changed by Motorola at any time, except that Motorola will not change the applicable Fees during a Subscription Term.

**4.2. Taxes.** The Fees do not include any excise, sales, lease, use, property, or other taxes, assessments, duties, or regulatory charges or contribution requirements (collectively, “**Taxes**”), all of which will be paid by Customer, except as exempt by law, unless otherwise specified in an Ordering Document. If Motorola is required to pay any Taxes, Customer will reimburse Motorola for such Taxes (including any interest and penalties) within thirty (30) days after Customer’s receipt of an invoice therefore. Motorola will be solely responsible for reporting taxes on its income and net worth.

**4.3. Invoicing; Payment.** Customer will pay Fees upon the earlier of (a) thirty (30) days prior to the commencement of the applicable Subscription Term, and (b) within thirty (30) days of the applicable invoice date, or as otherwise specified in the applicable Addendum or Ordering Document. Late payments will be subject to interest charges at the maximum rate permitted by law, commencing upon the due date. Motorola may invoice electronically via email, and Customer agrees to receive invoices via email at the email address set forth in an Ordering Document. Customer acknowledges and agrees that a purchase order or other notice to proceed is not required for payment for Software and Services.

**4.4. License True-Up.** Motorola will have the right to conduct an audit of total user licenses credentialed by Customer for any Subscription Software during a Subscription Term, and Customer will cooperate with such audit. If Motorola determines that Customer’s usage of the Subscription Software during the applicable Subscription Term exceeded the total number of licenses purchased by Customer, Motorola may invoice Customer for the additional licenses used by Customer, pro-rated for each additional license from the date such license was activated, and Customer will pay such invoice in accordance with the payment terms in this **Section 4 – Payment and Invoicing.**

**5. Customer-Provided Equipment; Non-Motorola Content.**

**5.1. Customer-Provided Equipment.** Certain components, including equipment and software, not provided by Motorola may be required for use of the Software and Services (“**Customer-Provided Equipment**”). Customer will be responsible, at its sole cost and expense, for providing and maintaining the Customer-Provided Equipment in good working order. Customer represents and warrants that it has all rights in Customer-Provided Equipment to permit Motorola to access and use the applicable Customer-Provided Equipment to provide the Software and Services under this Agreement, and such access and use will not violate any laws or infringe any third-party rights (including intellectual property rights). Customer (and not Motorola) will be fully liable for Customer-Provided Equipment damage, loss, change, or theft that may impact Motorola’s ability to provide the Software and Services under this Agreement, and Customer acknowledges that any such events may cause a change in the Fees or performance schedule under the applicable Ordering Document.

**5.2. Non-Motorola Content.** In certain instances, Customer may be permitted to access, use, or integrate Customer or third-party software, services, content, and data that is not provided by Motorola (collectively, “**Non-Motorola Content**”) with or through the Software and Services. If Customer accesses, uses, or integrates any Non-Motorola Content with the Software and Services, Customer will first obtain all necessary rights and licenses to permit Customer’s and its Authorized Users’ use of the Non-Motorola Content in connection with the Software and Services. Customer will also obtain the necessary rights for Motorola to use such Non-Motorola Content in connection with providing the Software and Services, including the right for Motorola to access, store, and process such Non-Motorola Content (e.g., in connection with the Subscription Software), and to otherwise enable interoperation with the Software and Services. Customer represents and warrants that it will obtain the foregoing rights and licenses prior to accessing, using, or integrating the applicable Non-Motorola Content with the Software and Services, and that Customer and its Authorized Users will comply with any terms and conditions applicable to such Non-Motorola Content. If any Non-Motorola Content require access to Customer Data (as defined below), Customer hereby authorizes Motorola to allow the provider of such Non-Motorola Content to access Customer Data, in connection with the interoperation of such Non-Motorola Content with the Software and Services. Customer acknowledges and agrees that Motorola is not responsible for, and makes no representations or warranties with respect to, the Non-Motorola Content (including any disclosure, modification, or deletion of Customer Data resulting from use of Non-Motorola Content or failure to properly interoperate with the Software and Services). If Customer receives notice that any Non-Motorola Content must be removed, modified, or disabled within the Software and Services, Customer will promptly do so. Motorola will have the right to disable or remove Non-Motorola Content if Motorola believes a violation of law, third-party rights, or Motorola’s policies is likely to occur, or if such Non-Motorola Content poses or may pose a security or other risk or adverse impact to the Software and Services, Motorola, Motorola’s systems, or any third party (including other Motorola customers). Nothing in this Section will limit the exclusions set forth in **Section 7.1 – Intellectual Property Infringement**.

## **6. Representations and Warranties.**

**6.1. Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that (a) it has the right to enter into the Agreement and perform its obligations hereunder, and (b) the Agreement will be binding on such Party.

**6.2. WARRANTY DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, SOFTWARE AND SERVICES PURCHASED HEREUNDER ARE PROVIDED “AS IS” AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE AGREEMENT ARE THE COMPLETE WARRANTIES FOR THE SOFTWARE AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE SOFTWARE AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER’S PARTICULAR REQUIREMENTS.

## **7. Indemnification.**

**7.1. Intellectual Property Infringement.** Motorola will defend Customer against any third-party claim alleging that a Motorola-developed Subscription Software (the “**Infringing Product**”) directly infringes a United States patent or copyright (“**Infringement Claim**”), and Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by Motorola in settlement of an Infringement Claim. Motorola’s duties under this **Section 7.1 – Intellectual Property Infringement** are conditioned

upon: (a) Customer promptly notifying Motorola in writing of the Infringement Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Infringement Claim.

- 7.1.1. If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer a pro-rated refund of any amounts pre-paid for the Infringing Product.
- 7.1.2. In addition to the other damages disclaimed under this Agreement, Motorola will have no duty to defend or indemnify Customer for any Infringement Claim that arises from or is based upon: (a) Customer Data, Customer-Provided Equipment, Non-Motorola Content, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Subscription Software or Services with any products or materials not provided by Motorola; (c) any Subscription Software or Service designed, modified, or manufactured in accordance with Customer's designs, specifications, guidelines or instructions; (d) a modification of the Subscription Software or Services by a party other than Motorola; (e) use of the Subscription Software or Services in a manner for which the Subscription Software or Service was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to use or install an update to the Subscription Software or Services that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the Infringing Product.
- 7.1.3. This **Section 7.1 – Intellectual Property Infringement** provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. For clarity, the rights and remedies provided in this Section are subject to, and limited by, the restrictions set forth in **Section 8 – Limitation of Liability** below.

**7.2. Customer Indemnity.** Customer will defend, indemnify, and hold Motorola and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer-Provided Equipment, Customer Data, or Non-Motorola Content, including any claim, demand, action, or proceeding alleging that any such equipment, data, or materials (or the integration or use thereof with the Software and Services) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the Agreement, (b) Customer-Provided Equipment's failure to meet the minimum requirements set forth in the applicable Documentation or match the applicable specifications provided to Motorola by Customer in connection with the Subscription Software or Services; (c) Customer's (or its service providers, agents, employees, or Authorized User's) negligence or willful misconduct; and (d) Customer's or its Authorized User's breach of this Agreement. This indemnity will not apply to the extent any such claim is caused by Motorola's use of Customer-Provided Equipment, Customer Data, or Non-Motorola Content in violation of the Agreement. Motorola will give Customer prompt, written notice of any claim subject to the foregoing indemnity. Motorola will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

**8. Limitation of Liability.**

**8.1. DISCLAIMER OF CONSEQUENTIAL DAMAGES.** EXCEPT FOR PERSONAL INJURY OR DEATH, MOTOROLA, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE “**MOTOROLA PARTIES**”) WILL NOT BE LIABLE IN CONNECTION WITH THIS AGREEMENT (WHETHER UNDER MOTOROLA’S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR, ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF MOTOROLA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

**8.2. DIRECT DAMAGES.** EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE MOTOROLA PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED THE TOTAL FEES PAID FOR THE SUBSCRIPTION SOFTWARE TO WHICH THE CLAIM IS RELATED DURING THE CONSECUTIVE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE.

**8.3. ADDITIONAL EXCLUSIONS.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, MOTOROLA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO MOTOROLA, OR ANY OTHER DATA AVAILABLE THROUGH THE SUBSCRIPTION SOFTWARE OR SERVICES; (B) CUSTOMER-PROVIDED EQUIPMENT, NON-MOTOROLA CONTENT, CUSTOMER’S SITES, OR THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, DATA, OR OTHER THIRD-PARTY MATERIALS, OR THE COMBINATION OF THE SUBSCRIPTION SOFTWARE OR SERVICES WITH ANY OF THE FOREGOING; (C) LOSS OF DATA OR HACKING; (D) MODIFICATION OF SUBSCRIPTION SOFTWARE OR SERVICES BY ANY PERSON OTHER THAN MOTOROLA; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH OR BY THE SUBSCRIPTION SOFTWARE AND SERVICES; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; (G) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (H) DISRUPTION OF OR DAMAGE TO CUSTOMER’S OR THIRD PARTIES’ SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (I) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH THE SUBSCRIPTION SOFTWARE OR SERVICES, OR INTERPRETATION, USE, OR MISUSE THEREOF; (J) TRACKING AND LOCATION-BASED SERVICES; (K) BETA SERVICES; OR (L) CUSTOMER’S OR ANY AUTHORIZED USER’S BREACH OF THIS AGREEMENT OR MISUSE OF THE SUBSCRIPTION SOFTWARE OR SERVICES.

**8.4. Voluntary Remedies.** Motorola is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed issues in **Section 8.3 – Additional Exclusions** above, but if Motorola agrees to provide Services to help resolve such issues, Customer will reimburse Motorola for its reasonable time and expenses, including by paying Motorola any Fees set forth in an Ordering Document for such Services, if applicable.

**8.5. Statute of Limitations.** Customer may not bring any claims against a Motorola Party in connection with this Agreement or the Software and Services more than one (1) year after the date of accrual of the cause of action.



**9. Confidentiality.**

**9.1. Confidential Information.** “**Confidential Information**” means any and all non-public information provided by one Party (“**Discloser**”) to the other (“**Recipient**”) that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable businessperson would consider non-public and confidential by its nature. With respect to Motorola, Confidential Information will also include Software and Services, and Documentation, as well as any other information relating to the Software and Services. The nature and existence of this Agreement are considered Confidential Information of the Parties. In order to be considered Confidential Information, information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by Discloser by submitting a written document to Recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

**9.2. Obligations of Confidentiality.** During the Term and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (a) not disclose Confidential Information to any third party, except as expressly permitted in this **Section 9 – Confidentiality**; (b) restrict disclosure of Confidential Information to only those employees (including, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must access the Confidential Information for the purpose of, and who are bound by confidentiality terms substantially similar to those in, this Agreement; (c) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (d) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (e) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (f) only use the Confidential Information as needed to fulfill its obligations and secure its rights under this Agreement.

**9.3. Exceptions.** Recipient is not obligated to maintain as confidential any information that Recipient can demonstrate by documentation (a) is publicly available at the time of disclosure or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality to Discloser; (c) is otherwise lawfully known to Recipient prior to such disclosure without a duty of confidentiality to Discloser; or (d) is independently developed by Recipient without the use of, or reference to, any of Discloser’s Confidential Information or any breach of this Agreement. Additionally, Recipient may disclose Confidential Information to the extent required by law, including a judicial or legislative order or proceeding.

**9.4. Ownership of Confidential Information.** All Confidential Information is and will remain the property of Discloser and will not be copied or reproduced without the express written permission of Discloser (including as permitted herein). Within ten (10) days of receipt of Discloser’s written request, Recipient will return or destroy all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain (a) one (1) archival copy of the Confidential Information for use only in case of a dispute concerning this Agreement and (b) Confidential Information that has been automatically stored in accordance with Recipient’s standard backup or recordkeeping procedures, provided, however that Recipient will remain subject to the obligations of this Agreement with respect to any Confidential Information retained subject to clauses (a) or (b). No license, express or implied, in the Confidential Information is granted to the Recipient other than

to use the Confidential Information in the manner and to the extent authorized by this Agreement. Discloser represents and warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

## 10. Proprietary Rights and Subscription Software License; Data; Feedback.

**10.1. Data Definitions.** The following terms will have the stated meanings: “**Customer Contact Data**” means data Motorola collects from Customer, its Authorized Users, and their end users for business contact purposes, including marketing, advertising, licensing and sales purposes; “**Service Use Data**” means data generated by Customer’s use of the Software and Services or by Motorola’s support of the Software and Services, including personal information, location, monitoring and recording activity, product performance and error information, activity logs and date and time of use; “**Customer Data**” means data, information, and content, including images, text, videos, documents, audio, telemetry and structured data base records, provided by, through, or on behalf of Customer, its Authorized Users, and their end users through the use of the Software and Services. Customer Data does not include Customer Contact Data, Service Use Data, or information from publicly available sources or other Third-Party Data or Motorola Data; “**Third-Party Data**” means information obtained by Motorola from publicly available sources or its third party content providers and made available to Customer through the Subscription Software or Services; “**Motorola Data**” means data owned or licensed by Motorola; “**Feedback**” means comments or information, in oral or written form, given to Motorola by Customer or Authorized Users, including their end users, in connection with or relating to the Subscription Software or Services; and “**Process**” or “**Processing**” means any operation or set of operations which is performed on personal information or on sets of personal information, whether or not by automated means, such as collection, recording, copying, analyzing, caching, organization, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**10.2. Motorola Materials.** Customer acknowledges that Motorola may use or provide Customer with access to software, tools, data, and other materials, including designs, utilities, models, methodologies, systems, and specifications, which Motorola has developed or licensed from third parties (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, or derivative works of the foregoing, whether made by Motorola or another party) (collectively, “**Motorola Materials**”). The Software and Services, Motorola Data, Third-Party Data, and Documentation, are considered Motorola Materials. Except when Motorola has expressly transferred title or other interest to Customer by way of an Addendum or Ordering Document, the Motorola Materials are the property of Motorola or its licensors, and Motorola or its licensors retain all right, title and interest in and to the Motorola Materials (including, all rights in patents, copyrights, trademarks, trade names, trade secrets, know-how, other intellectual property and proprietary rights, and all associated goodwill and moral rights). For clarity, this Agreement does not grant to Customer any shared development rights in or to any Motorola Materials or other intellectual property, and Customer agrees to execute any documents and take any other actions reasonably requested by Motorola to effectuate the foregoing. Motorola and its licensors reserve all rights not expressly granted to Customer, and no rights, other than those expressly granted herein, are granted to Customer by implication, estoppel or otherwise. Customer will not modify, disassemble, reverse engineer, derive source code or create derivative works from, merge with other software, distribute, sublicense, sell, or export the Software and Services or other Motorola Materials, or permit any third party to do so.

**10.3. Subscription Software License.** Subject to Customer’s and its Authorized Users’ compliance with the Agreement (including payment terms), Motorola hereby grants Customer and

its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Subscription Software identified in an Ordering Document, and the associated Documentation, solely for Customer's internal business purposes. The foregoing license grant will be limited to use in the territory and to the number of licenses set forth in an Ordering Document (if applicable), and will continue for the applicable Subscription Term. Customer may access, and use the Subscription Software only in Customer's owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Subscription Software remotely from any location. No custom development work will be performed under this Agreement.

**10.4. End User Licenses.** Notwithstanding any provision to the contrary in the Agreement, certain Subscription Software is governed by a separate license, EULA, or other agreement, including terms governing third-party software, such as open source software, included in the Subscription Software. Customer will comply, and ensure its Authorized Users comply, with such additional license agreements.

**10.5. Customer Restrictions.** Customers and Authorized Users will comply with the applicable Documentation and the copyright laws of the United States and all other relevant jurisdictions (including the copyright laws where Customer uses the Subscription Software) in connection with their use of the Subscription Software. Customer will not, and will not allow others, including the Authorized Users, to make the Subscription Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; reverse engineer, disassemble, or reprogram software used to provide the Subscription Software or any portion thereof to a human-readable form; modify, create derivative works of, or merge the Subscription Software or software used to provide the Subscription Software with other software; copy, reproduce, distribute, lend, or lease the Subscription Software, software used to provide the Subscription Software, or Documentation for or to any third party; take any action that would cause the Subscription Software or Documentation to be placed in the public domain; use the Subscription Software to compete with Motorola; remove, alter, or obscure, any copyright or other notice; share user credentials (including among Authorized Users); use the Subscription Software to store or transmit malicious code; or attempt to gain unauthorized access to the Subscription Software or its related systems or networks.

**10.6. Ownership of Customer Data.** Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. Motorola acquires no rights to Customer Data except those rights granted under this Agreement including the right to Process and use the Customer Data as set forth in **Section 10.7 – Processing Customer Data** below and in other applicable Addenda. The Parties agree that with regard to the Processing of personal information which may be part of Customer Data, Customer is the controller and Motorola is the processor, and may engage sub-processors pursuant to **Section 10.7.3 – Sub-processors**.

**10.7. Processing Customer Data.**

10.7.1. **Motorola Use of Customer Data.** To the extent permitted by law, Customer grants Motorola and its subcontractors a right to use Customer Data and a royalty-free, worldwide, non-exclusive license to use Customer Data (including to process, host, cache, store, reproduce, copy, modify, combine, analyze, create derivative works from such Customer Data and to communicate, transmit, and distribute such Customer Data to third parties engaged by Motorola) to (a) perform Services and provide the Subscription Software under the Agreement, (b) analyze the Customer Data to operate, maintain, manage, and improve Motorola products and services, and (c) create new products and services. Customer agrees that this Agreement, along with the Documentation, are Customer's complete and final documented

instructions to Motorola for the processing of Customer Data. Any additional or alternate instructions must be agreed to according to the Change Order process. Customer represents and warrants to Motorola that Customer's instructions, including appointment of Motorola as a processor or sub-processor, have been authorized by the relevant controller.

10.7.2. Collection, Creation, Use of Customer Data. Customer further represents and warrants that the Customer Data, Customer's collection, creation, and use of the Customer Data (including in connection with Motorola's Software and Services), and Motorola's use of such Customer Data in accordance with the Agreement, will not violate any laws or applicable privacy notices or infringe any third-party rights (including intellectual property and privacy rights). Customer also represents and warrants that the Customer Data will be accurate and complete, and that Customer has obtained all required consents, provided all necessary notices, and met any other applicable legal requirements with respect to collection and use (including Motorola's and its subcontractors' use) of the Customer Data as described in the Agreement.

10.7.3. Sub-processors. Customer agrees that Motorola may engage sub-processors who in turn may engage additional sub-processors to Process personal data in accordance with this Agreement. When engaging sub-processors, Motorola will enter into agreements with the sub-processors to bind them to data processing obligations to the extent required by law.

**10.8. Data Retention and Deletion.** Except for anonymized Customer Data, as described above, or as otherwise provided under the Agreement, Motorola will delete all Customer Data following termination or expiration of this Subscription Software Agreement or the applicable Addendum or Ordering Document, with such deletion to occur no later than ninety (90) days following the applicable date of termination or expiration, unless otherwise required to comply with applicable law. Any requests for the exportation or download of Customer Data must be made by Customer to Motorola in writing before expiration or termination, subject to **Section 14.9 – Notices**. Motorola will have no obligation to retain such Customer Data beyond expiration or termination unless the Customer has purchased extended storage from Motorola through a mutually executed Ordering Document.

**10.9. Service Use Data.** Customer understands and agrees that Motorola may collect and use Service Use Data for its own purposes, including the uses described below. Motorola may use Service Use Data to (a) operate, maintain, manage, and improve existing and create new products and services, (b) test products and services, (c) to aggregate Service Use Data and combine it with that of other users, and (d) to use anonymized or aggregated data for marketing, research or other business purposes. Service Use Data may be disclosed to third parties. It is Customer's responsibility to notify Authorized Users of Motorola's collection and use of Service Use Data and to obtain any required consents, provide all necessary notices, and meet any other applicable legal requirements with respect to such collection and use, and Customer represents and warrants to Motorola that it has complied and will continue to comply with this Section.

**10.10. Third-Party Data and Motorola Data.** Motorola Data and Third-Party Data may be available to Customer through the Software and Services. Customer and its Authorized Users may use Motorola Data and Third-Party Data as permitted by Motorola and the applicable Third-Party Data provider, as described in the applicable Addendum. Unless expressly permitted in the applicable Addendum, Customer will not, and will ensure its Authorized Users will not: (a) use the Motorola Data or Third-Party Data for any purpose other than Customer's internal business purposes; (b) disclose the data to third parties; (c) "white label" such data or otherwise misrepresent its source

or ownership, or resell, distribute, sublicense, or commercially exploit the data in any manner; (d) use such data in violation of applicable laws; (e) remove, obscure, alter, or falsify any marks or proprietary rights notices indicating the source, origin, or ownership of the data; or (f) modify such data or combine it with Customer Data or other data or use the data to build databases. Additional restrictions may be set forth in the applicable Addendum. Any rights granted to Customer or Authorized Users with respect to Motorola Data or Third-Party Data will immediately terminate upon termination or expiration of the applicable Addendum, Ordering Document, or this Subscription Software Agreement. Further, Motorola or the applicable Third-Party Data provider may suspend, change, or terminate Customer's or any Authorized User's access to Motorola Data or Third-Party Data if Motorola or such Third-Party Data provider believes Customer's or the Authorized User's use of the data violates the Agreement, applicable law or Motorola's agreement with the applicable Third-Party Data provider. Upon termination of Customer's rights to use any Motorola Data or Third-Party Data, Customer and all Authorized Users will immediately discontinue use of such data, delete all copies of such data, and certify such deletion to Motorola. Notwithstanding any provision of the Agreement to the contrary, Motorola will have no liability for Third-Party Data or Motorola Data available through the Software and Services. Motorola and its Third-Party Data providers reserve all rights in and to Motorola Data and Third-Party Data not expressly granted in an Addendum or Ordering Document.

**10.11. Feedback.** Any Feedback provided by Customer is entirely voluntary, and will not create any confidentiality obligation for Motorola, even if designated as confidential by Customer. Motorola may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users and Customer represents and warrants that it has obtained all necessary rights and consents to grant Motorola the foregoing rights.

**10.12. Improvements; Software and Services.** The Parties agree that, notwithstanding any provision of this Subscription Software Agreement or the Agreement to the contrary, all fixes, modifications and improvements to the services or products conceived of or made by or on behalf of Motorola that are based either in whole or in part on the Feedback, Customer Data, or Service Use Data (or otherwise) are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements will vest solely in Motorola. Customer agrees to execute any written documents necessary to assign any intellectual property or other rights it may have in such fixes, modifications or improvements to Motorola.

**11. Motorola as a Controller or Joint Controller.** In all instances where Motorola acts as a controller of data, it will comply with the applicable provisions of the Motorola Privacy Statement at [https://www.motorolasolutions.com/en\\_us/about/privacy-policy.html#privacystatement](https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement), as may be updated from time to time. Motorola holds all Customer Contact Data as a controller and shall Process such Customer Contact Data in accordance with the Motorola Privacy Statement. In instances where Motorola is acting as a joint controller with Customer, the Parties will enter into a separate Addendum to the Agreement to allocate the respective roles as joint controllers.

**12. Force Majeure; Delays Caused by Customer.**

**12.1. Force Majeure.** Except for Customer's payment obligations hereunder, neither Party will be responsible for nonperformance or delayed performance due to events outside of its reasonable control. If performance will be significantly delayed, the affected Party will provide notice to the other Party, and the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule.

**12.2. Delays Caused by Customer.** Motorola's performance of the Software and Services will be excused for delays caused by Customer or its Authorized Users or subcontractors, or by failure

of any assumptions set forth in this Agreement (including in any Addendum or Ordering Document). In the event of a delay under this **Section 12.2 – Delays Caused by Customer**, (a) Customer will continue to pay the Fees as required hereunder, (b) the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule, and (c) Customer will compensate Motorola for its out-of-pocket costs incurred due to the delay (including those incurred by Motorola's affiliates, vendors, and subcontractors).

**13. Disputes.** The Parties will use the following procedure to resolve any disputes relating to or arising out of this Agreement (each, a "**Dispute**"):

**13.1. Governing Law.** All matters relating to or arising out of the Agreement are governed by the laws of the State of Illinois, unless Customer is the United States Government (or an agency thereof), in which case all matters relating to or arising out of the Agreement will be governed by the laws of the State in which the Software and Services are provided. The terms of the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.

**13.2. Negotiation; Mediation.** Either Party may initiate dispute resolution procedures by sending a notice of Dispute ("**Notice of Dispute**") to the other Party. The Parties will attempt to resolve the Dispute promptly through good faith negotiations, including timely escalation of the Dispute to executives who have authority to settle the Dispute (and who are at a higher level of management than the persons with direct responsibility for the matter). If a Dispute is not resolved through negotiation, either Party may initiate mediation by sending a notice of mediation ("**Notice of Mediation**") to the other Party. The Parties will choose an independent mediator within thirty (30) days of such Notice of Mediation. Neither Party may unreasonably withhold consent to the selection of a mediator, but if the Parties are unable to agree upon a mediator, either Party may request that the American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute. All in person meetings under this **Section 13.2 – Negotiation; Mediation** will take place in Chicago, Illinois, and all communication relating to the Dispute resolution will be maintained in strict confidence by the Parties. Notwithstanding the foregoing, any Dispute arising from or relating to Motorola's intellectual property rights will not be subject to negotiation or mediation in accordance with this Section, but instead will be decided by a court of competent jurisdiction, in accordance with **Section 13.3 – Litigation, Venue, Jurisdiction** below.

**13.3. Litigation, Venue, Jurisdiction.** If the Dispute has not been resolved by mediation within sixty (60) days from the Notice of Mediation, either Party may submit the Dispute exclusively to a court in Cook County, Illinois. Each Party expressly consents to the exclusive jurisdiction of such courts for resolution of any Dispute and to enforce the outcome of any mediation.

**14. General.**

**14.1. Compliance with Laws.** Each Party will comply with applicable laws in connection with the performance of its obligations under this Agreement, including that Customer will ensure its and its Authorized Users' use of the Software and Services complies with law (including privacy laws), and Customer will obtain any FCC and other licenses or authorizations (including licenses or authorizations required by foreign regulatory bodies) required for its and its Authorized Users' use of the Software and Services. Motorola may, at its discretion, cease providing or otherwise modify Software and Services (or any terms related thereto in an Addendum or Ordering Document), in order to comply with any changes in applicable law.

**14.2. Audit; Monitoring.** Motorola will have the right to monitor and audit use of the Subscription Software, which may also include access by Motorola to Customer Data and Service Use Data. Customer will provide notice of such monitoring to its Authorized Users and obtain any required consents, including individual end users, and will cooperate with Motorola in any monitoring or audit. Customer will maintain during the Term, and for two (2) years thereafter, accurate records relating to the Subscription Software licenses granted under this Agreement to verify compliance with this Agreement. Motorola or a third party (“**Auditor**”) may inspect Customer’s and, as applicable, Authorized Users’ premises, books, and records. Motorola will pay expenses and costs of the Auditor, unless Customer is found to be in violation of the terms of the Agreement, in which case Customer will be responsible for such expenses and costs.

**14.3. Assignment and Subcontracting.** Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Motorola may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.

**14.4. Waiver.** A delay or omission by either Party to exercise any right under this Agreement will not be construed to be a waiver of such right. A waiver by either Party of any of the obligations to be performed by the other, or any breach thereof, will not be construed to be a waiver of any succeeding breach or of any other obligation. All waivers must be in writing and signed by the Party waiving its rights.

**14.5. Severability.** If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision will be deemed to be modified to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law. The remaining provisions of this Agreement will not be affected, and each such provision will be valid and enforceable to the full extent permitted by applicable law.

**14.6. Independent Contractors.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership, or formal business organization of any kind.

**14.7. Third-Party Beneficiaries.** The Agreement is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software included in the Subscription Software will be a direct and intended third-party beneficiary of this Agreement.

**14.8. Interpretation.** The section headings in this Agreement are included only for convenience. The words “including” and “include” will be deemed to be followed by the phrase “without limitation”. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

**14.9. Notices.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as FedEx, UPS, or DHL), and will be effective upon receipt.

**14.10. Cumulative Remedies.** Except as specifically stated in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity, by contract, or otherwise. Except as specifically stated in this Agreement, the election by a Party of any remedy provided for in this Agreement or otherwise available to such Party will not preclude such Party from pursuing any other remedies available to such Party at law, in equity, by contract, or otherwise.

**14.11. Survival.** The following provisions will survive the expiration or termination of this Agreement for any reason: **Section 2.5 – Customer Obligations; Section 3 – Term and Termination; Section 4 – Payment and Invoicing; Section 6.2 – Warranty Disclaimer; Section 7.2 – Customer Indemnity; Section 8 – Limitation of Liability; Section 9 – Confidentiality; Section 10 – Proprietary Rights and Subscription Software License; Data; Feedback; Section 12 – Force Majeure; Delays Caused by Customer; Section 13 – Disputes; and Section 14 – General.**

**14.12. Entire Agreement.** This Agreement, including all Addenda and Ordering Documents, constitutes the entire agreement of the Parties regarding the subject matter hereto, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment, or other form will not be considered an amendment or modification or part of this Agreement, even if a representative of each Party signs such document.

The Parties hereby enter into this Subscription Software Agreement as of the Effective Date.

**Motorola: Motorola Solutions, Inc.**

**Customer: [REDACTED]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## ECH Add-on Cloud Interface Software Addendum

This ECH Add-on Cloud Software as a Service Addendum (this “**Interface Addendum**”) is entered into between Motorola Solutions, Inc., with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 (“**Motorola**”) and the entity set forth in the signature block below or in the Subscription Software Agreement (“**Customer**”), and will be subject to, and governed by, the terms of the Subscription Software Agreement entered into between the Parties, effective as of \_\_\_\_\_ (the “**Subscription Software Agreement**”), and the applicable Addenda. Capitalized terms used in this Interface Addendum, but not defined herein, will have the meanings set forth in the Subscription Software Agreement or the applicable Addenda.

**1. Scope.** This Interface Addendum covers certain add-on cloud products listed in EXHIBIT 1 (the “**Add-on Cloud Products**”) and will control with respect to conflicting terms in the Subscription Software Agreement or any other applicable Addendum, but only as applicable to the products and Services purchased under this Interface Addendum. A list of the on-premise software available for license under this Interface Addendum is attached hereto as EXHIBIT 2 (collectively, the “**Cloud Interface Software**”). In connection with the Add-on Cloud Products, Customer may also purchase certain Add-On Cloud Services as described in **Section 2.2 Services** hereto.

## **2. Applicable Terms and Conditions.**

### **2.1. Cloud Interface Software**

**2.1.1. Software License.** Subject to Customer’s and its Authorized Users’ compliance with the Subscription Software Agreement (including payment terms), Motorola hereby grants Customer and its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Cloud Interface Software identified in an Ordering Document, in object code form only, and the associated Documentation, solely in connection with the equipment provided by Motorola, or Customer-Provided Equipment (as applicable, the “**Designated Products**”) and solely for Customer’s internal business purposes. Unless otherwise stated in an Addendum or the Ordering Document, the foregoing license grant will be limited to the number of licenses set forth in the applicable Ordering Document and will continue for the life of the applicable Designated Product. Except as otherwise permitted in an applicable Addendum or Ordering Document, Customer may install, access, and use Cloud Interface Software only in Customer’s owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Cloud Interface Software remotely from any location.

**2.1.2. End User Licenses.** Notwithstanding any provision to the contrary in the Subscription Software Agreement, certain Cloud Interface Software is governed by a separate license, end-user license agreement, or other agreement, including terms governing third-party equipment or software, such as open source software, included in the Cloud Interface Software. Customer will comply, and ensure its Authorized Users comply, with any such additional terms applicable to third-party equipment or software.

**2.1.3. Customer Restrictions.** Customers and Authorized Users will comply with the applicable Documentation in connection with their use of the Cloud Interface Software. Customer will not and will not allow others, including the Authorized Users, to: (a) make the Cloud Interface Software available for use by

unauthorized third parties, including via a commercial rental or sharing arrangement; (b) reverse engineer, disassemble, or reprogram the Cloud Interface Software or any portion thereof to a human-readable form; (c) modify, create derivative works of, or merge the Cloud Interface Software with other software or equipment; (d) copy, reproduce, distribute, lend, lease, or transfer the Cloud Interface Software or Documentation for or to any third party without the prior express written permission of Motorola; (e) take any action that would cause the Cloud Interface Software or Documentation to be placed in the public domain; (f) use the Cloud Interface Software to compete with Motorola; or (g) remove, alter, or obscure, any copyright or other notice.

- 2.1.4. Copies. Customer may make one (1) copy of the Cloud Interface Software solely for archival, back-up, or disaster recovery purposes during the term of the applicable Cloud Interface Software license. Customer may make as many copies of the Documentation reasonably required for the internal use of the Cloud Interface Software during such Cloud Interface Software's license term. Unless otherwise authorized by Motorola in writing, Customer will not, and will not enable or allow any third party to: (a) install a licensed copy of the Cloud Interface Software on more than one (1) unit of a Designated Product; or (b) copy onto or transfer Cloud Interface Software installed in a unit of a Designated Product onto another device. Customer may temporarily transfer Cloud Interface Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Customer provides written notice to Motorola of the temporary transfer and identifies the device on which the Cloud Interface Software is transferred. Temporary transfer of the Cloud Interface Software to another device must be discontinued when the original Designated Product is returned to operation and the Cloud Interface Software must be removed from the other device. Customer must provide prompt written notice to Motorola at the time temporary transfer is discontinued.
- 2.1.5. Motorola Warranties. Subject to the disclaimers and exclusions set forth in this Interface Addendum, (a) to the extent permitted by the providers of third-party software included in the Add-on Cloud Products and Services, Motorola will pass through to Customer any warranties provided by such third parties, which warranties will apply for the period defined by the applicable third party, and (b) for a period of ninety (90) days commencing upon delivery of Motorola-owned Cloud Interface software, Motorola represents and warrants that such Cloud Interface Software, when used in accordance with the Documentation and the Interface Addendum, will be free from reproducible defects that prevent operation of features critical to the primary functionality or successful operation of the Motorola-developed Cloud Interface Software (as determined by Motorola). The warranty set forth in subsection (b) will be referred to as the "**Motorola Licensed Software Warranty**". As Customer's sole and exclusive remedy for any breach of the Motorola Licensed Software Warranty, Motorola will use commercially reasonable efforts to remedy the material defect in the applicable Cloud Interface Software; provided, however, that if Motorola does not remedy such material defect within a reasonable time, then at Motorola's sole option, Motorola will either replace the defective Cloud Interface Software with functionally-equivalent software, provide substitute software to Customer, or terminate the applicable software license and refund any paid license fees to Customer on a pro-rata basis. For clarity, the Motorola Licensed Software

Warranty applies only to the most current version of the Cloud Interface Software issued by Motorola, and issuance of updated versions of any Cloud Interface Software does not result in a renewal or extension of the Motorola Licensed Software Warranty beyond the ninety (90) day warranty period.

- 2.1.6. WARRANTY DISCLAIMER. EXCEPT FOR THE EXPRESS AND PASS THROUGH WARRANTIES IN THIS INTERFACE ADDENDUM, PRODUCTS AND SERVICES PURCHASED HEREUNDER ARE PROVIDED “AS IS” AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE INTERFACE ADDENDUM ARE THE COMPLETE WARRANTIES FOR THE SOFTWARE AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER’S PARTICULAR REQUIREMENTS.
- 2.1.7. ADDITIONAL EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS FROM DAMAGES SET FORTH IN THIS AGREEMENT, AND NOTWITHSTANDING ANY PROVISION OF THE SUBSCRIPTION SOFTWARE AGREEMENT AND THIS INTERFACE ADDENDUM TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN MOTOROLA, OR (B) TRACKING AND LOCATION-BASED SERVICES

## 2.2. Services.

- 2.2.1. Motorola will provide services related to purchased Add-on Cloud Products (“**Add-on Cloud Services**”), to the extent set forth in an Ordering Document.
- 2.2.2. Service Ordering Documents. The Fees for Add-on Cloud Services will be set forth in an Ordering Document and any applicable project schedules. A Customer point of contact will be set forth in the applicable statement of work for the Add-on Cloud Services. For purposes of clarity, each statement of work will be incorporated into, and form an integral part of, the Interface Addendum.
- 2.2.3. Integration Services. If specified in an Ordering Document, Motorola will provide, for the term of such Ordering Document, (a) design, deployment, and integration Services in order to design, install, set up, configure, and/or integrate the applicable Add-on Cloud Products at the applicable locations, agreed upon by the Parties (“**Integration Services**”) as further described in the applicable statement of work.
- 2.2.4. Completion of Integration Services. Unless otherwise specified in the applicable Ordering Document, Integration Services described in an Ordering Document will be deemed complete upon the earlier of Customer’s (or the applicable Authorized User’s) (i) Beneficial Use (as defined below) of the applicable Add-on Cloud Products or (ii) Motorola’s functional demonstration to Customer of the installation and integration of the Add-On Services. For clarity, if the Add-On Cloud Products are comprised of more than one product, Motorola may notify Customer that the installation and integration for a

particular product have been completed, and Customer may have Beneficial Use of such Add-On Product prior to having Beneficial Use of other Add-On Products. In such case, the installation and integration applicable to such product will be deemed complete upon Customer's Beneficial Use of the product. As used in this Section, "**Beneficial Use**" means the ability to use the material features and functionalities of a product in material conformance with product descriptions in the applicable Ordering Document.

- 2.2.5. Post-Installation Support and Maintenance Services.** Motorola agrees to provide Customer support services, if purchased, as identified in the applicable accepted Order Document and in accordance with the applicable Motorola support documentation. Support for Motorola proprietary software and firmware is available pursuant to Motorola's Next Generation 9-1-1 Software Support Program, a copy of which is attached hereto as **EXHIBIT 3** and incorporated herein by reference. Motorola's Managed Services such as Remote Monitoring, AntiVirus Definition Update Services, Disaster Recovery Services and Patch Management Services are available, if purchased, pursuant to the terms and conditions of the Motorola's Managed Services Offerings Policy which is attached hereto as **EXHIBIT 4** and incorporated herein by reference. The purchase of Add-on Cloud Products includes Cloud Interface Software that allows connectivity to the cloud services. If Customer currently has or purchases a new Monitoring and Response agreement for VESTA 9-1-1, technical support will be included for Add-on Cloud Products. Monitoring of Add-on Cloud Products events will be included as long as additional appropriate application licenses have been acquired and installed. To the extent applicable for a given service, Motorola may, at its sole discretion, include storage for certain services ordered under the Agreement.

**EXHIBIT 1 – ADD-ON CLOUD PRODUCTS**

CommandCentral Citizen Input (“**Citizen Input**”)  
CommandCentral Smart Transcription (“**Smart Transcription**”)

**EXHIBIT 2 –CLOUD INTERFACE PRODUCTS**

Console Transcription Application (CTA)  
VESTA API  
VESTA Edge

**EXHIBIT 3 - NEXT GENERATION 9-1-1 SOFTWARE SUPPORT PROGRAM**

*[see attached]*



# **NEXT GENERATION 9-1-1 SOFTWARE SUPPORT PROGRAM**

**Motorola Solutions**

**REV. C  
10/11/2016**





## REVISION HISTORY

Date	Version	Author	Change
10/11/2016	C	Office of General Counsel	MSI Rebranding

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Motorola Solutions offers application software and firmware support to purchasers of its proprietary application software and firmware products, in accordance with the terms and conditions of this Next Generation 9-1-1 Software Support Program (“Support Program”). A minimum one year term is required with all software license purchases. This Support Program does not apply to third party, non-proprietary application software, system software or ancillary software.

## 1. GENERAL

### 1.1 Definitions

“**Customer**” is defined as the party purchasing the Support Program from Motorola Solutions.

“**End User**” is defined as the user of the application software or firmware supported hereunder.

“**Firmware**” is defined as programs kept in semi-permanent storage, such as various types of read-only memory. Firmware contains software that is so constantly called upon by a computer or phone system that it is “burned” into a chip, thereby becoming firmware. Firmware is non-volatile; it will not be forgotten when the power is turned off. “**Software**” is defined as computer program instructions that facilitate functionality within hardware. There are three main types of software. System software (operating systems, i.e. Windows 7), which is not supported hereunder, controls the working of the computer. Ancillary software, which is not supported hereunder, includes database applications, back up products, and other third party software. Application software is designed to perform specific tasks. This Support Program applies to proprietary application software and firmware only.

## 1.2 Term of the Support Program

The Support Program may be purchased in 1-year, 2-year, 3-year, 4-year or 5-year terms, unless the related software or firmware has reached a point in its lifecycle where only a shorter Support Program term is available. Any such limitation on Support Program terms will be communicated to the Customer at the time of purchase. In all cases, the term commences on the date the software or firmware is shipped from Motorola Solutions (“Support Program Effective Date”). In connection with the purchase of the Support Program for a term of any duration, or upon the expiration of the term of the Support Program, the Customer may purchase an extension of the term in one month increments provided that the one month increments are for the purpose of achieving a term coterminous with other active Support Programs or Managed Services Programs. The fee for each one month increment shall be equal to one-twelfth of the fee for a one year term of the applicable Support Program. In the event the Customer purchases new products or modules to add on to an existing system (see Section 3.1 below), the new products or modules will be added to and covered by the Customer’s applicable Support Program, and the incremental support fee shall be calculated based on the remaining term of the Customer’s applicable Support Program. For example, if a new module is purchased and the Customer’s applicable Support Program has a remaining term of 27 months, the Customer will be charged a support fee to cover the 27 months period.

## 1.3 Renewal of Support Program

### 1.3.1 Renewal

Motorola Solutions offers renewal terms in 1-year, 2-year, 3-year, 4-year or 5-year durations. The length of a renewal term may be limited if the related software or firmware has reached a point in its lifecycle where only a shorter support term is available. Any such limitation on Support Program terms will be communicated to the Customer at the time of purchase.

The renewal rate for all Support Programs offered by Motorola Solutions shall be the prevailing Support Program fee for the related application software or firmware at the time of renewal. In order to avoid a Support Program Reinstatement Fee, the Customer must renew the program prior to the expiration of the initial Support Program term or within the Motorola Solutions provided grace period. The applicable grace period within which to order and receive renewal of the initially purchased Support Program is 90 calendar days. Any ancillary or third party software or firmware support which the Customer may have purchased in addition to this Support Program terminates immediately upon its expiration. **Note:** To the extent a Customer has purchased support for ancillary or third party software or firmware, this Support Program does not apply to such ancillary or third party software or firmware and, therefore, no grace period is applicable to such support.

### 1.3.2 Reinstatement Fee

If the Support Program is not renewed prior to expiration of the existing term or grace period, if applicable, then the Customer, in addition to being charged the applicable Support Program Renewal Fee, will also be subject to the prevailing Support Program Reinstatement Fee as set forth in the applicable price list upon Support Program renewal.

### 1.3.3 Software and Firmware Support Program Renewal Effective Date

The renewal term will commence on the first day of the month following the month in which the renewal order is received from the Customer and accepted by Motorola Solutions or on the date on which the prior term expired, whichever is later. The renewed Software and Firmware Support Program terminates upon expiration of the renewal term purchased. No grace period is provided when renewing a Support Program which previously has been renewed.

## 1.4 Cancellation of Support Program

### 1.4.1 Cancellation by the End User

The Customer may cancel the Support Program at any time and for any reason with written notice to Motorola Solutions. Cancellations will be effective upon the first day of the month following notification (“Customer Cancellation Date”). Any prepaid Support Program fee shall be refunded on a prorated basis from the Customer Cancellation Date through the end of the purchased term, less a cancellation fee equal to ten percent of the initial cost (or renewal cost as applicable) of the Support Program. Partial cancellations may be made for deactivation of a PSAP or positions. Cancellations may not be made on a component basis.

### 1.4.2 Cancellation by Motorola Solutions

Motorola Solutions may cancel the Support Program upon 30 calendar days’ notice to the Customer (“Motorola Solutions Cancellation Date”), if the Customer is in material breach of its obligations hereunder. Motorola Solutions may also cancel the Support Program if Customer cannot or will not fulfill its operating environment responsibilities as described in Section 1.7 below, and/or as a result, the End User is not maintaining a software or firmware release that is a current version minus one (1), as required by Section 1.6 below. In the event of cancellation by Motorola Solutions, any prepaid Support Program fee shall be refunded on a prorated basis from the Motorola Solutions Cancellation Date, less a cancellation fee equal to ten percent of the initial cost (or renewal cost as applicable) of the Support Program.

## 1.5 **Motorola Solutions Software Versioning**

Beginning with the release of VESTA 9-1-1 R6, Motorola Solutions will adopt a new software versioning system. It will move from an xx.yy scheme (such as VESTA Pallas 3.02) to an xx.yy.zz versioning system. For example, under the new versioning system, VESTA 9-1-1 R6 will be released as VESTA 9-1-1 06.00.00. Generally, a change to the zz portion of the version number will reflect a Fix (defined below). Therefore, a Fix to the VESTA 9-1-1 06.00.00, will be reflected as 06.00.01. A change to the yy portion of the version number will reflect an Update (defined below). Therefore, an Update to the VESTA 9-1-1 06.00.01 will be reflected as 06.01.01. A change to the xx portion of the version number will reflect an Upgrade (defined below) which may also include Updates and Fixes. Therefore, an Upgrade to the VESTA 9-1-1 06.01.01, will be reflected as 07.00.00. As part of the Support Program customers will receive Fixes, Updates and Upgrades at no additional charge as further defined below.

## 1.6 **Conditions of the Support Program**

### 1.6.1 **Next Generation 9-1-1 Software Support Program**

In order to keep the Support Program active, the Customer is required to:

1. Ensure that the End User maintains a Motorola Solutions application software and firmware release that is the current version or current version minus one Update (the yy portion of xx.yy.zz software version). In other words if, for example, the current version of VESTA 9-1-1 were 06.02.03, The End User may be on any version of 06.02.zz regardless of the “zz” number, or they may be on 06.01.zz regardless of the “zz” number. In this example, the End User would be out of compliance with this requirement if it were on VESTA 9-1-1 06.00.01 as the Update (yy number) would be older than current version minus one Update;
2. Pay all applicable Support Program Fees;
3. Comply with all terms and conditions of this Support Program

## 1.7 **Customer’s Operating Environment Responsibilities**

### 1.7.1 **Hardware Operating Environment**

It is the Customer’s responsibility to ensure that the hardware operating environment is fully functional and meets the Motorola Solutions and OEM minimum operating requirements. In the event a software or firmware Fix, Update or Upgrade is available hereunder and requires a hardware upgrade to implement, Customer is responsible for the cost of such hardware upgrade.

## 1.7.2 Operating System and Ancillary Software and Firmware Environment

It is the Customer's responsibility to ensure that the operating system and ancillary software and firmware are fully functional, commercially available (except as otherwise agreed in writing by Motorola Solutions) and meet Motorola Solutions' minimum operating requirements for Motorola Solutions' software and firmware product(s). However, Motorola Solutions may provide fixes and/or updates for operating systems when applicable and available by the respective manufacturer. In the event a software or firmware Fix, Update or Upgrade provided hereunder requires an operating system and/or ancillary and/or third party software or firmware change to implement, the Customer is responsible for the cost of such operating system and/or ancillary and/or third party software or firmware change.

## 2. SUPPORT SERVICES PROVIDED

### 2.1 Motorola Solutions' Technical Support Center

#### 2.1.1 Telephone Support

As part of the Support Program, Motorola Solutions provides 7 day / 24 hour access to its Technical Support Center. This technical support is designed to support the Customer's technician who has been previously trained in the product about which they are calling. The Customer's technician is responsible for attempting to troubleshoot the problem prior to calling. In the event a Customer's technician is not adequately trained in the product about which he or she is calling, Motorola Solutions will request that additional Customer support be brought into the troubleshooting activity, and if the Customer is not able to provide additional support, Motorola Solutions may provide assistance at the prevailing Technical Support time and materials rates to Customers with an active Support Program. Motorola Solutions does not guarantee the provision of such services but may provide such at its discretion on a best efforts basis. Motorola Solutions will invoice Customer for such services following rendering and payment shall be due in accordance with Customer's contract with Motorola Solutions which governs the related software of firmware purchase.

#### 2.1.2 Telephone Support Procedures

##### **Accessing Motorola Solutions' Technical Support Center**

Motorola Solutions' Technical Support Center may be accessed by the Customer's technician via our toll free number, 1-800-491-1734 or through email at [vesta.techsupport@motorolasolutions.com](mailto:vesta.techsupport@motorolasolutions.com). With respect to any issue reported, the following information is requested:

- Caller's name
- Caller's company
- Call Center Name and Location
- Caller's contact number
- Severity of the problem
- Description of the problem
- When the problem first occurred
- If there were any recent changes to the system
- Operational impact of the problem
- How often the problem is occurring
- If the problem can be recreated
- What work was done thus far and the results of that work
- If the problem has been escalated within your company
- What other problems are occurring at the site
- If documentation is on-site and is it being used to resolve the problem



Upon contacting Motorola Solutions' Technical Support Center, the Customer's technician will receive a Case Number for tracking the service request. The Case Number will enable the Customer's technician to check the status of a case at any time by calling the Technical Support Center and selecting the applicable option.

### 2.1.3 Problem Diagnostics and Resolution

Motorola Solutions technical support personnel will assist the customer's technician in resolving the issue, but it is the Customer technician's responsibility to implement the solution. Because of the complexity of how the application interfaces with other devices and applications it is necessary that the Customer technician be able to understand the recommended solution and determine the applicability of the solution for the system being supported.

If the Customer technician is not able to resolve the issue it is expected the Customer bring in a second tier to support the effort. Motorola Solutions is not responsible for the actions of the Customer technician. If the problem is beyond the scope of the Motorola Solutions Technical Support Specialist, the problem will be escalated to a more senior Product Support Specialist and where necessary include development resources. Once the Customer resolves the problem, the Customer's technician will call the Technical Support Center to report resolution. The Motorola Solutions Technical Support Specialist will document the Customers repair activity into the case and then close the case.

## 2.2 Application Software and Firmware Program Fixes

Application software and firmware program Fixes are defined as resolutions to problems that result from a defect in the application software or firmware product or supplied documentation. Customers will be notified of the availability of program Fixes by a Motorola Solutions Product Change Notice. The Customer shall then contact Motorola Solutions' Order Management to order the program Fix at no additional charge provided that the Support Program is in effect. The program Fix will be available only within the current release of the product and subsequently will be incorporated into future software or firmware program updates. For the sake of accurate clarification as to the detected problem, the Customer is required to submit to Motorola Solutions a written description of the problem including date, time, position, any diagnostic data, and a general description of the problem. Such written description shall be sent to, or provided electronically to Motorola Solutions' Technical Support Center. Any change in the "zz" portion of the xx.yy.zz software version shall constitute an application software program Fix. For example a change from VESTA 9-1-1 06.01.02 to 06.01.03 represents an application software program Fix.

## **2.3 Application Software and Firmware Program Updates**

Application software and firmware program Updates are defined as minor enhancements to the already purchased product feature / functionality set. A product change is classified as minor, in the discretion of Motorola Solutions, based upon the impact of the change to the core functionality of the product. Customers will be notified by a Motorola Solutions Product Change Notice, of all application software and firmware program Updates, which occur within the term of the Support Program. The Customer shall then contact Motorola Solutions' Order Management to order the Update at no additional charge provided that the Support Program is in effect. Application software and firmware program Updates will roll into the existing Support Program, thereby not extending the term of the Support Program. Any change in the "yy" portion of the xx.yy.zz software version shall constitute an application software program Update. For example a change from VESTA 9-1-1 06.01.02 to 06.02.00 represents an application software program Update.

## **2.4 Application Software and Firmware Program Upgrades**

Application software and firmware program Upgrades are defined as major enhancements to the already purchased product feature / functionality set or incremental new features or functionality. A product change is classified as an Upgrade in the discretion of Motorola Solutions. Customers will be notified by a Motorola Solutions Product Change Notice, of all application software and firmware program Upgrades, which occur within the term of the Support Program. The Customer may then contact Motorola Solutions' Order Management to order the Upgrade at no additional charge provided that the Support Program is in effect. Software and firmware program Upgrades will roll into the existing Support Program, thereby not extending the term of the Support Program. Any change in the numbers. Any change in the "xx" portion of the xx.yy.zz software version shall constitute an application software program Upgrade. For example a change from VESTA 9-1-1 06.01.02 to 07.00.00 represents an application software program Upgrade.

## **3. SUPPORT SERVICES NOT PROVIDED**

### **3.1 New Software and Firmware Modules Requiring Separate License**

New software and firmware modules are defined as separate and significant functionality outside the already purchased feature set of the software and firmware products. New software and firmware modules are not included as part of this Support Program as they require a separate license. New software and firmware modules will be made available at a price to be determined upon their release. Examples of new products or modules include, but are not limited to the following: ESInet Interface Module (EIM), application protocol interfaces (API) such as an API for CAD, geodiversity, functionality to enable receipt and processing of pictures or images via MMS, fixed video files, social media, sensor data, video chat, DOT video cameras, security/border video cameras, streaming audio, and streaming video

### **3.2 On-site Installation or Project Management Support**

On-site installation and/or project management services are not covered under this Support Program. Such services may be provided pursuant to a separate Statement of Work detailing the specific services to be rendered for a given project and the applicable price.

### **3.3 Training**

Training is not covered under this Support Program. Training is available at Motorola Solutions' prevailing rates.

### **3.4 Remote Diagnostic and Resolution Services**

Remote diagnostic and resolution services such as Managed Services and remote dial-in are not covered under this Support Program. Such services are available pursuant to Motorola Solutions' Managed Services Program at Motorola Solutions' prevailing rates.

### **3.5 Post Installation Support Limitations**

Motorola Solutions' support obligations hereunder will not apply to any Motorola Solutions supported application software or firmware if correction of an error, adjustment, repair, or parts replacement is required because of:

- Accident, neglect, tampering, misuse, improper / insufficient grounding, failure of electric power, failure of the Customer, the End User and/or others to provide appropriate environmental conditions, relocation of hardware or software, or causes other than ordinary use.

- Repair or alteration, or attempted repair or alteration of any Motorola Solutions supported product (hardware and/or software) by the Customer, the End User or others, unless otherwise approved in writing by Motorola Solutions.
- Connection of another machine, device, application or interface to Motorola Solutions supported equipment (hardware and/or software) by the Customer, the End User or others, which has caused damage to Motorola Solutions supported equipment.
- Damage or destruction caused by natural or man-made acts or disasters.
- Failure or degradation in performance of Motorola Solutions supported equipment (hardware and/or software) due to the installation of another machine, device, application or interface not specifically certified and approved by Motorola Solutions for use in the End User's environment.
- The operation of the software in a manner other than that currently specified by Motorola Solutions in its applicable Motorola Solutions product documentation.
- The failure of the Customer to provide suitable qualified and adequately trained operating and maintenance staff.
- Incompatible or faulty End User hardware and/or software interfaces.
- Modifications made without Motorola Solutions' written approval to the OS, network, hardware or software environment or software applications.

Further, support described herein does not include cosmetic repairs, refurbishment, furnishing consumables, supplies or accessories, making accessory changes, performance of preventive maintenance or system administration, or adding additional devices or software applications.

Motorola Solutions may provide assistance at the prevailing Technical Support time and materials rates to Customers with an active Support Program. Motorola Solutions does not guarantee the provision of such services but may provide such at its discretion on a best efforts basis. Motorola Solutions will invoice Customer for such services following rendering and payment shall be due in accordance with Customer's contract with Motorola Solutions which governs the related software and/or firmware purchase.

## **3.6 Other Services**

Other services not specifically identified as being included in the support services provided hereunder are not included.

## 4. WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY

This Support Program shall not be construed as providing a software or firmware warranty. Motorola Solutions' software and firmware warranty is set forth in its applicable End User License Agreement. In the event of a conflict between the language of this Article IV and the agreement pursuant to which Customer purchased the applicable Support Program, the terms of such agreement shall prevail.

### **WARRANTY DISCLAIMER:**

**THE WARRANTIES IN THIS AGREEMENT, IF ANY, ARE GIVEN IN LIEU OF AND EXPRESSLY EXCLUDE ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION (A) ANY WARRANTY THAT ANY SOFTWARE OR FIRMWARE IS ERROR-FREE, WILL OPERATE WITHOUT INTERRUPTION, OR IS COMPATIBLE WITH ALL EQUIPMENT, HARDWARE, FIRMWARE AND SOFTWARE CONFIGURATIONS; AND (B) ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, OR ACCURACY OF INFORMATIONAL CONTENT.**

### **LIMITATION OF LIABILITY:**

**IN NO EVENT SHALL VESTA SOLUTIONS, ITS SUPPLIERS OR SUBCONTRACTORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR ANY OTHER PECUNIARY LOSS ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE AND/OR FIRMWARE SUPPORTED HEREUNDER OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF VESTA SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL VESTA SOLUTIONS' LIABILITY EXCEED THE AMOUNT PAID BY CUSTOMER FOR THIS SUPPORT PROGRAM.**

**EXHIBIT 4 - MANAGED SERVICES OFFERINGS POLICY**

*[see attached]*



# MANAGED SERVICES OFFERINGS POLICY

**Motorola Solutions**

**REV. C  
07/16/2015**



## REVISION HISTORY

Date	Version	Author	Change
07/16/2015	C	Office of General Counsel	MSI Rebranding



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For a fee, Motorola Solutions provides certain service offerings to purchasers of its VESTA product lines software, in accordance with the terms and conditions of this Managed Services Offerings. The scope of the services include, and are limited to, the services described herein.

## 1. GENERAL

### 1.1 Definitions

**“Customer”** is defined as the party purchasing the Managed Services Offering from Motorola Solutions.

**“End User”** is defined as the user of the application software or firmware serviced hereunder.

**“Firmware”** is defined as programs kept in semi-permanent storage, such as various types of read-only memory. Firmware contains software that is so constantly called upon by a computer or phone system that it is “burned” into a chip, thereby becoming firmware. Firmware is non-volatile, it will not be forgotten when the power is turned off. As an example, the ECS system contains a collection of firmware files corresponding to the individual system modules.

**“Software”** is defined as computer program instructions that facilitate functionality within hardware. There are three main types of software. System software (operating systems, i.e. Windows 7 Server 2007) controls the working of the computer. Ancillary software includes database applications, back up products, and other third party software. SQL Server and Backup Exec are considered ancillary software. Application software is designed to perform specific tasks. VESTA 911<sup>®</sup>, VESTA Analytics<sup>®</sup> and VESTA Mapping are examples of application software.

### 1.2 Term of the Managed Services Offerings

The Managed Services Offerings can be purchased in 1-year, 2-year, 3-year, 4-year or 5-year terms unless the related software or firmware has reached a point in its lifecycle where only a shorter Managed Services Offering term is available. Any such limitation on Managed Services Offering terms will be communicated to the Customer at the time of purchase. Further, Motorola Solutions generally notifies Customers pursuant to its Product Change Notice procedure of relevant lifecycle events 120 days prior to the onset of such event. In all cases, the term commences on the date service Offerings are activated at the site. In connection with the purchase of the Managed Services Offerings for a term of any duration, or upon the expiration of the term of the Managed Services Offering, the Customer may purchase an extension of the term in one month increments provided that the one month increments are for the purpose of achieving a term coterminous with other active Managed Services Offerings or Next Generation 9-1-1 Software Support Program. The fee for each one month increment shall be equal to one-twelfth of the fee for a one year term of the applicable Managed Services Offering.

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## **1.3 Renewal of Managed Services Offering**

### **1.3.1 Renewal**

Motorola Solutions offers renewal terms in 1-year, 2-year, 3-year, 4-year or 5-year duration or monthly increments with the intent to co-term support (as described in Section 1.2 above). The length of a renewal term may be limited if the VESTA System has reached a point in its lifecycle where only a shorter term is available. Any such limitation on Managed Services Offerings terms will be communicated to the Customer at the time of purchase. The renewal rate for all Managed Services Offerings by Motorola Solutions shall be the prevailing Managed Services fee at the time of renewal. In order to avoid a Service Reinstatement Fee, the Customer must renew the Service prior to the expiration of the applicable Managed Services Offering term.

### **1.3.2 Reinstatement Fee**

If the Managed Services Service is not renewed prior to the expiration of the existing term, then the Customer, in addition to being charged the applicable Managed Services Renewal fee, will also be subject to the prevailing Managed Services Reinstatement Fee upon service renewal.

### **1.3.3 Managed Services Service Renewal Effective Date**

The renewal term will commence on the first day of the month following the month in which the renewal order is received from the Customer and accepted by Motorola Solutions or on the date on which the prior term expired, whichever is later. The renewed Managed Services Offering terminates upon expiration of the renewal term purchased.

## **1.4 Cancellation of Managed Services Offering**

### **1.4.1 Cancellation by the End User**

The Customer may cancel the Managed Services Offering at any time and any prepaid support shall be refunded on a prorated basis, less a cancellation fee equal to ten percent of the initial cost (or renewal cost as applicable of the Managed Services Offering. A separate Managed Services Offering is purchased for software license, therefore, a separate cancellation fee applies per license purchased.

## 1.4.2 Cancellation by Motorola Solutions

Motorola Solutions may cancel the Managed Services Offering upon 30 calendar days notice to the Customer, if the Customer is in material breach of its obligations hereunder. Motorola Solutions may also cancel the Managed Services Offering(s) if the related Next Generation 9-1-1 Software Support Program expires or is terminated or Customer cannot or will not fulfill its operating environment responsibilities as described in Section 1.6 below, and as a result, the End User is not maintaining a software release that is the current version or current version minus one as required by Section 1.5 below. Additionally, Motorola Solutions may cancel the Managed Services Offering if the Customer is unwilling or unable to provide the required network connectivity. In the event of cancellation by Motorola Solutions any prepaid Managed Services Offering fee shall be refunded on a prorated basis, less a cancellation fee equal to ten percent of the initial cost (or renewal cost as applicable) of the Managed Services Offering.

## 1.5 Conditions of Managed Services Offerings

In order to keep the Managed Services Offerings active, the Customer is required to:

1. Ensure that the VESTA System application software and firmware release that is the current version or current minus one. The application software and firmware release dates are determined by the date of the related product release notice as specified in the applicable published Product Change Notice;
2. Ensure that an internet circuit providing a minim of 1.5 Mbps bidirectional connection is available to Motorola Solutions. .
3. All equipment or software not provided by Motorola Solutions has been certified by Motorola Solutions in accordance with the Third Party Integration/Cohabitation Policy. Any alterations made to the Managed Services Offering software or hardware products by other than Motorola Solutions without Motorola Solutions written consent will result in termination of the Managed Services Offering(s);
4. Pay all applicable Managed Services Fees;
5. Comply with all terms and conditions of this Managed Services Offerings.
6. All products installed and monitored must be maintained throughout the monitoring period under an active Next Generation 9-1-1 Software Support Program and Motorola Solutions Hardware Repair and Warranty Policy.

## 1.6 Customer's Operating Environment Responsibilities

### 1.6.1 Hardware Operating Environment

It is the Customer's responsibility to ensure that the hardware operating environment is fully functional and meets Motorola Solutions and OEM minimum operating requirements. It shall be the responsibility of the Customer to correct all deficiencies at its expense.

## 1.6.2 Operating System and Ancillary Software and Firmware Environment

It is the Customer's responsibility to ensure that the operating system and ancillary software and firmware are fully functional, commercially available (except as otherwise agreed to by Motorola Solutions) and meet Motorola Solutions recommended operating requirements for Motorola Solutions VESTA System(s). However, Motorola Solutions may provide service pack updates for operating systems when applicable and available by the respective manufacturer. It shall be the responsibility of the Customer to correct all deficiencies at its expense.

## 2. SERVICES PROVIDED

### 2.1 Motorola Solutions Monitoring Offering

Remote monitoring is provided 7 days a week, 24 hours a day, for the designated Motorola Solutions systems and/or products monitored hereunder. General product and system alerts, as well as specific system performance thresholds established during service plan implementation, are continually monitored. Anytime an actionable alert event is detected or the system performance/environment exceeds a threshold limit, the remote monitoring team is automatically notified by the system. A Managed Services Support Personnel reviews all alert notifications. An actionable alert event is one that the Managed Services Support Personnel deems service affecting to the End User. When it is determined a response is required, Managed Services Support Personnel will begin the diagnostic process. The Support Engineer may employ performance monitoring and other diagnostic tools to enable the interrogation of the respective site's network, including routers, hubs, workstations, servers and other monitored devices.

The designated systems and/or products monitored hereunder are as follows:

#### **Operating System Monitoring**

Only the operating system certified by Motorola Solutions and installed as part of the Motorola Solutions system is monitored. Managed Services does not monitor Motorola Solutions products installed on adjoining or separate networks, e.g. city or county network, other system network, etc.

#### **Network System Monitoring**

Only those networks accepted by Motorola Solutions and installed as part of the Motorola Solutions system network are monitored. Managed Services does not monitor Motorola Solutions products installed on adjoining or separate networks unless the customer contracts Motorola Solutions to perform discovery on the capability, and only after Motorola Solutions Managed Services Engineers identify, and the customer approves, a variable integration plan to support the request.

#### **Hardware/Software Monitoring**

Managed Services monitors the hardware/firmware shipped with the system being monitored. Upgrades to the hardware/firmware may be required for existing systems where Managed Services are purchased after the original shipment of the system.

#### **Application Software Monitoring**

Managed Services monitors all application software developed by Motorola Solutions, and third party application provided with the system that generate SNMP traps or events captured by the Microsoft Operating System Event Logs.

## 2.2 Remote Problem Resolution

Managed Services responsibilities are limited to resolving those alerts actually detected via remote monitoring. Once detected, a Managed Services Support Personnel will diagnose and attempt to resolve problems using remote access tools. In cases where the alert is not remotely correctable, or on-site support is required to continue diagnostic process, the Customer will be notified that a Customer technician is required on site.

The Support Engineer will contact the Customer and provide the following information:

- Site Name where an alert has been received from
- Problem Description
- Description of any work performed
- Equipment affected
- Parts required, if any
- Software required, if any
- Action required by the responding on-site technician

It is up to the Customer to determine their response to the site based on their contracted service level.

Problems detected or identified by any means other than Managed Services remain the sole responsibility of the Customer technician to troubleshoot and correct.

## 2.3 7 x 24 Telephone Support

Managed Services is staffed 24 hours a day, 7 days a week. Managed Services Customers will be provided a separate support code to access Support Personnel via Motorola Solutions Technical Services toll free number 1-800-491-1734 option 4. This access is provided to Customers who have questions relative to remote monitoring or other services contracted by the customer. Customers also have access to Motorola Solutions Technical Support Center to request assistance in supporting non Managed Service services.

## 2.4 Response Times

Response time is defined as the period of time between alert or call receipt and the time a Motorola Solutions Support Engineer begins analyzing the alert. Motorola Solutions response time commitment for response to alerts detected and received by Managed Services is an average of five minutes.

## 2.5 Response Status Reports

Managed Services maintains a website at [www.MC911.com](http://www.MC911.com) for Managed Services Customers to access, view, and retrieve statistical information. Upon site activation, Motorola Solutions will provide the Customer access to this web site.

Based on the services provided, customers will have insight into: specific equipment reliability; the need for equipment replacement or upgrade; application and operating system issues; and at times, operational issues that need to be addressed.

Data will include the following information:<sup>1</sup>

- All alert events received (each with unique event ID)
- Categorized alert severity
- Alert event date and time
- Alert notification by device
- Responses by message text
- Total number of alerts received (by defined time period)
- Alert events requiring a Motorola Solutions case
- Case status information
- Third party case number (if applicable)
- Alert events dispatched
- Case close date and time

## 2.6 Security

Security is an important, necessary concern for Customers considering remote management. Security itself is a function of the method of system access (frame relay, virtual private network, etc.) and the software product configuration as well as Customers and Managed Services policies.

Motorola Solutions will work directly with Customers to ensure that particular security concerns, as they pertain to Managed Service Offerings, are met. Proper network access configuration will be established for every participating Customer. To maintain the highest network security, Motorola Solutions requires Managed Services Customers to contact Managed Services prior to modification to the network or security configuration.

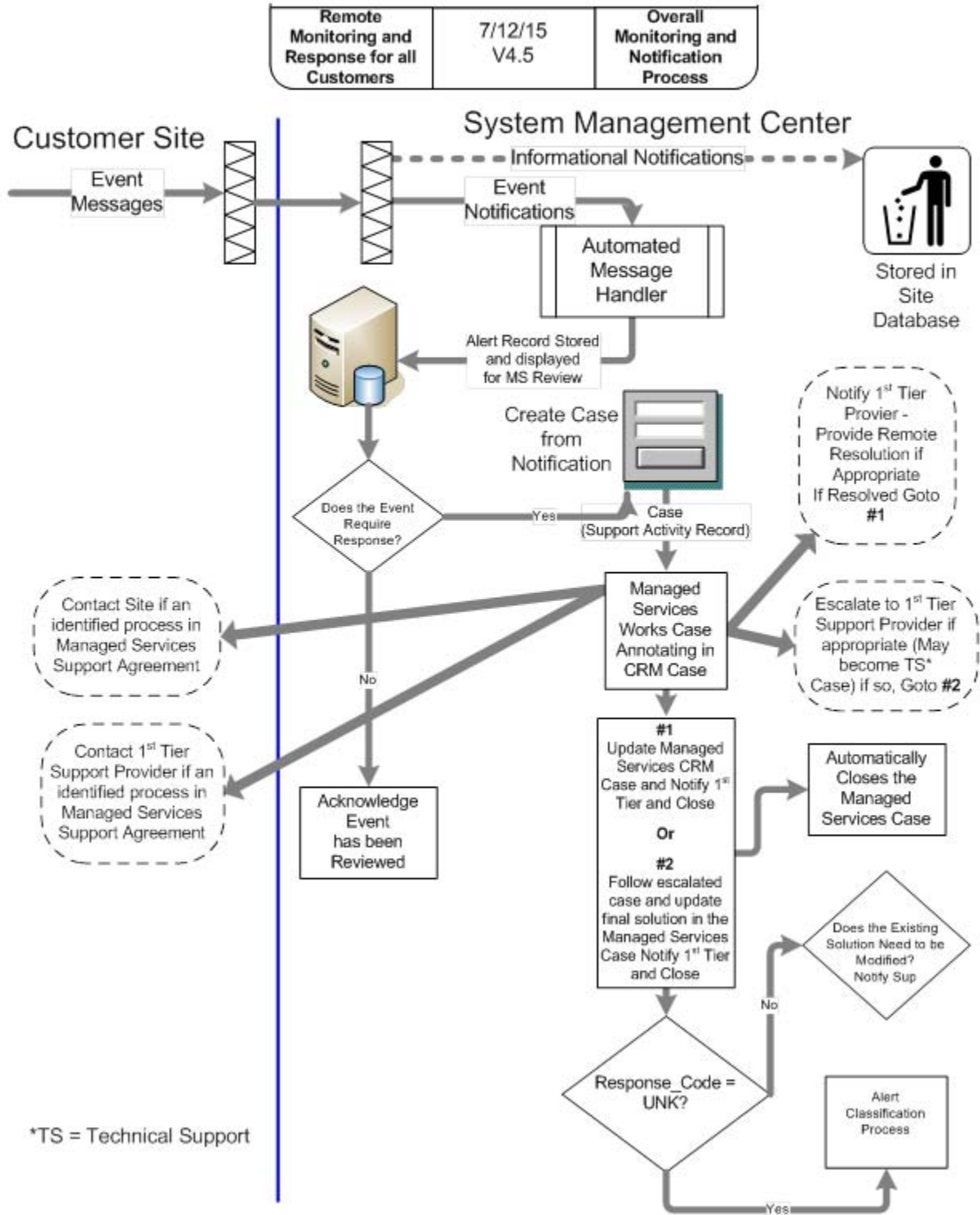
## 2.7 Alert Handling and Notification Process

Below is the standard flowchart for Alert Handling and Notification Process followed by Motorola Solutions Managed Services.

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<sup>1</sup> Customer login determines access to site data and statistical information.





## 3. ADDITIONAL FEE-BASED MANAGED SERVICES

The additional services described below are available for additional fees. Customers may contact Motorola Solutions Inside Sales for details and pricing for all fee-based managed services.

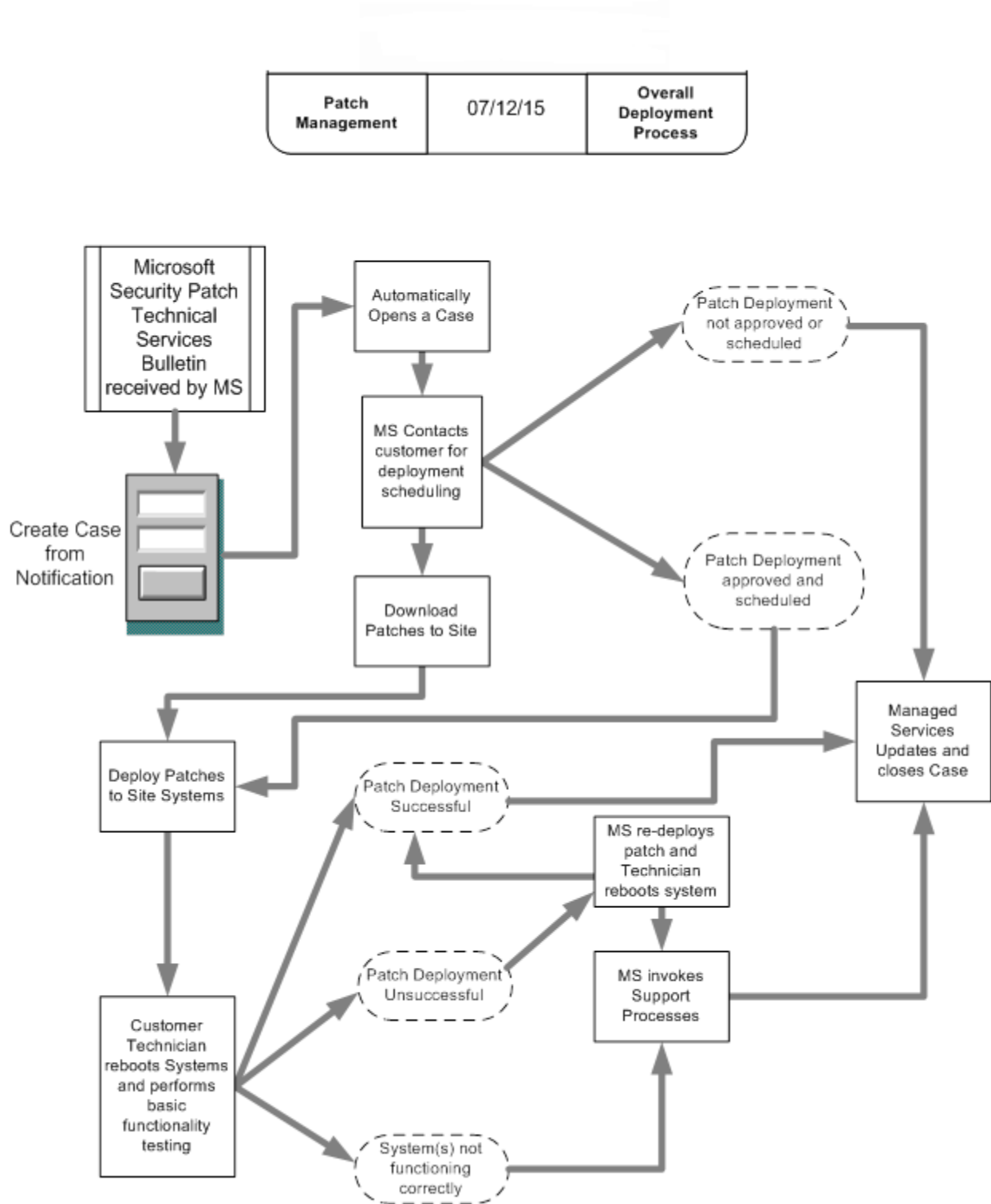
### 3.1 Managed Service - Patch Management

This service provides remote, schedulable delivery of critical (Motorola Solutions tested) Microsoft Security patches to computers. Installation of critical security patches is a crucial part of securing the VESTA System against today's threats.

#### Scope of Service

- *Patch Deployment.* Through high-speed, secure (VPN) remote connections Motorola Solutions has the ability to automatically deploy newly certified patches to sites. The deployment of the patch, including optimum installation time, acceptable reboot sequences, further 3<sup>rd</sup> Party testing, limited rollout, etc, is completely custom in nature (within the confines of the software and Motorola Solutions Patch Management Policy). Each site will require a collaborative agreement between the Customer and Motorola Solutions.
- *Recovery.* Where a system requires reinstallation of the Operating System, this service will provide for the reinstallation of all previously tested Security Patches bringing the system to the latest release.
- *Testing.* Motorola Solutions conducts patch testing in accordance with Motorola Solutions Patch Management Policy. In many cases, it may be prudent for sites to conduct additional testing in conjunction with Motorola Solutions. Motorola Solutions prefers to rollout patches to a 'test-environment' at the Customer site before deploying in masse; however, this is subject to availability and Customer approval.

**Service Processes**



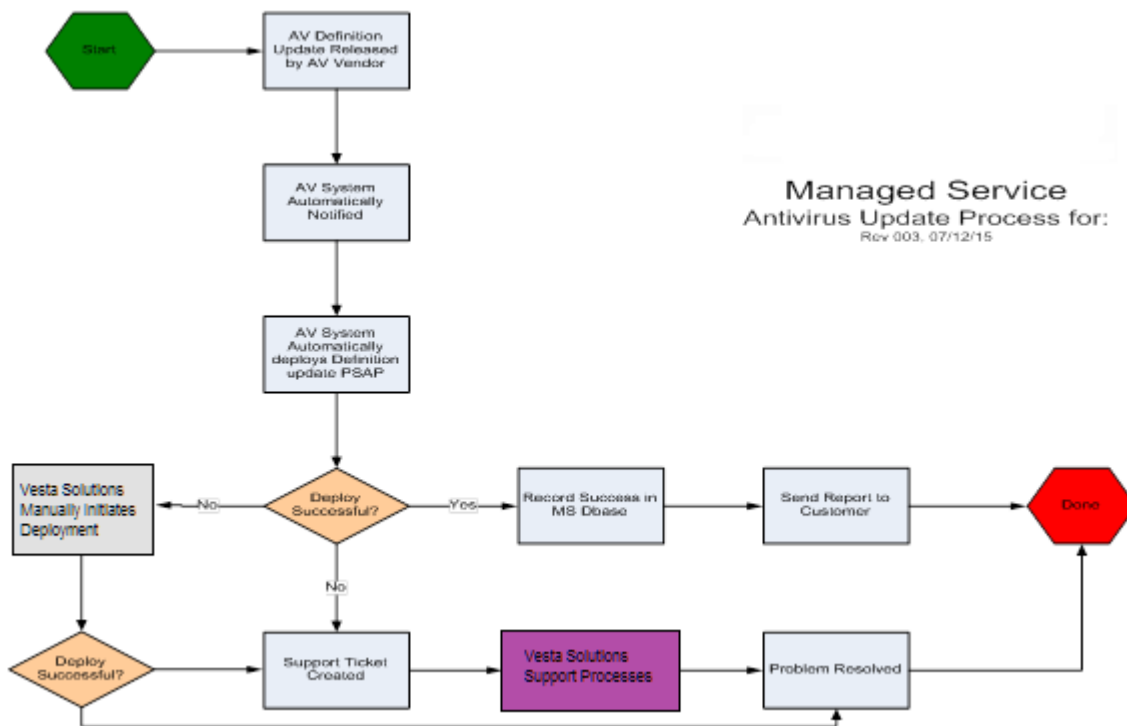
## 3.2 Managed Service – Virus Protection

This service provides remote, schedulable delivery of critical (Motorola Solutions tested) anti-virus definition updates to systems eliminating cumbersome and costly manual delivery of updates and significantly assisting in the reduction (although the risk of infection can never be completely eliminated—such is the nature of a reactionary measure like anti-virus software) of virus infections. Anti-virus software and the maintenance thereof is a crucial part of securing today's Systems.

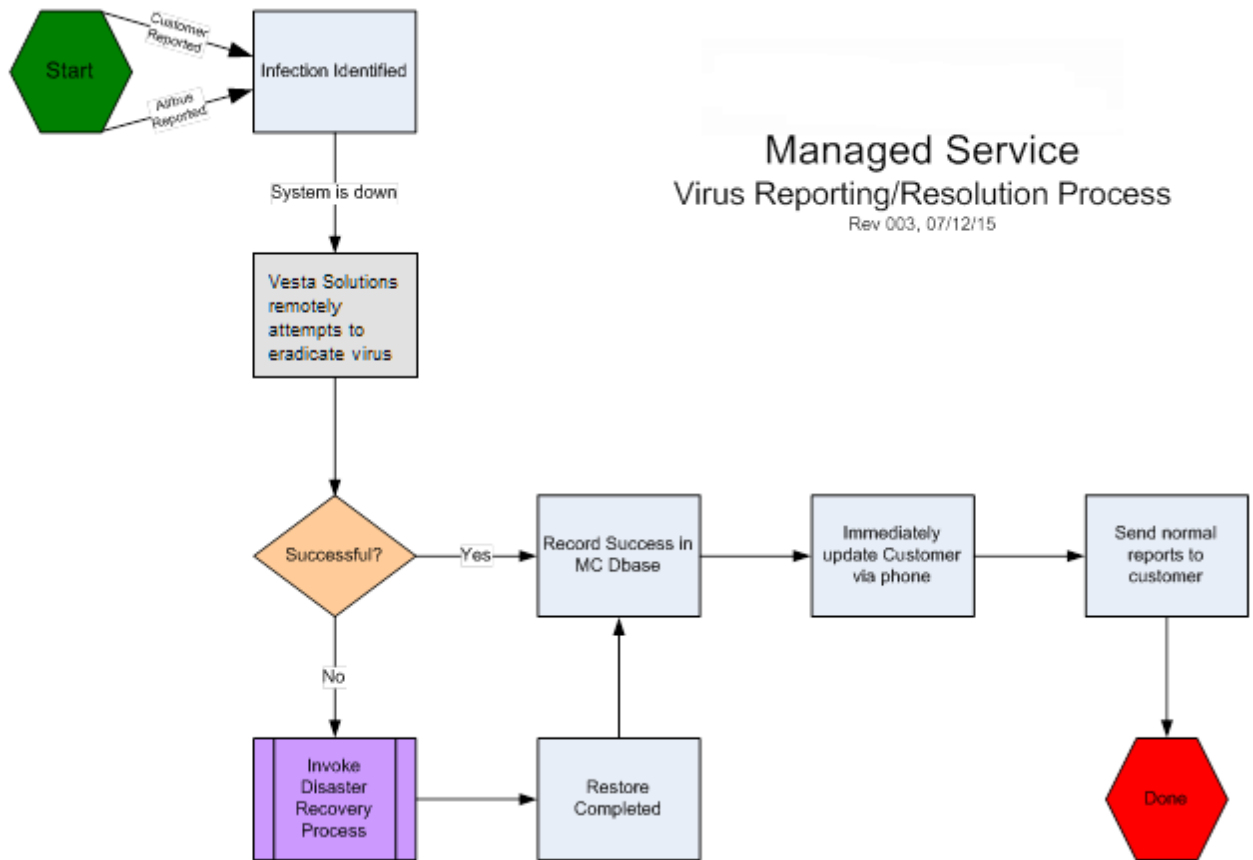
### Scope of Service

- *Antivirus Updates.* The application we use has a client and server component; client software would be installed on all clients/servers within the scope of the contract. An Application server component would be installed on an applicable server in the site (see hardware section below). Clients communicate with the Applications server to obtain updates. The Application server securely communicates upstream with Motorola Solutions Managed Services to obtain updates. Through high-speed, secure (VPN) remote connections Motorola Solutions has the ability to automatically deploy new Virus definitions to remote sites. The actual deployment of the update, including optimum installation time, etc. custom in nature (within the confines of the software and Motorola Solutions AV Policy), and will be collaboratively agreed to between the Customer and Motorola Solutions.
- *Eradication.* Antivirus is an effective and necessary means to protect against virus infections. However, because the technology is reactive in nature it can never provide 100% guarantee of zero infections, although they are rare.
- In the case where an unknown virus is introduced into the environment, the Managed Services Team will attempt to compartmentalize the virus. They will then notify the customer of the compromise and request an on-site dispatch to assist in the process of eradication.

**Service Processes**



**Managed Service**  
**Antivirus Update Process for:**  
 Rev 003, 07/12/15



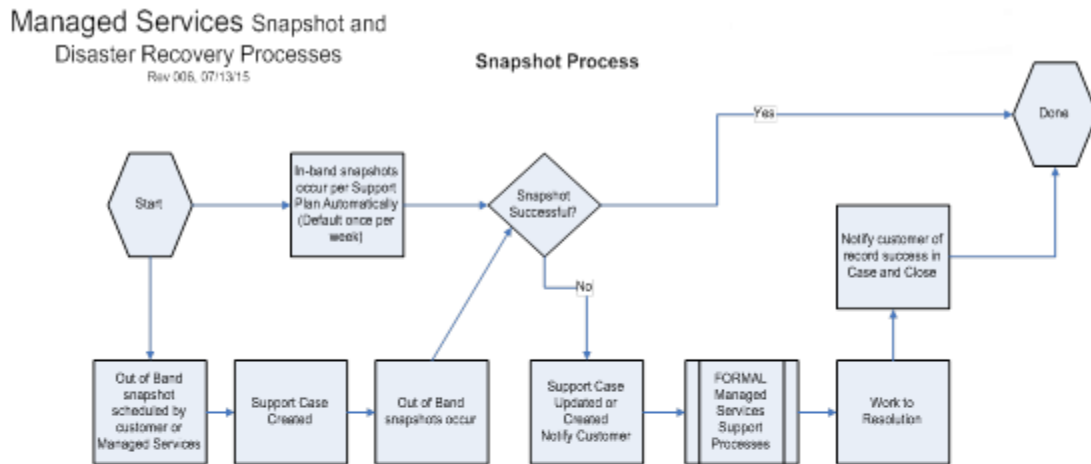
### 3.3 Managed Service – Disaster Recovery

Motorola Solutions Disaster Recovery Services is highly effective in minimizing call-taker position and server downtime. Through snapshots of the monitored system, a system can be quickly restored to any saved working state while preserving current data files.

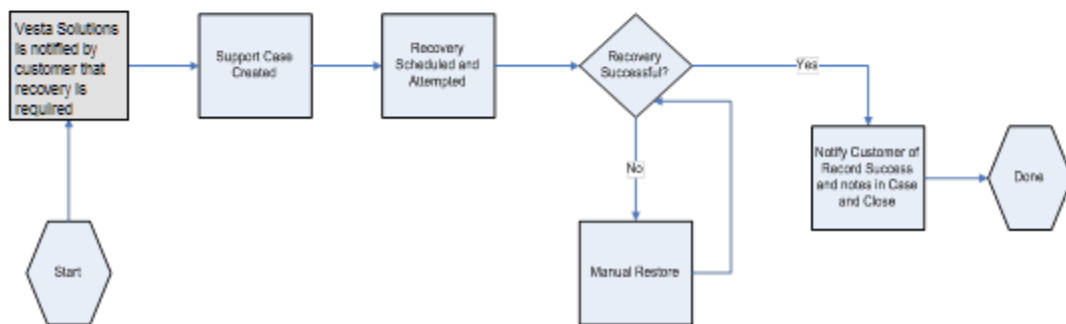
#### Scope of Service

- *Snapshot Backups.* Disaster Recovery “snapshot” software consists of a client and server component; client software would be installed on all clients/servers within the scope of the specific contract between Motorola Solutions and Customer addressing this issue. Clients are backed up to the appropriate Management Server location.
- *Disaster Recovery.* If a system fails, using the normal notification processes, Motorola Solutions will roll the system back to a known good state. This is conducted in concert with customer support team.

#### Service Processes



#### Recovery Process



## 3.4 Reviewing System Requirements

In order to implement any of the above Motorola Solutions Managed Services, the following system requirements are applicable:

- *High Speed Secure Network Access.* High speed, internet circuit providing a minim of 1.5 Mbps bidirectional connection is available to Motorola Solutions. , per site, is mandatory in most cases. In the case that an existing high speed Wide Area Network already exists, Motorola Solutions requires (2) points of access (to Motorola Solutions Managed Services Datacenter); 1 primary ) connection.
- *Hardware.* The following hardware requirements are applicable:
- *Servers.* Motorola Solutions Managed Services other than Remote Monitoring are designed to be installed on a standalone member server. This affordable server will be quoted as part of the overall solution. Motorola Solutions refers to this server as an NMS, or Network Management Server.
- *Network Equipment.* Because a high speed secure connection is required in most cases, Motorola Solutions highly recommends using our firewall solution to connect to Motorola Solutions Managed Services the site.
- Motorola Solutions supports Windows based operating systems (Windows 2003 or greater) only for patch management, antivirus and disaster recovery software. Remote Monitoring and Response can monitor additional components (i.e. routers) as necessary and purchased.
- *Miscellaneous.* As necessary, other equipment or software pertinent to the specific solution may be quoted.



## 4. SUPPORT SERVICES NOT PROVIDED

### 4.1 On-site Installation or Project Management Support

On-site installation and / or project management services are not covered under this Managed Services Program. Such services may be provided pursuant to a separate Statement of Work detailing the specific services to be rendered for a given project and the applicable price.

### 4.2 Training

Training is not covered under this Managed Services Program. Training is available at Motorola Solutions prevailing rates.

### 4.3 Integration Links and Interfaces

Integration links and Interfaces are not covered under this Managed Services Program including the remote monitoring service. Integration links may be provided pursuant to a separate Statement of Work detailing specifications, support, and the applicable price.

### 4.4 Post Installation Support Limitations

Motorola Solutions support obligations hereunder will not apply to any Motorola Solutions supported application software or firmware if correction of an error, adjustment, repair, or parts replacement is required because of:

- Accident, neglect, tampering, misuse, improper / insufficient grounding, failure of electric power, failure of the Customer, the End User and/or others to provide appropriate environmental conditions, relocation of hardware or software, or causes other than ordinary use.
- Repair or alteration, or attempted repair or alteration of any Motorola Solutions supported product (hardware and/or software) by the Customer, the End User or others.
- Connection of another machine, device, application or interface to Motorola Solutions supported equipment (hardware and/or software) by the Customer, the End User or others, which has caused damage to Motorola Solutions supported equipment.
- Damage or destruction caused by natural or man-made acts or disasters
- Failure or degradation in performance of Motorola Solutions supported equipment (hardware and/or software) due to the installation of another machine, device, application or interface not specifically certified and approved by Motorola Solutions for use.
- The operation of the software in a manner other than that currently specified by Motorola Solutions.
- The failure of the Customer to provide suitable qualified and adequately trained operating and maintenance staff.

- Incompatible or faulty end user or Customer equipment.
- Modifications made without Motorola Solutions written approval to the OS, network, hardware or software environment or software applications.

Further, support described herein does not include cosmetic repairs, refurbishment, furnishing consumables, supplies or accessories, making accessory changes, performance of preventive maintenance or system administration, or adding additional devices or software applications.

Telephone support and/or field engineering to rectify such unsupported failures as described above may be obtained from Motorola Solutions on a time & materials basis. Motorola Solutions does not guarantee the provision of such services but will provide such on a best efforts basis. The labor rate charged will be the current Motorola Solutions labor rate (plus expenses) at the time service is requested. Motorola Solutions will invoice Customer for such services within 30 days of rendering and payment shall be due in accordance with Customer's contract with Motorola Solutions which governs the related software or firmware purchase.

## **4.5 Other Services**

Other services not specifically identified as being included in the support services provided section of this program are not included.

## 5. WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY

This Managed Services Program shall not be construed as providing a software or firmware warranty. Motorola Solutions software and firmware warranty is set forth in its applicable End User License Agreement. In the event of a conflict between the language of this Article V and the agreement pursuant to which Customer purchased the applicable Managed Services Program, the terms of such agreement shall prevail.

### **DISCLAIMER OF WARRANTIES**

**THE WARRANTIES IN THIS AGREEMENT, IF ANY, ARE GIVEN IN LIEU OF AND EXPRESSLY EXCLUDE ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION (A) ANY WARRANTY THAT ANY SOFTWARE OR FIRMWARE IS ERROR-FREE, WILL OPERATE WITHOUT INTERRUPTION, OR IS COMPATIBLE WITH ALL EQUIPMENT, FIRMWARE AND SOFTWARE CONFIGURATIONS; (B) ANY AND ALL WARRANTIES OF MERCHANTABILITY, QUALITY, NONINFRINGEMENT AND ACCURACY OF INFORMATIONAL CONTENT; AND (C) ANY AND ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.**

### **LIMITATION OF LIABILITY**

**IN NO EVENT SHALL VESTA SOLUTIONS, ITS SUPPLIERS OR SUBCONTRACTORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR ANY OTHER PECUNIARY LOSS ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE AND/OR FIRMWARE SUPPORTED HEREUNDER OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF VESTA SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL MOTOROLA SOLUTIONS' LIABILITY EXCEED THE AMOUNT PAID BY CUSTOMER FOR THIS SUPPORT PROGRAM.**

## Cyber Addendum

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

### Section 1. APPLICABILITY

1.1 This Addendum sets out additional and superseding terms applicable to Customer's purchase of cyber security services, including Remote Security Update Service, Security Update Service, and Managed Detection & Response subscription services, among other subscription services, (ii) professional services, and/or (iii) retainer services (i.e., professional services when expressly purchased as a block of pre-paid hours for use, subject to expiration, within a specified period across certain offered service categories ("Retainer Services") (all collectively herein, "Services").

### Section 2. ADDITIONAL DEFINITIONS AND INTERPRETATION

2.1. "Customer Contact Data" means data Motorola collects from Customer, its Authorized Users, and their end users for business contact purposes, including marketing, advertising, licensing and sales purposes.

2.2 "Customer Data" means Customer data, information, and content, provided by, through, or on behalf of Customer, its Authorized Users, and their end users through the use of the Services. Customer Data does not include Customer Contact Data, Service Use Data, or information from publicly available sources or other Third-Party Data or Motorola Data or anonymized or generalized data. For avoidance of doubt, so long as not specifically identifying the Customer, Customer Data shall not include, and Motorola shall be free to use, share and leverage security threat intelligence and mitigation data generally, including without limitation, third-party threat vectors and IP addresses, file hash information, domain names, malware signatures and information, information obtained from third-party sources, indicators of compromise, and tactics, techniques, and procedures used, learned or developed in the course of providing Services.

2.3 "Feedback" means comments or information, in oral or written form, given to Motorola by Customer or Authorized Users, including their end users, in connection with or relating to the Services. Any Feedback provided by Customer is entirely voluntary. Motorola may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users. Customer represents and warrants that it has obtained all necessary rights and consents to grant Motorola the foregoing rights.

2.4 "Motorola Data" means data owned or licensed by Motorola.

2.5 "Process" or "Processing" means any operation or set of operations which is performed on personal information or on sets of personal information, whether or not by automated means, such as collection, recording, copying, analyzing, caching, organization, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

2.6 "Service Use Data" means data generated by Customer's use of the Services or by Motorola's support of the Services, including personal information, threat data, security threat intelligence and mitigation data, vulnerability data, threat scenarios, malicious and third-party IP information, malware, location, monitoring and recording activity, product performance and error information, threat signatures, activity logs and date and time of use.

2.7 “Statement(s) of Work” or “SOW(s)” as used in this Addendum means a statement of work, ordering document, accepted proposal, or other agreed upon engagement document issued under or subject to this Addendum. Mutually agreed upon SOWs may be attached hereto as Exhibit(s) A-1, A-2, A-3, etc., and/or are respectively incorporated by reference, each of which will be governed by the terms and conditions of this Agreement. Statements of Work may set out certain “Deliverables,” which include all written information (such as reports, specifications, designs, plans, drawings, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under a SOW and this Agreement. The Deliverables, if any, are more fully described in the Statements of Work.

2.8 “Third-Party Data” means information obtained by Motorola from publicly available sources or its third-party content providers and made available to Customer through the products or Services.

### **Section 3. LICENSE, DATA AND SERVICE CONDITIONS**

#### **3.1 Delivery of Cyber Services**

3.1.1 All Professional Services will be performed in accordance with the performance schedule included in a Statement of Work (“SOW”). Delivery of hours purchased as Retainer Services is at the onset of the applicable retainer period. Hours purchased as Retainer Services expire and are forfeited if not used within the Retainer period, subject to terms of use, expiration and extension, if any, as set out in the applicable SOW or ordering document. Professional Services described in a SOW will be deemed complete upon Motorola’s performance of such Services or, if applicable, upon exhaustion or expiration of the Retainer Services hours, whichever occurs first.

3.1.2 Subscription Services. Delivery of subscription services will occur upon Customer’s receipt of credentials required for access to the Services or upon Motorola otherwise providing access to the Services platform.

3.1.3 To the extent Customer purchases equipment from Motorola (“Supplied Equipment”), title and risk of loss to the Supplied Equipment will pass to Customer upon installation (if applicable) or shipment by Motorola. Customer will take all necessary actions, reimburse freight or delivery charges, provide or obtain access and other rights needed and take other requested actions necessary for Motorola to efficiently perform its contractual duties. To the extent Supplied Equipment is purchased on an installment basis, any early termination of the installment period will cause the outstanding balance to become immediately due.

3.2 Motorola may use or provide Customer with access to software, tools, enhancements, updates, data, derivative works, and other materials which Motorola has developed or licensed from third parties (collectively, “Motorola Materials”). The Services, Motorola Data, Third-Party Data, and related documentation, are considered Motorola Materials. Notwithstanding the use of such materials in Services or deliverables, the Motorola Materials are the property of Motorola or its licensors, and Motorola or its licensors retain all right, title and interest in and to the Motorola Materials. Motorola grants Customer and Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Services and associated deliverables solely for Customer’s internal business purposes.

3.3 To the extent Customer is permitted to access, use, or integrate Customer or third-party software, services, content, or data that is not provided by Motorola (collectively, “Non-Motorola Content”) with or through the Services, or will use equipment or software not provided by Motorola, which may be required for use of the Services (“Customer-Provided Equipment”), Customer will obtain and continuously maintain all rights and licenses necessary for Motorola to efficiently perform all contemplated Services under this Addendum and will assume responsibility for operation and integration of such content and equipment.

3.4 Ownership of Customer Data. Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. Motorola acquires no rights to Customer Data except those rights granted under this Addendum including the right to Process and use the Customer Data as set forth in Section 3.5 – Processing Customer Data, below. The Parties agree that with regard to the Processing of personal information which may be part of Customer Data, Customer is the controller and Motorola is the processor, and Motorola may engage sub-processors pursuant to Section 3.5.3 – Sub-processors and Third-Party Providers.

### 3.5 Processing Customer Data.

3.5.1. Motorola Use of Customer Data. To the extent permitted by law, Customer grants Motorola and its subcontractors a right to use Customer Data and a royalty-free, worldwide, non-exclusive license to use Customer Data (including to process, host, cache, store, reproduce, copy, modify, combine, analyze, create derivative works from such Customer Data and to communicate, transmit, and distribute such Customer Data to third parties engaged by Motorola) to (a) perform Services and provide products under the Addendum, (b) analyze the Customer Data to operate, maintain, manage, and improve Motorola products and services, and (c) create new products and services. Customer agrees that this Addendum, along with any related documentation, are Customer's complete and final documented instructions to Motorola for the processing of Customer Data. Any additional or alternate instructions must be agreed to according to the change order process. Customer represents and warrants to Motorola that Customer's instructions, including appointment of Motorola as a processor or sub-processor, have been authorized by the relevant controller.

3.5.2 Collection, Creation, Use of Customer Data. Customer further represents and warrants that the Customer Data, Customer's collection, creation, and use of the Customer Data (including in connection with Motorola's Services), and Motorola's use of such Customer Data in accordance with the Addendum, will comply with all laws and will not violate any applicable privacy notices or infringe any third-party rights (including intellectual property and privacy rights). It is Customer's responsibility to obtain all required consents, provide all necessary notices, and meet any other applicable legal requirements with respect to collection and use (including Motorola's and third-party provider use) of the Customer Data as described in the Addendum or any applicable third-party agreements or EULAs.

3.5.3 Sub-processors and Third-Party Providers. Motorola may use, engage, resell, or otherwise interface with third-party software, hardware or services providers (such as, for example, third-party end point detection and response providers) and other sub-processors, who in turn may engage additional sub-processors to process personal data and other Customer Data. Customer agrees that such third-party software or services providers, sub-processors or their respective sub-processors may process and use personal and other Customer Data in accordance with and subject to their own respective licenses or terms and in accordance with applicable law. Customer authorizes and will provide and obtain all required notices and consents, if any, and comply with other applicable legal requirements, if any, with respect to such collection and use of personal data and other Customer Data by Motorola, and its subcontractors, sub-processors and/or third-party software, hardware or services providers. Notwithstanding any provision to the contrary, to the extent the use or performance of certain Services is governed by any separate license, data requirement, EULA, privacy statement, or other applicable agreement, including terms governing third-party software, hardware or services, including open source software, Customer will comply, and ensure its Authorized Users comply, with any such agreements or terms, which shall govern any such Services.

3.5.4 Notwithstanding any provision to the contrary in this Addendum or any related agreement, and in addition to other uses and rights set out herein, Customer understands and agrees that Motorola may obtain, use and/or create and use, anonymized, aggregated and/or generalized Customer Data, such as data relating to actual and potential security threats and vulnerabilities, for its lawful business purposes, including improving its services and sharing and leveraging such information for the benefit of Customer, other customers, and other interested parties.

3.6 Service Use Data. Customer understands and agrees that Motorola may collect and use Service Use Data for its own purposes, including the uses described below. Motorola may use Service Use Data to (a) operate, maintain, manage, improve existing and create new products and services, (b) test products and services, (c) to aggregate Service Use Data and combine it with that of other users, and (d) to use anonymized or aggregated data for marketing, research or other business purposes. Service Use Data may be disclosed to third parties. It is Customer's responsibility to notify Authorized Users of Motorola's collection and use of Service Use Data and to obtain any required consents, provide all necessary notices, and meet any other applicable legal requirements with respect to such collection and use, and Customer represents and warrants to Motorola that it has complied and will continue to comply with this Section.

3.7. Data Retention and Deletion. Except as expressly provided otherwise, Motorola will delete all Customer Data following termination or expiration of this Addendum, with such deletion to occur no later than ninety (90) days following the applicable date of termination or expiration, unless otherwise required to comply with applicable law. Any requests for the exportation or download of Customer Data must be made by Customer to Motorola in writing before expiration or termination of this Addendum. Motorola will have no obligation to retain such Customer Data beyond expiration or termination unless the Customer has purchased extended storage from Motorola through a mutually executed agreement.

3.8. Third-Party Data and Motorola Data. Motorola Data and Third-Party Data may be available to Customer through the Services. Customer will not, and will ensure its Authorized Users will not: (a) use the Motorola Data or Third-Party Data for any purpose other than Customer's internal business purposes; (b) disclose the data to third parties; (c) "white label" such data or otherwise misrepresent its source or ownership, or resell, distribute, sublicense, or commercially exploit the data in any manner; (d) use such data in violation of applicable laws; (e) remove, obscure, alter, or falsify any marks or proprietary rights notices indicating the source, origin, or ownership of the data; or (f) modify such data or combine it with Customer Data or other data or use the data to build databases. Any rights granted to Customer or Authorized Users with respect to Motorola Data or Third-Party Data will immediately terminate upon termination or expiration of this Addendum. Further, Motorola or the applicable Third-Party Data provider may suspend, change, or terminate Customer's or any Authorized User's access to Motorola Data or Third-Party Data if Motorola or such Third-Party Data provider believes Customer's or the Authorized User's use of the data violates the Addendum, applicable law or Motorola's agreement with the applicable Third-Party Data provider. Upon termination of Customer's rights to use any Motorola Data or Third-Party Data, Customer and all Authorized Users will immediately discontinue use of such data, delete all copies of such data, and certify such deletion to Motorola. Notwithstanding any provision of this Addendum and the Primary Agreement to the contrary, Motorola will have no liability for Third-Party Data or Motorola Data available through the Services. Motorola and its Third-Party Data providers reserve all rights in and to Motorola Data and Third-Party Data.

3.9 Customer will ensure its employees and Authorized Users comply with the terms of this Addendum and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users' names, passwords and login credentials for access to products and Services. "Authorized Users" are Customer's employees, full-time contractors engaged for the purpose of supporting the products and Services that are not competitors of Motorola or its affiliates, and the entities (if any) specified in a SOW or otherwise approved by Motorola in writing (email from an authorized Motorola signatory accepted), which may include affiliates or other Customer agencies.

3.10 Motorola as a Controller or Joint Controller. In all instances where Motorola acts as a controller of data, it will comply with the applicable provisions of the Motorola Privacy Statement at [https://www.motorolasolutions.com/en\\_us/about/privacy-policy.html#privacystatement](https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement), as may be updated from time to time. Motorola holds all Customer Contact Data as a controller and shall

Process such Customer Contact Data in accordance with the Motorola Privacy Statement. In instances where Motorola is acting as a joint controller with Customer, the Parties will enter into a separate addendum to allocate the respective roles as joint controllers.

3.11 Beta or Proof of Concept Services. If Motorola makes any beta version of its Services ("Beta Service") available to Customer, or provides Customer a trial period or proof of concept period (or other demonstration) of the Services at reduced or no charge ("Proof of Concept" or "POC" Service), Customer may choose to use such Beta or POC Service at its own discretion, provided, however, that Customer will use the Beta or POC Service solely for purposes of Customer's evaluation of such Beta or POC Service, and for no other purpose. Customer acknowledges and agrees that all Beta or POC Services are offered "as-is" and without any representations or warranties or other commitments or protections from Motorola. Motorola will determine the duration of the evaluation period for any Beta or POC Service, in its sole discretion, and Motorola may discontinue any Beta or POC Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies. Notwithstanding any other provision of this Agreement, to the extent a future paid Service has been agreed upon subject to and contingent on the Customer's evaluation of a Proof of Concept Service, Customer may cancel such future paid Service as specified in the SOW or, if not specified, within a reasonable time before the paid Service is initiated.

#### **Section 4. WARRANTY**

4.1 CUSTOMER ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT MOTOROLA DOES NOT GUARANTEE OR WARRANT THAT IT WILL DISCOVER ALL OF CUSTOMER'S SECURITY EVENTS (SUCH EVENTS INCLUDING THE UNAUTHORIZED ACCESS, ACQUISITION, USE, DISCLOSURE, MODIFICATION OR DESTRUCTION OF CUSTOMER DATA), THREATS, OR SYSTEM VULNERABILITIES. MOTOROLA DISCLAIMS ANY AND ALL RESPONSIBILITY FOR ANY AND ALL LOSS OR COSTS OF ANY KIND ASSOCIATED WITH SECURITY EVENTS, THREATS OR VULNERABILITIES WHETHER OR NOT DISCOVERED BY MOTOROLA. MOTOROLA DISCLAIMS ANY RESPONSIBILITY FOR CUSTOMER'S USE OR IMPLEMENTATION OF ANY RECOMMENDATIONS PROVIDED IN CONNECTION WITH THE SERVICES. IMPLEMENTATION OF RECOMMENDATIONS DOES NOT ENSURE OR GUARANTEE THE SECURITY OF THE SYSTEMS AND OPERATIONS EVALUATED. CUSTOMER SHALL BE RESPONSIBLE TO TAKE SUCH ACTIONS NECESSARY TO MITIGATE RISKS TO ITS OPERATIONS AND PROTECT AND PRESERVE ITS COMPUTER SYSTEMS AND DATA, INCLUDING CREATION OF OPERATIONAL WORKAROUNDS, BACKUPS AND REDUNDANCIES.

4.2. Customer acknowledges, understands and agrees that the Services and products or equipment provided by or used by Motorola to facilitate performance of the Services may impact or disrupt information systems. Motorola disclaims responsibility for costs in connection with any such disruptions of and/or damage to Customer's or a third party's information systems, equipment, voice transmissions, data and Customer Data, including, but not limited to, denial of access to a legitimate system user, automatic shut-down of information systems caused by intrusion detection software or hardware, or failure of the information system resulting from the provision or delivery of the Service.

4.3. Motorola warrants that Supplied Equipment, under normal use and service, will be free from material defects in materials and workmanship for one (1) year from the date of shipment, subject to Customer providing written notice to Motorola within that period. AS IT RELATES TO THE SUPPLIED EQUIPMENT, MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.



4.4. **Pass-Through Warranties.** Notwithstanding any provision of this Addendum or any related agreement to the contrary, Motorola will have no liability for third-party software, hardware or services resold or otherwise provided by Motorola; provided, however, that to the extent offered by third-party software, hardware or services providers and to the extent permitted by law, Motorola will pass through express warranties provided by such third parties.

## **Section 5      LIMITATION OF LIABILITY**

5.1. **DISCLAIMER OF CONSEQUENTIAL DAMAGES.** EXCEPT FOR PERSONAL INJURY OR DEATH, MOTOROLA, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE "MOTOROLA PARTIES") WILL NOT BE LIABLE IN CONNECTION WITH THIS ADDENDUM (WHETHER UNDER MOTOROLA'S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF MOTOROLA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

5.2. **DIRECT DAMAGES.** EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE MOTOROLA PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THIS ADDENDUM OR ANY RELATED OR UNDERLYING AGREEMENT, WILL NOT EXCEED THE FEES SET FORTH IN THE APPLICABLE SOW OR PRICING FOR THE CYBER SERVICES UNDER WHICH THE CLAIM AROSE. NOTWITHSTANDING THE FOREGOING, FOR ANY SUBSCRIPTION SERVICES OR FOR ANY RECURRING SERVICES, THE MOTOROLA PARTIES' TOTAL LIABILITY FOR ALL CLAIMS RELATED TO SUCH PRODUCT OR SERVICES IN THE AGGREGATE WILL NOT EXCEED THE TOTAL FEES PAID FOR THE CYBER SERVICES TO WHICH THE CLAIM IS RELATED DURING THE CONSECUTIVE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE. FOR AVOIDANCE OF DOUBT, THE LIMITATIONS IN THIS SECTION 5.2 APPLY IN THE AGGREGATE TO INDEMNIFICATION OBLIGATIONS ARISING OUT OF THIS ADDENDUM OR ANY RELATED AGREEMENTS.

5.3. **ADDITIONAL EXCLUSIONS.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS ADDENDUM, THE PRIMARY AGREEMENT OR ANY RELATED AGREEMENT, MOTOROLA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO MOTOROLA, OR ANY OTHER DATA AVAILABLE THROUGH THE PRODUCTS OR SERVICES; (B) CUSTOMER-PROVIDED EQUIPMENT, NON-MOTOROLA CONTENT, THE SITES, OR THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, SERVICES, DATA, OR OTHER THIRD-PARTY MATERIALS, OR THE COMBINATION OF PRODUCTS AND SERVICES WITH ANY OF THE FOREGOING; (C) LOSS OF DATA OR HACKING, RANSOMWARE, OR OTHER THIRD-PARTY ATTACKS OR DEMANDS; (D) MODIFICATION OF PRODUCTS OR SERVICES BY ANY PERSON OTHER THAN MOTOROLA; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH OR BY THE PRODUCTS AND SERVICES; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; OR (G) CUSTOMER'S OR ANY AUTHORIZED USER'S BREACH OF THIS ADDENDUM, THE PRIMARY AGREEMENT OR ANY RELATED AGREEMENT OR MISUSE OF THE PRODUCTS AND SERVICES; (H) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (I) DISRUPTION OF OR DAMAGE TO CUSTOMER'S OR THIRD PARTIES' SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (J) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH THE SERVICES, OR INTERPRETATION, USE, OR MISUSE THEREOF; (K) TRACKING AND LOCATION-BASED SERVICES; OR (L) BETA SERVICES.

5.4. Voluntary Remedies. Motorola is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed issues in Section 5.3 – Additional Exclusions above, but if Motorola agrees to provide Services to help resolve such issues, Customer will reimburse Motorola for its reasonable time and expenses, including by paying Motorola any fees set forth in this Addendum or separate order for such Services, if applicable.

5.5. Representations and Standards. Except as expressly set out in this Addendum or the applicable Motorola proposal or statement of work relating to the cyber products or services, or applicable portion thereof, Motorola makes no representations as to the compliance of Motorola cyber products and services with any specific standards, specifications or terms. For avoidance of doubt, notwithstanding any related or underlying agreement or terms, conformance with any specific standards, specifications, or requirements, if any, as it relates to cyber products and services is only as expressly set out in the applicable Motorola SOW or proposal describing such cyber products or services or the applicable (i.e., cyber) portion thereof. Customer represents that it is authorized to engage Motorola to perform Services that may involve assessment, evaluation or monitoring of Motorola’s or its affiliate’s services, systems or products.

5.6. Wind Down of Services. In addition to any other termination rights, Motorola may terminate the Services, any SOW or subscription term, in whole or in part, in the event Motorola plans to cease offering the applicable Services to customers.

5.7. Third-Party Beneficiaries. The Addendum is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Addendum will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software, products or services included in the Services will be a direct and intended third-party beneficiary of this Addendum.

In witness whereof, the Parties hereto have executed this Addendum as of the Effective Date.

MOTOROLA

CUSTOMER

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
5e

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Tamra Mabbott
Department: Planning
Short Title of Agenda Item:
(No acronyms please)

Date submitted to reviewers: December 27, 2021
Requested Agenda Date: January 5, 2022

Grant Agreement between Morrow County and Oregon Department of Land Conservation &
Development for a Goal 9 Economic Development Planning Grant.

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time: 20 minutes
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity: State of Oregon, Department of Land Conservation & Development
Contractor/Entity Address:
Effective Dates - From: January 17, 2022 Through: June 30, 2023
Total Contract Amount: \$34,500 Budget Line: TBD
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Tamra Mabbott December 27, 2021 Department Director

Required for all BOC meetings

[Signature] 1/3/22 Administrator

Required for all BOC meetings

County Counsel

\*Required for all legal documents

Finance Office

\*Required for all contracts; other items as appropriate.

Human Resources

\*If appropriate

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

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## **1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Grant Agreement is attached.

Project is the second planning grant project county Planning Department secured on behalf of the Cities of Ione, Lexington and Heppner. Work on this project will follow the first planning grant (Housing Implementation Strategy).

Grant includes a \$5,000 local match as well as in-kind work by the Planning Director, GIS Planning Tech and Office Manager. Project will require a Request for Proposal (RFP) and selection of a consultant.

Purpose of this project is to develop an Economic Opportunity Analysis (EOA) and a Strategy for Growth for each city. This will allow the cities to update their Goal 9 Economic Development chapter in their Comprehensive Plan.

## **2. FISCAL IMPACT:**

Local match is \$5,000.

Morrow County is receiving \$34,500 with \$5,000 local match

Propose using Fund 219 (Video Lottery) for economic development. Other option is to budget the \$5,000 local match in the Planning Department.

## **3. SUGGESTED ACTION(S)/MOTION(S):**

Approve and adopt the Grant Agreement.

Attach additional background documentation as needed.

STATE OF OREGON  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT



**2021-2023 TECHNICAL ASSISTANCE GRANT**

<b>AGREEMENT COVER SHEET</b>	
<b>This cover sheet is informational and not a part of the agreement</b>	
<b>Offer Date:</b> December 16, 2021	
<b>Grantee</b> Morrow County 215 NE Main Street Irrigon, Oregon 97844	<b>Grant No.</b> TA-23-220
<b>Project Title:</b> Willow Creek Valley Economic Opportunities Analysis and Strategy for Growth	
<b>Grantee Representative</b> Tamra Mabbott, Planning Director 541-922-4624 <a href="mailto:tmabbott@co.morrow.or.us">tmabbott@co.morrow.or.us</a>	<b>DLCD Grant Manager</b> Anne Debbaut 503-804-0902 <a href="mailto:anne.debbaut@dlcd.oregon.gov">anne.debbaut@dlcd.oregon.gov</a>
<b>GRANT AMOUNT:</b> \$34,500	<b>CLOSING DATE:</b> June 30, 2023
<b>Last day to amend agreement:</b> March 1, 2023	

**Signature**

Grantee shall return a signed agreement to DLCD by e-mail within thirty (30) days of the Offer Date. If not signed and returned without modification by Grantee within thirty (30) days of the Offer Date, the DLCD Grant Program Manager may terminate this offer of the grant award. Upon receipt of the Agreement signed by Grantee, the DLCD Grant Program Manager shall sign and return a digital copy of the signed document via e-mail.

**List of Products**

Preliminary report: Project staff with contact information, advisory committee membership, and refinement of scope by July 29, 2022 (Project Requirement 8)

Signed agreement: between the Grantee and consultant, no later than three business days after both parties have signed the agreement. (Project Requirement 7)

Task 1: Kick-Off Meetings, Project Work Plan, and Inclusive Outreach Plan

Task 2: Summarize National, State, Regional, County and Local Trends; Identify Required Site Types

Task 3: Develop an Inventory of Industrial and Other Employment Lands

Task 4: Identify Community Economic Development Potential; Conduct Public Meetings

Task 5: Prepare Draft Economic Opportunities Analyses

Task 6: Prepare Final Economic Opportunities Analyses

Task 7: Ordinance Amendment Adoption

Task 8: Equity and Inclusion Self-Assessment

Grantee and the consultant will provide all draft and final Products, including memos, reports, and maps produced by this grant agreement in a digital media format. The term “digital media” means a compact disc, digital video disc, USB flash drive, e-mail, or FTP submittal authorized by DLCD.

STATE OF OREGON  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
2021-2023 TECHNICAL ASSISTANCE GRANT  
AGREEMENT

**DLCD Grant Number:** TA-23-220

**Morrow County**

This agreement (“Agreement”) is made and entered into by and between the **State of Oregon, acting by and through its Department of Land Conservation and Development**, hereinafter referred to as “DLCD,” and **Morrow County**, hereinafter referred to as “Grantee,” and collectively referred to as the “Parties.”

1. **Effective Date and Availability of Grant Funds.** This Agreement is effective on the date on which every party has signed this Agreement and all required State approvals have been obtained (“Effective Date”). Grant Funds under this Agreement are available for eligible costs as defined in Sections 4 and 6 incurred beginning on the Effective Date and ending on the earlier of the termination of this Agreement or the Project End Date provided in Attachment A. DLCD’s obligation to disburse Grant Funds under this Agreement ends 60 days after the earlier of termination of this Agreement or the Project End Date.

2. **Agreement Documents.** The Agreement consists of this agreement (without any attachments) and the following Attachments, all of which are attached hereto and incorporated by reference:

- Attachment A: **Project Description and Budget**
- Attachment B: **DLCD Contact Names and Addresses**
- Attachment C: **Request for Product Reimbursement Form and Instructions**
- Attachment D: **Form 1, Notice of Proposed Change (35-day Notice)**
- Attachment E: **Form 2, Notice of Adopted Change**
- Attachment F: **Standards and Requirements for EOA Product(s)**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows: this Agreement without Attachments; Attachments as listed, in descending order of precedence.

3. **Grant Funds.** The maximum, not-to-exceed, grant amount that the DLCD will pay to Grantee is **\$39,500** (the “Grant Funds”). Disbursements will be made only in accordance with the schedule and requirements contained in this Agreement, including Attachment A.

4. **Project.** The Project is described in Attachment A. Grant Funds may be used solely for the Project described in Attachment A and may not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by DLCD by amendment pursuant to Section 9 hereof. Grantee agrees to implement the Project in accordance with the terms and conditions of this Agreement and complete the Project no later than the Project End Date.

5. **Reports.** Grantee shall submit the reports required by this section to the DLCD Grant Manager and Grants Administrative Specialist in writing by personal delivery, e-mailing, or mailing at the address or number set forth in Attachment B or to such other addresses or numbers as DLCD may specify by notice to Grantee in accordance with Section 8 hereof.

- a. **Progress Reports.** Grantee will submit a written status report at the request of the DLCD Grant Manager or as required in the Project Requirements in Attachment A.
- b. **Financial Reimbursement Reports.** In order to receive reimbursement, Grantee must submit to DLCD requests for reimbursement of eligible costs incurred in producing Product(s), as provided in Attachment A, on the form provided in Attachment C. Grantee shall submit a closeout report to DLCD within 30 days after the termination of the Agreement or the Project End Date, whichever is earlier. Reimbursements for products will be reduced or withheld if Progress or Closeout Reports have not been timely submitted or are incomplete.

**6. Disbursement and Recovery of Grant Funds.**

- a. **Disbursement Generally.** DLCD will disburse the Grant Funds as reimbursement for eligible costs incurred to produce Products in carrying out the Project, up to the amount provided in Section 3, and subject to the timelines and limits for each Task, as specified in Exhibit A. Grantee may request a reimbursement after completion of a Product. Reimbursements will be made by DLCD within 30 days of DLCD's approval of a request for reimbursement. Eligible costs are the reasonable and necessary costs incurred by Grantee, during the period specified in Section 1, in performance of the Project and that are not excluded from reimbursement by DLCD, either by this Agreement or by exclusion as a result of financial review or audit.
- b. **Conditions Precedent to Disbursement.** DLCD's obligation to disburse Grant Funds to Grantee is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
  - i. DLCD has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, to make the disbursement.
  - ii. Grantee is in compliance with the terms of this Agreement.
  - iii. Grantee's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
  - iv. Grantee has provided to DLCD a request for reimbursement in accordance with Section 5.b hereof. Grantee must submit its final request for reimbursement no later than 30 days after the earlier of termination of this Agreement or the Project End Date. Grantee will not disburse Grant Funds in response to reimbursement requests submitted after that date.

**7. Representations and Warranties of Grantee.** Grantee represents and warrants to DLCD as follows:

- a. **Organization and Authority.** Grantee is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Grantee has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Grantee of this Agreement (1) have been duly authorized by all necessary action of Grantee and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Grantee's organizational documents, (3) do not

and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.

- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Grantee and constitutes a legal, valid and binding obligation of Grantee, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. **Notices.** Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, e-mailing, or mailing the same by registered or certified mail, postage prepaid, to the Grantee's Grant Representative or DLCD's Grant Manager, as the case may be, at the address or number set forth in Attachment B, or to such other addresses or numbers as either party may indicate pursuant to this section. Any notice delivered by e-mail shall be effective on the day the party receives the transmission if the transmission was during normal business hours of the receiving party, or on the next business day if transmission was outside normal business hours of the receiving party. Any notice given by personal delivery shall be effective when actually delivered. Any notice given by mail shall be effective three days after deposit in the mail.
9. **Amendments.** The terms of this Agreement will not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the Parties (or in the case of a waiver, by the party against whom the waiver is sought to be enforced). If the Grantee wishes to amend the Agreement, the Grantee must submit a written request, including a justification for any amendment, to the DLCD Grant Manager at least 90 calendar days before the Project End Date.
10. **Default.** Reimbursements to Grantee may be withheld or reduced if DLCD determines that Project performance under this Agreement is unsatisfactory, or if one or more terms or conditions of this Agreement have not been met. The amount of Grant Funds withheld will be based on the best professional judgment of the DLCD Grant Manager and Grant Program Manager.
11. **Ownership of Product(s).**
- a. **Definitions.** As used in this Section 11 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- i. **"Grantee Intellectual Property"** means any intellectual property owned by Grantee and developed independently from the Project.
- ii. **"Third Party Intellectual Property"** means any intellectual property owned by parties other than DLCD or Grantee.
- iii. **"Product(s)"** means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Grantee is required to deliver to DLCD or create pursuant to the Project, including but not limited to any Product(s) described in Attachment A.



- b. **Non-Exclusive License.** Grantee hereby grants to DLCD, under Grantee Intellectual Property and under intellectual property created by Grantee pursuant to the Project, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Product(s) for governmental purposes, and to authorize others to do the same on DLCD's behalf. If a Product(s) created by Grantee pursuant to the Project is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee shall secure on DLCD's behalf and in the name of DLCD an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display, for governmental purposes, the pre-existing elements of the Third Party Intellectual Property employed in the Product(s), and to authorize others to do the same on DLCD's behalf. If a Product(s) is Third Party Intellectual Property, Grantee shall secure on DLCD's behalf and in the name of DLCD, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display, for governmental purposes, the Third Party Intellectual Property, and to authorize others to do the same on DLCD's behalf.

**12. Indemnity.**

- a. **GENERAL INDEMNITY.** SUBJECT TO THE LIMITS OF THE OREGON CONSTITUTION AND STATE OF OREGON TORT CLAIMS ACT, IF APPLICABLE TO GRANTEE, GRANTEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DLCD, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY FEES, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF GRANTEE OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.
- b. **CONTROL OF DEFENSE AND SETTLEMENT.** GRANTEE SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTIONS 12.a; HOWEVER, NEITHER GRANTEE NOR ANY ATTORNEY ENGAGED BY GRANTEE SHALL DEFEND THE CLAIM IN THE NAME OF THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON. NOR SHALL GRANTEE SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IN THE EVENT THAT THE STATE OF OREGON DETERMINES THAT GRANTEE IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

- 13. Recovery of Grant Moneys.** Any Grant Funds disbursed to Grantee under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination of this Agreement or the Project End Date must be returned to DLCD. Grantee shall return all Misexpended Funds to DLCD promptly after DLCD's written demand and no later than fifteen (15) days after DLCD's

written demand. Grantee shall return all Unexpended Funds to DLCDC within fifteen (15) days after the earlier of termination of this Agreement or the Project End Date.

**14. Termination:**

- a. **DLCDC's Right to Terminate at its Discretion.** At its sole discretion, DLCDC may terminate this Agreement:
  - i. **For its convenience** upon thirty (30) days' prior written notice by DLCDC to Grantee;
  - ii. **Immediately upon written notice** if DLCDC fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow DLCDC, in the exercise of its reasonable administrative discretion, to continue to make disbursement under this Agreement; or
  - iii. **Immediately upon written notice** if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- b. **DLCDC's Right to Terminate for Cause.** In addition to any other rights and remedies DLCDC may have under this Agreement, DLCDC may terminate this Agreement immediately upon written notice by DLCDC to Grantee, or at such later date as DLCDC may establish in such notice, after the occurrence of any of the following events:
  - i. **Grantee is in default** because Grantee institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
  - ii. **Grantee is in default** because Grantee commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any of its obligations under this Agreement within the time specified herein or any extension thereof, or so fails to pursue its work hereunder as to endanger Grantee's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after DLCDC's notice, or such longer period as DLCDC may specify in such notice.
- c. **Grantee's Right to Terminate for Cause.** Grantee may terminate this Agreement by written notice to DLCDC if DLCDC is in default because DLCDC fails to pay Grantee any amount due pursuant to the terms of this Agreement, and DLCDC fails to cure such failure within thirty (30) calendar days after Grantee's notice or such longer period as Grantee may specify in such notice; or
- d. **Termination** under Section 14 shall be without prejudice to any claims, obligations, or liabilities either party may have incurred prior to such termination.

- 15. Accounting and Fiscal Records:** Grantee shall maintain its fiscal records related to this Agreement in accordance with generally accepted accounting principles. The Grantee shall maintain records of the receipt and expenditure of all funds subject to this Agreement for a period of six (6) years after the Project End Date, or for such longer period as may be required by applicable law or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Accounting records related to this Agreement will be separately maintained from other accounting records.

16. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between DLCD (or any other agency or department of the State of Oregon) and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
17. **Audit.** The Oregon Secretary of State, Attorney General of the State of Oregon and the Director of DLCD or any other duly authorized representative of DLCD shall have access to and the right to examine any records of transactions related to this Agreement for six (6) years after the final disbursement of Grant Funds under this Agreement is authorized by DLCD.
18. **Counterparts.** This Grant Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
19. **Survival.** All agreements, representations, and warranties of Grantee shall survive the execution and delivery of this Agreement, any investigation at any time made by DLCD or on its behalf and the making of the Grant.
20. **Successors and Assigns.** Recipient may not assign this Agreement or any right hereunder or interest herein, in whole or in part, without the prior written consent of DLCD. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.
21. **Validity and Severability.** If any provision of this Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.
22. **Relationship of the Parties.** Nothing contained in this Agreement or any acts of the parties hereto shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture or of any other association other than that of independent contracting parties.
23. **No Third Party Beneficiary Rights.** No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.
24. By signing this Agreement the Parties each represents and warrants that it has the power and authority to enter into this Agreement and that the Agreement is executed by its duly authorized representative. By signing the document, Grantee agrees to comply with the terms of this Agreement.

**Grantee:** Morrow County

**Grant No.** TA-23-220

Print Name of Authorized Official For the Grantee	Title	Date
Signature of Authorized Official For the Grantee		

**Grantor:** State of Oregon, acting by and through its Department of Land Conservation and Development

Print Name of DLCD Grant Program Manager	Title	Date
<b>Gordon Howard</b>		
Signature of DLCD Grant Program Manager	<b>Community Services Division Manager</b>	

**PROJECT PURPOSE STATEMENT**

The purpose of the project is to develop a Goal 9 Economic Development and Employment Lands Assessment to include a traditional Economic Opportunity Analysis (EOA) along with development of a regional “strategy for growth” for the three cities (Ione, Lexington, and Heppner) in the Willow Creek Valley (WCV) region of Morrow County. The project will have a special focus on serving underserved and disadvantaged populations.

**PROJECT OVERVIEW AND MANAGEMENT**

Overall management of the Project will be the responsibility of the Grantee and assisted by the DLCD Grant Manger. Specific Project management duties of Grantee will include:

- a. Organizing and managing the advisory committee;
- b. Selecting a consultant and contracting for consultant services;
- c. Overseeing consultant work described in this Project Description;
- d. Scheduling and managing meetings, including activities such as, preparing and distributing meeting notices, agendas, and summaries; and assisting the consultant with meeting facilitation;
  - Work with the DLCD equity and inclusion consultant to develop outreach and inclusion for the project;
  - Provide background information and a GIS zoning and Comprehensive plan map layers;
  - Review and comment on consultant work;
  - Provide project status updates and feedback with the consultant;
  - Support consultant to notice, schedule, and manage advisory committee meetings and public meetings.

***Advisory Committees***

The Project will employ a technical advisory committee (TAC) composed of local government and state agency staff and others identified by the TAC. The role of the TAC is to review Project materials and advise on technical issues throughout the project. TAC members shall generally consist of representatives from the Cities of Ione, Lexington and Heppner, Morrow County Planning Department Staff, Morrow County Commissioner, DLCD, Greater Eastern Oregon Economic Development District, Port of Morrow, Willow Creek Valley Economic Development Group, Ione Community Agri Business Organization and the Project consultant. Additional representatives from other affected agencies and organizations and as recommended by the equity and inclusion consultant, may serve as TAC members as well.

The TAC will meet on a regular basis to review technical analysis and recommendations prepared by County staff and the consultant. Individual TAC members will be responsible for communicating with officials from their respective jurisdictions and to assure that policy issues are incorporated into technical work at the appropriate time and in the most effective way.

The Project will not use a policy advisory committee. Instead, members of the TAC will be responsible for reviewing technical analysis with their respective planning commissions and elected officials. TAC members must also inform other Project participants (TAC, consultant, agency Contract administrator) of policy issues and implications raised by local decision-makers that may affect the technical analysis or assumptions used in the analysis.

### ***Agency Role***

DLCD will provide financial, administrative, and technical assistance to the Project. DLCD supports the collaborative, regional approach envisioned in the Project and agrees to work equally and fairly with each jurisdiction to help assure that state and local interests are optimized. DLCD recognizes the EOA, but not the “strategy for growth” will inform, but will not bind, future land use decisions of the cooperating jurisdictions.

### ***Consultant Role***

DLCD will provide financial, administrative, and technical assistance to the Project. DLCD supports the collaborative, regional approach envisioned in the Project and agrees to work equally and fairly with each jurisdiction to help assure that state and local interests are optimized. DLCD recognizes an adopted EOA as part of a city’s comprehensive plan, however the “strategy for growth” will inform, but will not bind, future land use decisions of the cooperating jurisdictions.

### ***Project Meeting Materials***

Written Project documents or memorandum prepared by the consultant shall be provided to Grantee in digital format at least one week prior to any scheduled TAC meeting.

### ***Project Schedule***

The schedule identified in “Schedule, Products, and Budget” section of this Project Description will be observed. DLCD may require an amendment to this Agreement if the timeframes in the schedule are not satisfied. The Project End Date is June 30, 2023.

### ***Expectations for All Written and Graphic Products***

All reports and Products will be delivered to the DLCD Grant Manager according to the schedule provided in this Project Description.

All reports, studies, and other documents produced under the Project must bear the statement in Project Requirement 3, below.

Grantee and the consultant will provide all draft and final Products, including memos, reports, and maps produced by this Agreement in a digital media format. The term “digital media” means a compact disc, digital video disc, USB flash drive, e-mail, or FTP submittal authorized by DLCD.

## **PROJECT REQUIREMENTS**

Grantee agrees to carry out the Project and submit Products in accordance with the requirements in this section.

1. Grantee will produce and submit to DLCD those Products as specified in this Agreement and this Project Description and Budget.
2. Grantee will provide copies of all final Product(s) produced under this Agreement to DLCD in the manner described in this Project Description.
3. All reports, studies, and other documents produced under the Project must indicate on the cover or the title page an acknowledgement of the financial assistance provided by DLCD by bearing the following statement: “This project is funded by Oregon general fund dollars through the Department of Land Conservation and Development. The contents of this document do not necessarily reflect the views or policies of the State of Oregon.”

4. Grantee will identify the location of the originals of any Product(s) if a copy is submitted to DLCD or if the product is one-of-a-kind document.
5. Grantee will provide all letters, memos, reports, charts, products and maps produced under this Agreement in a digital media format.
6. Grantee will obtain DLCD approval of any chosen facilitator, contractor, or consultant before signing an agreement or contract to perform all or a portion of the Project.
7. Grantee will provide a legible copy of the signed agreement between the jurisdiction and the contractor no later than three business days after both parties have signed the agreement.
8. Grantee will complete the following by July 29, 2022:
  - a. Identify the name and e-mail address of those persons who will be completing the project.
  - b. Identify the name and e-mail address of those persons who are members of the TAC or formed to carry out work on this Agreement.
  - c. Identify relevant impacted priority populations and devise a community outreach and inclusion plan.
9. Grantee will, in performing the Project under this Agreement, ensure consistent, coordinated use of population, employment, housing, and land needs projections associated with the following activities: (1) the periodic review work programs and related tasks; (2) the transportation system plans being prepared pursuant to OAR 660-012-0000; (3) any post-acknowledgment plan and land use regulation amendments proposed by the Grantee.
10. Any final product must be proposed under Attachment D, Form 1, "Notice of Proposed Change," at least 35 days before the first evidentiary hearing as set forth in ORS 197.610 and OAR 660-018-0020, -0021, and -0022. The products must be adopted by the governing body and submitted under Attachment E, Form 2, "Notice of Adoption" as set forth in ORS 197.615 and OAR 660-018-0040.
11. Grantee will consult closely with the DLCD Grant Manager to ensure that adoption of Product(s) under the post-acknowledgment plan amendment process is completed on or before the Project End Date. In this instance, County is the Grantee and agrees to provide necessary technical assistance to each city for adoption of the products.
12. A draft Product may be accepted for approval instead of an adopted Product when requested in writing and received in the DLCD Salem office at least 60 days prior to Project End Date. The request will be reviewed and approved in writing by DLCD if substantial progress has been made toward adoption and adoption is scheduled to occur on or before the date that is 120 days after the Project End Date.
13. Any final draft product (e.g., ordinances, maps, websites, databases, supporting documents, and photographs) shall be a hearings-ready draft approved by a resolution of the governing body and shall be accompanied by a report in detailing why the product was not adopted and a timeframe for the future adoption of the product.
14. Any notice issued by Grantee that is eligible for reimbursement under ORS 227.186 – Notice to city property owners for costs incurred for Measure 56 – is not reimbursable under this Agreement.

15. Any notice issued by Grantee that is eligible for reimbursement under ORS 215.503 – Notice to county property owners for costs incurred for Measure 56 – is not reimbursable under this Agreement.
16. Grantee will coordinate and provide notice to DLCDC, , affected parties ~~County~~, and any other agencies and organizations who participated in public meetings, workshops, work sessions, and hearings to develop, review or approve products prepared under this Agreement.
17. Grantee will consult with the DLCDC Grant Manager and the project consultant in the development of Products and provide an opportunity for timely review of all draft Products.
18. Grantee will submit a written status report at the request of the DLCDC Grant Manager at any time outside of the payment schedule in addition to the reports submitted with Attachment C.
19. DLCDC will provide no more than one interim payment before the Project End Date and a final payment. Payments will be made only upon submittal of qualifying Product(s) and progress report(s) in accordance with the terms of this Agreement and Attachment C. The report(s) must describe the progress to date on each Task(s) or Product(s) undertaken during the billing period. Other written or verbal progress reports will be provided upon reasonable request by the DLCDC Grant Manager.
20. Payments under this Agreement may be reduced if Product(s) scheduled to be completed are not completed by the timeline provided in the Project Description. DLCDC's payment obligations under this Agreement are conditioned upon DLCDC receiving funding, appropriations, limitations, allotments or other expenditures authority sufficient to allow DLCDC in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement.
21. Grantee will not use or charge grant funds provided under this Agreement for consultant(s) trip expense(s), lodging, or any other expense submitted by consultant(s), except for the initial consultant(s) trip to Grantee. Grantee may use grant funds to pay for Product(s) produced by consultant(s).
22. Grantee will not use grant funds provided under this Agreement for any regularly scheduled or other scheduled meetings and hearings. Grantee must use its own funds, or in-kind contributions for all regularly scheduled or other scheduled meetings and hearings.

***EOA Economic Opportunities Analysis***

23. Grantee will submit Economic Opportunities Analysis (EOA) materials according to the EOA specifications in Attachment F.
24. Grantee will comply with EOA standards and contents requirements per Attachment F. Any EOA Product(s) will be prepared in compliance with requirements of OAR 660-09-0015 as defined in Attachment F.

***GIS Requirements***

25. If a new comprehensive map or zoning map is created or an existing map is revised or updated, the Product(s) must be submitted in an electronic form compatible with Environmental Systems Research Institute's (ESRI) file formats (coverage, shapefile, or geodatabase).
26. Geospatial data should be free of topological errors and metadata must comply with the current State of Oregon Metadata Standards accessible at <http://www.oregon.gov/DAS/CIO/GEO/pages/standards/standards.aspx>, "Oregon GIS Data



Standards and Best Practices.” The projection of the data may be determined by the jurisdiction. All data should have the projection defined with the dataset and must be documented in the metadata.

27. DLCDC may display appropriate Product(s) on its web interface including corporate GIS data generated under this Agreement and any additional data provided that is not specifically restricted into state agency databases, acknowledging that Grantee and agents of Grantee are not responsible for the accuracy of such data. DLCDC may also share the data specifically generated under this Agreement with other agencies and organizations, as this is data that DLCDC owns as Product(s) under Grant Agreement Section 11.
28. If GIS capability is not available to the Grantee, map Product(s) on digital media will be accepted with the written approval of the DLCDC Grant Manager.

## **SCHEDULE, PRODUCTS, AND BUDGET**

### **Pre-Task Submittals**

The contract in Project Requirement 7 and the report in Project Requirement 8 in this Project Description and Budget will be submitted.

*Pre-task Timeline:* By the dates specified in those requirements.

*Pre-task report budget:* \$0

### **Task 1: Kick off meetings, Project Work Plan and Inclusive Outreach Plan**

The consultant, with guidance from the TAC will develop an inclusive outreach and engagement plan that supports participation of priority populations on the technical advisory committee.

**Task 1a.** Coordinate and schedule one remote kick-off meeting. The purpose of the meeting is to ensure agreement among the three Cities and County regarding their roles and responsibilities, a shared understanding of available data, and the Project schedule. This meeting should also be used to confirm the number and make-up of the advisory committee members. The information gathered via the kick-off meetings will inform the creation of a Project Work Plan.

**Task 1b.** The Project Work Plan shall include a Project schedule, roles and responsibilities, data availability, and a schedule for presenting information and facilitating TAC meetings.

### **Task 1 Consultant Deliverables**

- Conduct one (1) TAC kick-off meeting via Zoom or comparable remote method.
- Create one draft and one final (1) Project Work Plan that addresses all roles and responsibilities, tasks, timelines, and Deliverables for all Participating Cities and County.
- Coordinate with DLCDC equity and inclusion consultant to refine work plan and outreach plan.
- ***DLCDC Equity Consultant Deliverables:*** Identification of impacted priority populations in project plan area, outreach and engagement plan for priority populations, an evaluation framework for inclusive participation.

### **Task 1 County Deliverables**

- Schedule and convene kick-off meeting.
- Review and comment on draft Project Work Plan.

- Provide background information and any GIS zoning and comprehensive plan map layers available and necessary for the project.
- Coordinate with DLCD equity and inclusion consultant to refine work plan and outreach plan.

**Task 1 City Deliverables**

- Participate in kick off meeting.
- Provide background information and any GIS zoning and comprehensive plan map layers. (County will assist with maps.
- Review and comment on draft Project Work Plan.
- Coordinate with DLCD equity and inclusion consultant to refine work plan and outreach plan.

**Task 1 timeline:** August 1 - October 15, 2022

**Task 1 budget:** \$4,000 consultant plus DLCD DEI consultant – 6 hours

**Task 2. Summarize National, State, Regional, County and Local Trends; Identify Required Site Types**

Identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. The Consultant is strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area to determine the percentage of employment growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential. As a reference, the Consultant shall refer to the most recent Port of Morrow Strategic Plan, the Comprehensive Economic Development Strategy (CEDS) of the regional Economic Development District, Greater Eastern Oregon Development Corporation (GEODC), Strategy and Plan for the Willow Creek Valley Economic Development (WCVED) and the Lone-Community Agribusiness Association (ICABO).

Identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. The Contractor shall examine existing firms in the planning area to identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories. The Contractor shall present a draft summary of trends and site types to the technical advisory committee. The Consultant must include, in the draft Economic Opportunities Analyses required by Task 5, the updates and revisions to the summaries of trends (Trend reports) and inventories of site types.

**Task 2 Consultant Deliverables**

- Create three (3) Trend reports/documents: one (1) for each city. The Trend reports must include trend summaries and needed site types for each city. (An alternative may be considered, to create a single trend report for the Willow Creek Valley.)
- Coordinate TAC review of draft and final trend reports.

**Task 2 County Deliverables**

- Review and comment on trend reports.
- Schedule advisory committee meetings and prepare and distribute meeting notice
- Participate in advisory committee meetings.

### **Task 2 City Deliverables**

- Review and comment on trend report.
- 
- Review and comment on meeting summary.

**Task 2 timeline:** September 15 to December 31, 2022

**Task 2 budget:** \$7,000

### **Task 3: Develop an Inventory of Industrial and Other Employment Lands**

Develop inventories of vacant and developed lands within the planning area designated for industrial or other employment use in accordance with OAR 660-009-0015(3). Present the inventories to the advisory committees for confirmation. The Contractor must include, in the draft Economic Opportunities Analysis required by Task 5, updates and revisions to the inventories of vacant and developed lands.

### **Task 3 Consultant Deliverables**

- Create a draft and final inventory of vacant and developed lands for each city. The inventories must include maps and narrative descriptions summarizing the inventory of industrial and other employment lands for each of the 3 cities.
- Coordinate TAC review of a draft and final vacant and developed land inventory. Provide meeting summaries or summaries of comments as applicable and incorporate in the final inventory.

### **Task 3 County Deliverables**

- Review and comment on draft and final inventory and associated reports.
- Participate in advisory committee meetings.
- Schedule TAC meeting(s) as needed.

### **Task 3 City Deliverables**

- Review and comment on draft and final inventory and associated report.
- Provide local knowledge of industrial and other employment sites and any known limitations, including provision of services.

**Task 3 timeline:** January 1 - February 15, 2023

**Task 3 budget:** \$7,000

### **P1 – Interim Payment**

Reimbursement **up to \$18,000** upon submittal of pre-task reports and the Product(s) listed in Tasks 1–3. Submit Product(s) and a signed Attachment C, Request for Reimbursement Form on digital media to the Grant Manager and the Grant Administrative Specialist to the e-mail addresses listed in Attachment B, DLCD Contact Information.

### **Task 4: Identify Community Economic Development Potential; Conduct Public Meetings**

Based on Tasks 1-3 above, prepare an Assessment of Community Economic Development Potential as described in OAR 660-009-0015(4). Present this assessment along with a summary of trends (Task 2) and inventory information (Task 3) to the community at a public meeting(s) and other outreach events or activities identified by DLCD equity and inclusion consultation.

The meetings and outreach events will be the platform for developing a list of three priorities for each community.

Public meetings and Outreach: The number of meeting(s) and the meeting logistics must be coordinated with the Participating Cities, County, Port of Morrow, WCVEDG, GEODC and other stakeholders. It may be possible to group cities within a county based on geography or other relevant characteristics. The maximum number of public meetings is three for the region.

**Task 4 Consultant Deliverables**

- Prepare one draft Assessment of Community Economic Development Potential for each city participating in this Project. The information should be organized in such a way that it clearly identifies the three (3) Assessments.
- Facilitate public meeting(s) as determined in coordination with the Participating Cities and Counties. The maximum number of public meetings is three (3).

**Task 4 County Deliverables**

- Review and comment on Assessments of Community Economic Development potential.
- Participate in public meetings as practical.

**Task 4 City Deliverables**

- Review and comment on Assessment of Community Economic Development potential.
- Schedule and participate in a public meeting.
- Prepare and distribute meeting notices for the public meeting.
- Create meeting agenda and sign in sheet.

***Task 4 timeline:*** January – February 28, 2023

***Task 4 budget:*** \$9,000

**Task 5: Prepare Draft Economic Opportunities Analyses and Economic Strategies**

Taking information from Tasks 2-4, prepare one (1) draft Economic Opportunities Analyses (EOA) in accordance with OAR 660-009-0015 for the Participating Cities. Prepare a list of draft strategies and recommended next steps and include that list with the draft Economic Opportunities Analysis. Present draft materials to the TAC (established in Task 1) for review. Incorporate revisions from the advisory committees into the final Economic Opportunities Analyses.

**Task 5 Consultant Deliverables**

- Prepare one Draft Economic Opportunities Analyses and including economic strategies.
- Coordinate and review the draft EOA with the TAC and including TAC member comments and meeting summaries.

**Task 5 County Deliverables**

- Review and comment on the Draft EOAs and economic strategies.
- Schedule and participate in TAC meetings as needed.

**Task 5 City Deliverables**

- Review and comment on the Draft EOA.
- Review and comment on meeting summaries.

***Task 5 timeline:*** February 15 – March 30, 2023

***Task 5 budget:*** \$6,000

**Task 6: Prepare Final Economic Opportunities Analyses and Economic Strategies**

As a result of advisory committee meeting discussion and the review comments provided in Task 5, prepare a final, hearings-ready Economic Opportunities Analyses, for the participating cities in Morrow County.

In addition, prepare appropriately sized “economic strategies” for each city, with details and specific steps. These strategies must be incorporated into each city’s comprehensive plan as appropriate

**Task 6 Consultant Deliverables**

- Revised draft, Economic Opportunities Analyses. Any required revisions following DLCD’s, and the Participating Cities’ and Counties’ reviews, shall be included in the Final Economic Opportunities Analyses.
- Final, hearings-ready Economic Opportunities Analysis and recommended economic strategy updates associated with the comprehensive plan for each city.

**Task 6 County Deliverables**

- Review and comment on Revised Draft EOA and recommended economic strategy updates to the city’s comprehensive plans.
- Confirm receipt of final, hearings ready EOA and economic strategy updates for Morrow County cities.

**Task 6 City Deliverables**

- Review and comment on Revised Draft EOA and economic strategy updates.

*Task 6 timeline:* March 15– April 30, 2023

*Task 6 budget:* \$5,000

**Task 7: Ordinance Amendment Adoption**

Each city will conduct Planning Commission and City Council hearings to consider adoption of the EOA and economic strategies provided by consultant with co-adoption by the County where appropriate for areas outside city limits, inside urban growth boundaries. Notice of the hearings will be provided as required by City and County ordinance and state law. While the outcome of the hearings cannot be pre-determined, every reasonable effort to complete final adoption of the EOA will be made. The Economic Development Strategy and Priorities does not require a land use hearing (legislative code amendment) and may be adopted by Resolution by each city.

**Task 7 Consultant Deliverables**

None.

**Task 7 City Deliverables**

- Planning commission hearing notice.
- Hearing materials, including draft amendments, staff reports, and other background documents as needed.
- City council hearing notice.

**Task 7 County Deliverables**

- Co-adoption of the final EOA.
- Assist Cities if requested, in preparation of Notice of Proposed Amendment (“35-day notice”) as required by OAR 660-018-0021 for City public hearings.
- Draft Planning Commission hearing notice for cities, if requested.

- Assist cities with hearing materials, including draft amendments, staff reports, and other background documents as needed.
- Schedule for review by County Board of Commissioners.
- Notice of adoption by city and county as required by OAR 660-018-0021.

**Submit 35-day notice.** Prepare and submit hearings-ready Products from Task 7 online at <https://db.lcd.state.or.us/PAPA Online/Account/Login?ReturnUrl=%2fPAPA Online>, or via e-mail with Attachment D, Form 1 DLCD Notice of Proposed Change to a Comprehensive Plan or Land Use Regulation, and at least 35 days before first evidentiary hearing. If the notice is submitted online, send an e-mail to the Grants Administrative Specialist listed in Attachment B, DLCD Contact Information providing notification of the submittal. If submitting via e-mail, send Task 7 Product(s) in a digital media format to the Grants Administrative Specialist listed in Attachment B, DLCD Contact Information, and to the Plan Amendment Specialist at the e-mail address specified in Attachment D, Form 1 DLCD Notice of Proposed Change to a Comprehensive Plan or Land Use Regulation.

**Task 7 timeline:** April 30, 2023 - June 30, 2023

**Task 7 budget:** \$1,500 (Morrow County)

**Task 8: Equity and Inclusion Self-Assessment**

Grantee to complete equity and inclusion self-assessment using evaluation framework developed in Task 1. Report describing grantee’s performance against its goals for inclusive outreach and engagement for the project to be provided to DLCD.

**Task 8 Products:** Equity and Inclusion Self-Assessment Report

**Submit Notice of Adoption.** Prepare and submit signed ordinance(s) adopting the Products from Task 8 online at <https://db.lcd.state.or.us/PAPA Online/Account/Login?ReturnUrl=%2fPAPA Online>, or via e-mail with Attachment E, Form 2 Notice of Adopted Change to a Comprehensive Plan or Land Use Regulation, according to the instructions on the form. If the notice is submitted online, send an e-mail to the Grants Administrative Specialist listed in Attachment B, DLCD Contact Information providing notification of the submittal. If submitting via e-mail, send the notice on digital media to the Grants Administrative Specialist listed in Attachment B, DLCD Contact Information, and to the Plan Amendment Specialist at the e-mail address specified in Attachment E, Form 2 Notice of Adopted Change to a Comprehensive Plan or Land Use Regulation.

**Task 8 timeline:** May 31, 2023 – June 30, 2023

**Task 8 budget:** \$0

**FP – Final Payment**

Reimbursement of **up to \$21,500** and the balance of previously unused grant funds from P1 upon submittal of Product(s) listed in Tasks 4-8. Submit the Product(s) and a signed Attachment C, Final Closeout Form acceptable to DLCD on digital media to the Grant Manager and the Grants Administrative Specialist listed in Attachment B, DLCD Contact Information **no later than June 30, 2023.**

**Budget Summary**

Task 1 – Kick-Off Meetings, Project Work Plan, & Inclusive Outreach Plan	\$ 4,000
Task 2 – Summarize National State, Regional, County, and Local Trends; Identify Required Site Types	\$ 7,000
Task 3 – Develop an Inventory of Industrial and Other Employment Lands	\$ 7,000
Task 4 – Identify Community Economic Development Potential; Conduct Public Meetings	\$ 9,000
Task 5 – Prepare Draft Economic Opportunities Analyses	\$ 6,000
Task 6 – Prepare Final Economic Opportunities Analyses	\$ 5,000
Task 7 – Ordinance Amendment Adoption	\$ 1,500
Task 8 – Final Report	\$ 0
<b>TOTAL</b>	<b>\$ 39,500</b>

**DLCD TA Grant Agreement  
Contact Information**

For questions regarding your grant, please contact:

**Grant Manager:**

Anne Debbaut  
Portland Regional Solution Center  
1600 SW Fourth Avenue, Suite 109  
Portland, Oregon 97201

Mobile: 503-804-0902

E-mail: [anne.debbaut@dlcd.oregon.gov](mailto:anne.debbaut@dlcd.oregon.gov)

OR

**Grant Program Manager:**

Gordon Howard  
DLCD Salem Office  
635 Capitol Street N.E., Suite 150  
Salem, Oregon 97301-2540

Office: 503-856-6935

E-mail: [gordon.howard@dlcd.oregon.gov](mailto:gordon.howard@dlcd.oregon.gov)

Payment requests should be sent to:

**Grants Administrative Specialist**

Angela Williamson  
DLCD Salem Office  
635 Capitol Street N.E., Suite 150  
Salem, Oregon 97301-2540

Office: 971-345-1987

E-mail: [DLCD.GFGrant@dlcd.oregon.gov](mailto:DLCD.GFGrant@dlcd.oregon.gov)



Department of Land Conservation and Development (DLCD)  
2021-2023 Request for Interim Reimbursement / Final Closeout

Grantee Name <b>Morrow County</b>		Grant No. assigned by DLCD <b>TA-23-220</b>		Final Payment Yes No	
Grant Agreement Start Date From: Execution		Grant Agreement Close Date To: <b>May 31, 2023</b>		Period covered by this Payment From:	
Period covered by this Payment To:					
<i>DLCD Grant Expenditures</i>		<i>DLCD Grant Expenditures</i>		<i>DLCD Grant Expenditures</i>	
<b>Transactions</b>		<b>Previously Reported</b>		<b>This Payment</b>	
				<b>Cumulative</b>	
1. Salaries and Benefits					
2. Supplies and services					
3. Contracts (see instructions)					
4. Other (provide list & explain)					
5. Total (add lines 1-4)					
<i>Local Contributions (if applicable)</i>					
6. Salaries and Benefits					
7. Supplies and services					
8. Contracts					
9. Other					
10. Total (add lines 6-9)					
11. Payment requested (from line 5)		<b>DO NOT WRITE IN THIS SPACE</b>		<b>DO NOT WRITE IN THIS SPACE</b>	
12. <u>Certification</u> : I certify to the best of my knowledge and belief that this report is correct and complete and that all expenditures are for the purposes set forth in the award document. I further certify that all records are available upon request, and the financial records will be retained for six years after the final payment.					
13. Typed or Printed Name and Title			14. Address where payment is to be sent		
15. Signature of Authorized Certifying Official			16. Date Payment Submitted		

Do Not Write Below This Line

FOR DLCD USE ONLY

Do Not Write Below This Line

<b>DLCD CERTIFICATION</b>			
I certify as a representative of the Department of Land Conservation and Development (DLCD), that the Grantee:			
_____ Has met the terms and conditions of the grant and that payment in the amount of \$ _____ should be issued			
_____ Has not met the terms and conditions of the grant for the reasons stated on the attached sheet, and payment in the amount of \$ _____ should be issued.			
Signature of DLCD Grant Manager		Date	
Signature of DLCD Program Manager		Date	
BATCH #	DATE	VOUCHER#	DATE
PCA#	OBJECT #	VENDOR #	AMOUNT

**Department of Land Conservation and Development  
2021-2023 Planning Technical Assistance Grant Agreement  
Interim Reimbursement and Closeout Form Instructions**

General and line-by-line instructions for completing the Request for Interim Reimbursement/Final Closeout form are provided herein.

***General Instructions and Reminders***

- This form may be completed by hand or typed on paper or completed in Microsoft Word. If you need a Word file, please contact the Grants Administrative Specialist at [DLCD.GFGrant@dlcd.oregon.gov](mailto:DLCD.GFGrant@dlcd.oregon.gov). In any case, submit the form with the grant Product(s) electronically, as called for in the Agreement.
- This form is used for all reimbursement requests – interim or final.
- It is important that you retain documentation of expenditures as provided in paragraph 16 of the Agreement, which provides that records be maintained for at least six years after the final payment has been received by the grantee.
- Interim and final reimbursement requests must not include work performed prior to the Effective Date of this Agreement (generally the date the Agreement is signed by DLCD) and not after the Closing Date of this Agreement.

***Completing the Form***

Please show *total actual expenditures only* of DLCD grant award and local contributions.

First row: DLCD will complete the Grantee Name and Grant Number. In the Final Payment box, highlight or circle “No” for interim payments and “Yes” for final closeouts.

Second row: DLCD will complete Agreement start and close dates. Complete the “Period covered by this payment” The form includes separate boxes for “from” and “to.” Please complete both. These dates must accurately depict the dates the work for the reimbursable expenditure was incurred. If there are any applicable limits on these dates, they will be provided in the payment descriptions in the “Schedule, Products, and Budget” section of the Agreement.

The next section of the form includes columns for itemizing each expense category:

- **“DLCD Grant Expenditures, Previous Reported”** column -- should be blank if the submission is Payment 1. If the request is for a second or later interim payment or final closeout, enter the sum of previous payments in this “Previously Reported” column.
- **“DLCD Grant Expenditures, This Payment”** column – captures and identifies expenditures for the products that are currently being submitted for review and payment.
- **“DLCD Grant Expenditures, Cumulative”** column – simply the total of the two previous columns.
- **“DLCD Grant Expenditures, Transactions”** – Complete items 1–4 as applicable and item 5, total in the “Previously Reported” column if applicable and in the “This Payment” column. Complete previous and current local contributions in items 6–9 and the total on line 10 if applicable. Local contribution does not include expenses reimbursed by the grant. It is included to provide DLCD with accurate information regarding the cost of projects and/or products completed in compliance with this grant. This category includes both in-kind and cash contributions.
  - **1. Salary and Benefits** includes the grantee’s staff time, including Other Personnel Expenses. Receipts are not required with this report submission.

- **2. Supplies and Services** include allowable grantee supplies used for completion of grant products. Receipts are not required with this report submission.
  - **3. Contracts** include consultants, attorneys, and any company or individual hired by the grantee to conduct grant work. This category does not include employees of the grantee, but rather an individual or entity that invoices the grantee for services rendered. Information required for the closeout report includes name, address, phone number, and e-mail address of the payee. If there are multiple entities, please provide the amount of grant funds allocated for the reimbursement of each.
  - **4. Other** - Provide a brief explanation and cost breakdown for amounts listed as “Other.” Receipts are not required. Note: Grantee travel expenses are not eligible for reimbursement.
  - **5. Totals** – Sum the categories of grant expenditures in the Previously Reported, This Payment, and Cumulative columns. The Total payments at closeout cannot exceed the maximum amount in paragraph 3 of the Agreement.
- Re-enter the payment request from line 5 “DLCD Grant Expenditures This Payment” on line 11.

Certification: Be sure to read and understand the information in item 12 prior to signing the form.

- A legible name and title is required in cell 13.
- A mailing address, including city and zip code, where payment should be sent must be provided in cell 14.
- The signature under “Signature of Authorized Certifying Official” must be of the person taking responsibility for the accuracy of the information contained in the form.

Before a payment can be issued, *all grant products, required documentation, and the signed reimbursement request form* must be received, accepted, and reviewed by the grant manager and grant program manager, subject to the requirements contained in the Agreement.

Please follow the payment schedule as identified in the Grant Agreement when submitting a request for payment or closeout.

A **signed cover letter**, completed and signed **reimbursement request form**, and completed **Products** can be submitted in one of the following ways: (1) the preferred method – an e-mail with PDF files sent to the Grants Administrative Specialist at [DLCD.GFGrant@dlcd.oregon.gov](mailto:DLCD.GFGrant@dlcd.oregon.gov), or (2) via the DLCD FTP site (contact the Grants Administrative Specialist for instructions at 971-345-1987) or (3) a CD or DVD mailed to the address for the Grants Administrative Specialist in Attachment B of the Agreement. If none of these options are possible, mail the relevant documents to:

Grants Administrative Specialist  
 Department of Land Conservation and Development  
 635 Capitol St. NE Suite 150  
 Salem, OR 97301



NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION FORM 1

FOR DLCD USE File No.: Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation at least 35 days before the first evidentiary hearing. (See OAR 660-018-0020 for a post-acknowledgment plan amendment and OAR 660-025-0080 for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: Grant No.: Local file no.:

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment including more than 50 acres, by a city with a population greater than 2,500 within the UGB
UGB amendment over 100 acres by a metropolitan service district
Urban reserve designation, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
Periodic review task - Task no.:
Any other change to a comp plan or land use regulation (e.g., a post-acknowledgement plan amendment)

Local contact person (name and title):

Phone: E-mail:

Street address: City: Zip:

Briefly summarize the proposal in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

Date of first evidentiary hearing:

Date of final hearing:

This is a revision to a previously submitted notice. Date of previous submittal:

Check all that apply:

- Comprehensive Plan text amendment(s)
Comprehensive Plan map amendment(s) - Change from to
Change from to
New or amended land use regulation
Zoning map amendment(s) - Change from to
Change from to
An exception to a statewide planning goal is proposed - goal(s) subject to exception:
Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL):

List affected state or federal agencies, local governments and special districts:

# NOTICE OF A PROPOSED CHANGE – SUBMITTAL INSTRUCTIONS

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1. Except under certain circumstances,<sup>1</sup> proposed amendments must be submitted to DLCD's Salem office at least 35 days before the first evidentiary hearing on the proposal. The 35 days begins the day of the postmark if mailed, or, if submitted by means other than US Postal Service, on the day DLCD receives the proposal in its Salem office. **DLCD will not confirm receipt of a Notice of a Proposed Change unless requested.**

2. A Notice of a Proposed Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of a Proposed Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of a Proposed Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 1 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<https://www.oregon.gov/lcd/CPU/Pages/Plan-Amendments.aspx>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendment@dlcd.oregon.gov](mailto:plan.amendment@dlcd.oregon.gov) with the subject line "Notice of Proposed Amendment."

Submittals may also be uploaded to DLCD's FTP site at <http://www.oregon.gov/LCD/CPU/Pages/PAPA-Submittals.aspx>.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 1 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of a Proposed Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0000 or [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).

6. **Text:** Submittal of a Notice of a Proposed Change for a comprehensive plan or land use regulation text amendment must include the text of the amendment and any other information necessary to advise DLCD of the effect of the proposal. "Text" means the specific language proposed to be amended, added to, or deleted from the currently acknowledged plan or land use regulation. A general description of the proposal is not adequate. The notice may be deemed incomplete without this documentation.

7. **Staff report:** Attach any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.

8. **Local hearing notice:** Attach the notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable.

9. **Maps:** Submittal of a proposed map amendment must include a map of the affected area showing existing and proposed plan and zone designations. A paper map must be legible if printed on 8½" x 11" paper. Include text regarding background, justification for the change, and the application if there was one accepted by the local government. A map by itself is not a complete notice.

10. **Goal exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.

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<sup>1</sup> 660-018-0022 provides:

(1) When a local government determines that no goals, commission rules, or land use statutes apply to a particular proposed change, the notice of a proposed change is not required [a notice of adoption is still required, however]; and

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review such that the local government cannot submit the proposed change consistent with the 35-day deadline, the local government may submit the proposed change to the department as soon as practicable. The submittal must include a description of the emergency circumstances.

**If you have any questions** or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0000 or e-mail [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).

**Notice checklist. Include all that apply:**

- Completed Form 1
- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal

DLCD FORM 2



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**

File No.:

Received:

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction:

Grant No.

Local file no.:

Date of adoption:

Date sent:

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted):

No

Is the adopted change different from what was described in the Notice of Proposed Change?  Yes  No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title):

Phone: E-mail:

Street address: City: Zip:

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### **For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

### **For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

Change from \_\_\_\_\_ to \_\_\_\_\_ acres.  A goal exception was required for this change.

Change from \_\_\_\_\_ to \_\_\_\_\_ acres.  A goal exception was required for this change.

Change from \_\_\_\_\_ to \_\_\_\_\_ acres.  A goal exception was required for this change.

Change from \_\_\_\_\_ to \_\_\_\_\_ acres.  A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): \_\_\_\_\_

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary





## NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

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1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in ORS 197.615 and OAR 660-018-0040.

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<https://www.oregon.gov/lcd/CPU/Pages/Plan-Amendments.aspx>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov) with the subject line "Notice of Adopted Amendment."

Submittals may also be uploaded to DLCD's FTP site at

<https://www.oregon.gov/LCD/CPU/Pages/PAPA-Submittals.aspx>.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0000 or [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).

6. **Content:** An administrative rule lists required content of a submittal of an adopted change (OAR 660-018-0040(3)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. (ORS 197.615)

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If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0000 or e-mail [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).

### **Notice checklist. Include all that apply:**

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
  - A map showing the area changed and applicable designations, and
  - Electronic files containing geospatial data showing the area changed, as specified in OAR 660-018-0040(5), if applicable
  - Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change.

**Content Standards and Requirements  
For Economic Opportunities Analysis Products  
For the Morrow County TA-23-220**

**Objective:** To identify likely industrial and other economic development opportunities and corresponding employment land needs over the planning period of the next 20 years, plus up to an additional 30 years for communities planning for designated urban reserve land. This attachment provides the typical tasks and required deliverables of an Economic Opportunities Analysis (EOA) funded by the Department of Land Conservation and Development.

**Preparation**

**Purpose:** Reduce cost and delay, anticipate obstacles, prevent surprises, and keep planning activities aligned with local and state policy.

**Products:** (1) A locally approved Statement of Community Economic Development Objectives. (2) Description of the study area and planning area; (3) Evidence of support and coordination from key cooperating organizations and agencies as identified in the Project Description and Budget in Attachment A.

Typical activities include:

- Review of applicable administrative rule requirements with DLCD staff to understand key concepts. Pay special attention to:
  - OAR 660-009-0005(10), Short-term supply of land;
  - OAR 660-009-0015, Economic Opportunities Analysis;
  - OAR 660-009-0020(1)(a), Economic development objectives;And, if applicable:
  - OAR 660-024-0040(5), Employment land need;
  - OAR 660-024-0040(8), Safe harbors.
- Prepare an informal draft Statement of Community Economic Development Objectives that describes the community's broad goals for economic development. Economic development planning typically looks back at the economic history of the area and the forces affecting development. It also looks forward at new opportunities to define actions a local government can take to attain an achievable and sustainable result.
- Define a study area to analyze for economic and land use trends. This is typically a region that shares interdependent economic activity. Describe why the area was chosen and include a brief narrative about current conditions and activity.
- Define a planning area, which is typically the existing urban growth boundary and may include potential expansion and urban reserve areas. In Metro, it may be the city limits or urban service delivery area. It is useful to describe why the area was chosen and include a brief narrative about current conditions and activity.

- Gather and review any available regional economic development, employment data, real estate market data and area context information that has been published by entities such as: state and local governments; economic development agencies; ports and other development districts; and Business Oregon.
- Meet with federal, state, regional and local economic development agencies to discuss cooperation, participation and possible sources of funding for planning and implementation activities.
- Identify typical planning and implementation policies, activities and tools, and gather evidence of support from key cooperating organizations (especially municipal and county boards and commissions, and Oregon’s Regional Solutions Team).

**Trend Analysis**

**Purpose:** Identify economic development opportunities likely to expand or locate in the study area within the planning period. Determine the percentage of the study area’s employment growth that can reasonably be expected to occur within the planning area. Determine how economic trends affect the planning area.

**Products:** (1) An estimate of job growth associated with the economic development opportunities likely to expand or locate in the planning area within the planning period consistent with OAR 660-024-0040(5), Employment Land Need.

The estimate should be based on an employment forecast for the region the city is located in from the Oregon Department of Employment, a custom employment forecast prepared by a competent professional, or an estimate of job growth including reasonable justification for the job growth estimate. Clearly describe the employment forecast method being used, and include the data, the analysis, and the conclusions. Include a narrative that explains the factors that determine the planning area’s capture of employment growth in the study area.

(2) An explanation of national, state, regional, county, and local economic trends and how these trends affect the planning area. Identify uses or category of uses that could reasonably be expected to expand or locate in the planning area and why the area possesses the appropriate locational factors for these use(s) or category of use(s).

(3) Explanation of employment land uses appropriate for the study area based on results of the trend analysis.

Typical activities include:

- Review OAR 660-009-0005, Definitions, to understand of key concepts and terms, and OAR 660-009-0015(1), Review of Economic Trends
- Meet with Oregon Department of Employment staff to discuss employment trends in the study area.
- An EOA that relies on an employment forecast provided by the Department of Employment may reduce cost and potential delay, particularly is the city is

anticipating a UGB amendment. Refer to OAR 660-024-0040(8), Safe Harbors. Cities with circumstances that require a customized estimate of job growth that is not available from the Department of Employment should contract for specialized services from competent professionals.

- Review national, state, regional, county, and local economic trend data including, but not limited to, population and job forecasts by sector over the planning period.
- Consult with local and state economic development professionals regarding local economic development potential for industrial and other employment opportunities in the study area and the planning area. Incorporate results of consultations into the EOA.
- Acquire and incorporate information published by Business Oregon documenting demand for sites in the study area that may not be reflected in the current employment data.
- Identify the employment land uses appropriate for the study area based on results of the trend analysis.

#### **Site Suitability Analysis**

***Purpose:*** Understand the types of sites needed to successfully implement the Statement of Community Economic Development Objectives.

***Products:*** Catalog of the range of site types suitable for the employment uses likely to expand or locate in the planning area.

Typical activities include:

- Review OAR 660-009-0015(2), Identification of Required Site Types.
- Identify “site characteristics” that are necessary for typical or targeted uses to operate. This can be specific site sizes, special site requirements, or other characteristics affecting the needed land supply such as a mixture of site sizes or sites with proximity to facilities. Identify land needs that may arise from the expansion of existing businesses and the recruitment or location of new businesses into the study area.

A site characteristic must be closely related to a particular use or group of uses with similar site needs. A narrow definition of the use could lead to more specific site characteristics.

- Acquire and incorporate information published by Business Oregon that documents specific market-based development practices and site requirements that may affect the current inventory and need for additional suitable employment land.

### **Inventory of suitable sites**

**Purpose:** Determine the current availability of sites that are suitable for employment uses to help the city decide whether additional land or sites are required in order to accommodate the forecasted need.

**Product:** Inventory of available sites suitable for employment uses likely to expand or locate in the planning area within the planning period.

Typical activities include:

- Review OAR 660-009-0015(3), Inventory of Industrial and Other Employment Lands.
- Identify and analyze the planning area's existing supply of industrial and other employment lands for development constraints. The constraints may include wetlands, wildlife habitat, steep slopes, infrastructure deficiencies, parcel fragmentation, natural hazard areas, ownership patterns, and other suitability and availability criteria in order to determine the readiness of the current land supply for industrial and other employment development.
- Examine opportunities for redevelopment of existing sites, including sites in the core areas of cities. A local government may consider the cost of preparing land for the designated use as part of an EOA by including a residual value analysis prepared by a competent professional as part of the analysis of development constraints.
- Examine existing firms in the planning area to identify the types of sites that may be needed for expansion.
- Apply the site characteristics identified in the suitability analysis to the vacant and re-developable sites to determine which are suitable for employment uses. The likelihood the site will be on the market for sale or lease is not a consideration for long-term supply of employment land.
- Provide tabular and mapped data showing the results of the analysis. Document assumptions and findings. The inventory must identify vacant and developed (*i.e.*, re-developable) sites in the planning area and describe development constraints and site characteristics for each site.
- As part of any adjustment to a UGB for employment land, review employment land need and associated policies in OAR 660, division 24. OAR 660-024-0040(5) requires a determination of the need for a short-term supply of land. OAR 660, division 9, encourages local governments to include policies relating to the short-term supply of land. Designation of short-term supply is described in OAR 660-009-0025(3).

### **Assessment of potential**

**Purpose:** To judge the attributes of the city that create advantages and disadvantages for economic development, and make informed estimates of the types and amounts of employment uses likely to locate in the planning area during the planning period.

**Products:** An estimate of the need for employment land within the planning area for the planning period by category of site type. It is encouraged that the EOA include a brief narrative of identified process, cost, or risk factors and describe the community's ability to manage those factors.

Typical activities include:

- Assess economic development potential by analyzing factors such as location, size and buying power of local and export markets for goods and services; workforce training opportunities; availability of transportation facilities for access and freight mobility; access to suppliers and utilities, including telecommunications; and other service infrastructure.
- Estimate the types and amounts of industrial and other employment uses likely to occur in the planning area. Refer to Assessment of Community Economic Development Potential in OAR 660-009-0015(4).
- It is advantageous but not required to identify pertinent planning and implementation, process, cost, and risk factors associated with the designation of additional employment land.
- Based on the information collected in this and previous steps, estimate the total number of sites likely to occur in the study area for the planning period by categories of sites.

### **Develop detailed implementation policies based on completion of previous steps**

**Purpose:** Provide specific guidance to community leaders and staff.

**Products:** For grants that include an implementation or policy-development task, provide a list of recommended economic development implementation policies to be included in the comprehensive plan update or plan amendment that were identified by the EOA process. It is not necessary for an EOA to include a complete implementation plan, which may follow and could include additional items.

Typical activities include:

- Identify local government activities that will be needed to successfully implement the Statement of Community Economic Development Objectives. Include changes to the land supply, updates to comprehensive plans, additions to infrastructure facilities, new intergovernmental agreements, updated management practices, public-private partnerships, workforce training and adjustments to real estate economic factors. Include techniques to increase the community's ability to respond to economic development opportunities with speed and flexibility.

- Identify appropriate local government actions and investments of leadership, capacity, staff time, public finance tools and statutory authority needed to successfully implement the Statement of Community Economic Development Objectives.
- Identify available methods to fund local government activities that will be needed to successfully implement the Statement of Community Economic Development Objectives.
- If using an estimate of job growth with reasonable justification to complete the trend analysis, the local government should identify investments in infrastructure, work force, amenities, and other community improvements necessary in order to attract the job growth. Demonstrate that methods are available and there is local commitment to fund those improvements.
- If using a residual value analysis to justify an adjustment to the current supply of suitable sites, the local government must apply the same analysis to all sites proposed for changes of designation, including all proposed expansion sites outside the current UGB. The local government must identify policies to correct residual value development constraints within the planning period, or reasonably demonstrate that correction is not possible. Use of a residual value analysis is intended to remove from the short-term inventory those inventoried industrial sites with a persistent negative residual value. These sites have development constraints that cannot be resolved for the designated use by reasonable local government action within the planning period.

**Final Draft**

Present a draft EOA to the advisory committee and the regional Business Development Officer for Business Oregon for comment. Incorporate the comments into final product.



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
SF

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Kate Knop
Department: Finance
Short Title of Agenda Item:
(No acronyms please)

Date submitted to reviewers:
Requested Agenda Date: 01-05-2022

Wheatridge Wind Energy - Distribution of Strategic Investment Program Funds per the
Intergovernmental Agreement with Morrow County School District and Ione School District

This Item Involves: (Check all that apply for this meeting.)

- Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time: 15 minutes
Purchase Pre-Authorization
Other

N/A

Purchase Pre-Authorizations, Contracts & Agreements

Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Kate Knop 01-03-22 Department Director Required for all BOC meetings
[Signature] 1/3/22 Administrator Required for all BOC meetings
County Counsel \*Required for all legal documents
Finance Office \*Required for all contracts; other items as appropriate.
Human Resources \*If appropriate

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.



**AGENDA ITEM COVER SHEET**  
**Morrow County Board of Commissioners**  
**(Page 2 of 2)**

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**1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Morrow County received Wheatridge Wind Energy revenue, per strategic investment program (SIP) agreement, on November 17, 2021. The revenue included community service fees for \$639,019.11 and additional monies for \$1,576,319.99.

The SIP agreement outlines the County's commitment for the creation and continued funding for the following:

1. STEM program: \$600,000, yearly; and
2. Art and music program: \$400,000, yearly.

On December 30, 2021, \$300,000 was issued to Morrow County School District and \$100,000 was issued Ione School District per the IGA and a remaining \$600 thousand is pending mutual agreement of the parties.

Excerpt from the IGA, identifying the grant funds distribution as follows:

3(a). Community Investment for Schools: \$100,000 to the Ione School District for schools in Ione and \$300,000 to the Morrow County School District #1 for equal distribution to schools in Boardman, Heppner, and Irrigon;

3(b). \$100,000 for the development and staffing of a STEM Elementary Position that will facilitate STEM education program for all elementary school students of Morrow County. The Districts agree that all students, no matter their location in the County, will have equal opportunity access to this program; and

3(c). The remaining \$500,000 will be distributed to the Districts for each community with schools within the Districts, based upon the December Average Daily Membership (ADMr), as updated annually. The Districts will provide the current year's ADMr to the County prior to a distribution of funds.

**2. FISCAL IMPACT:**

Morrow County distributed \$400 thousand to Morrow County School District and Ione School District on December 30, 2021. An additional \$600 thousand needs distribution per the IGA sections 3(b) and 3(c) and mutual parties.

**3. SUGGESTED ACTION(S)/MOTION(S):**

Discussion and recommendation for the IGA grant funds distribution to Morrow County School District and Ione School District for \$600 thousand.

Attach additional background documentation as needed.

**INTERGOVERNMENTAL AGREEMENT  
For  
STEM and STEAM Education**

**THIS INTERGOVERNMENTAL AGREEMENT**, made and entered into this 24<sup>th</sup> day of February 2021, by and between **MORROW COUNTY**, hereinafter called "**COUNTY**" and **MORROW COUNTY SCHOOL DISTRICT # 1 and IONE SCHOOL DISTRICT**, hereinafter called "**DISTRICTS.**"

**RECITALS**

**WHEREAS**, by the authority granted in ORS 190.010, units of local government may enter into agreements with other units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform; and

**WHEREAS**, the **County** and **Districts** met to discuss and are in agreement the importance of Science, Technology, Engineering, Art and Music to the students in Morrow County to create a vibrant culture and productive workforce; and

**WHEREAS**, **County** has entered into an agreement with Wheatridge Wind Energy, LLC and Wheatridge Solar Energy Center, LLC in which **County** will receive funds that **County** has determined will be directed to schools in Morrow County for funding of STEM (Science, Technology, Engineering, and Mathematics) and STEAM (Art and Music) instruction.

**WHEREAS**, the **Districts** and **County** are willing to provide resources to create the STEM and STEAM programs, as long as resources allow.

**NOW, THEREFORE**, in consideration of the mutual covenants of the parties, each to the other giving, the parties do hereby agree as follows:

1. The **Districts** agree to create and implement STEM and STEAM instruction for students in Morrow County. The program will be allocated as 60% STEM instruction with 40% allocated to Art and Music.
2. The **County** agrees to pay a maximum grant of \$1,000,000.00, based on continued need, to support the **Districts'** STEM and STEAM instruction. Funding of the grant for STEM and STEAM instruction is contingent upon the County receiving adequate funding each year from the agreement with Wheatridge Wind Energy, LLC and Wheatridge Solar Energy Center, LLC. In the event that the County declares that it is unable to perform its obligations by reason of inability to obtain funds, then the **Districts** shall be notified in writing of the amount that will be available, if any, for that year.



**OREGON STRATEGIC INVESTMENT PROGRAM AGREEMENT  
“WHEATRIDGE WIND ENERGY FACILITY”**

MORROW COUNTY, a political subdivision of the State of Oregon, (“County”) and WHEATRIDGE WIND ENERGY, LLC (“Wheatridge”), a Delaware limited liability company authorized to do business in the State of Oregon, hereby enter into this Strategic Investment Program (“SIP”) Agreement (“Agreement”) as of September 6, 2017 (“Effective Date”), for a wind energy resource with installed capacity up to 450 MW to be located in the County. The County and Wheatridge are sometimes referenced in this Agreement individually as “Party” and collectively as “Parties.”

**WITNESSETH:**

**WHEREAS**, the Oregon Legislature has established the SIP to promote industrial competitiveness and to improve employment in the area where projects are to be located by encouraging businesses engaged in projects to hire local employees (See ORS 307.123 and ORS 285C.600 – 285C.620.); and

**WHEREAS**, the SIP encourages local governments to enter into agreements with key industries to attract and retain long-term investment and employment; and

**WHEREAS**, Wheatridge proposes to build and operate in the County and Umatilla County a commercial wind energy generation project, known as Wheatridge Wind Energy Facility (“Facility”), pursuant to a certificate issued by the Oregon Energy Facility Siting Council (“EFSC”), as that certificate may be amended from time to time (“Site Certificate”) for a facility capacity up to 500 MW and total number of turbines up to 292; and

**WHEREAS** a portion of the Facility will be located in Morrow County, up to 450 MW, and the remainder located in Umatilla County, and the portion in Umatilla County is outside the scope of this agreement; and

**WHEREAS** the portion of the project in Morrow County is expected to create temporary construction jobs and permanent full-time jobs in the County; and

**WHEREAS** Wheatridge shall utilize local Morrow County businesses to the maximum extent possible, while also considering cost effectiveness of the Facility, which benefits the County; and

**WHEREAS**, Wheatridge and the County have negotiated this Agreement, and Wheatridge has provided the County with a copy of the draft SIP application to be filed with Oregon Economic and Community Development Department (“OECD”), which application is to be updated by Wheatridge as part of its fulfillment of applicable requirements under State law (the “Application”); and

**WHEREAS**, it is the intent of this SIP Agreement to provide the competitive tax structure in the County that is essential for Wheatridge to provide a source of renewable energy in Oregon and to contribute to the State of Oregon's quality of life; and

**WHEREAS**, the Parties have provided public information and an opportunity for public input regarding SIP generally and the Wheatridge SIP application specifically, including a formal public hearing on this Agreement held in Morrow County on September 6, 2017, and;

**WHEREAS**, this Agreement provides the terms and conditions under which the County agrees to recommend to the State that Wheatridge's SIP application be approved and tax abatement be granted for the Project, as defined below, in exchange for performance by Wheatridge of its obligations as specified herein;

**NOW, THEREFORE**, in consideration of the mutual covenants of the Parties, each to the other giving, the Parties do hereby agree as follows:

1. **Project Definition and Scope.** The "Project" means all tangible and intangible Property (whether held in fee, leasehold or by contract) having the County as its tax situs, consisting of the wind turbine generators which may be installed or placed in service in phases or stages in the County during the term of this Agreement, as well as all associated property (the "Associated Property"), including without limitation roads and civil construction work, meteorological monitoring towers, operations and maintenance facilities, foundations, inverters, transformers, collection and transmission lines, electrical towers and poles, underground and overhead electrical conductors, one or more substations, land, and associated supporting infrastructure and facilities, as more fully described in the Application. Unless otherwise determined by Wheatridge as described below, the Project further includes repairs, replacements, modernization, renovations and remodeling of such Property made during the term of this Agreement. For purposes of this Agreement, the Project shall first exist when the real market value of the foregoing Property is at least \$25 million. Subject to the Site Certificate and State and local land use laws, Wheatridge may add to (up to a maximum nameplate capacity of 450 MW) or subtract from (but not below \$25 million) the Property that constitutes the Project (including repairs, replacements, modernization, renovations or remodeling). For purposes of this Agreement, "Property" has the meaning assigned to that term in ORS 308.505 through 308.681. In the event Wheatridge desires to repower or expand Wheatridge within the SIP Exemption Period, the County shall have the right to re-open negotiation of a new "Per-Megawatt Amount, as defined in Section 4.2.3, regarding the amount of any increase in Project installed electrical capacity and repowering or expansion shall not occur until such renegotiation is concluded, or the parties agree to waive this provision, to the satisfaction of each Party.

2. **SIP Exemption Period.** The "SIP Exemption Period" shall begin, as defined in ORS 307.123(1)(b), in and for the Property Tax Year during which the Project commences Commercial Operation and has a real market value equal to, or in excess of, \$25 million, and shall continue thereafter for 15 Property Tax Years as provided by ORS 307.123(1)(b). As used in this Agreement, "Commercial Operation" shall mean that the Project first produces electrical energy and that electrical energy is transmitted into the regional transmission grid for delivery to a power purchaser, and "Property Tax Year" means each period of 12 months beginning July 1.

3. **Condition Precedent.** Except for the obligations set forth in Sections 5.1 and 6.1., the obligations set forth herein are conditioned upon a determination by the OECDD, or its designee, that the Project is eligible for the tax exemption provided in ORS 285C.606, ORS 307.123, and applicable administrative rules.

4. **Exemption, Payments and Related Obligations.**

4.1 Each Property Tax Year during the SIP Exemption Period, on or before October 25, the County shall submit to Wheatridge a statement describing its calculations and an invoice for amounts due under this Agreement. The invoiced amounts shall be paid by Wheatridge no later than the following December 1.

4.2 In consideration for participating in the SIP with respect to the Project, Wheatridge agrees to pay the amounts as set forth below:

4.2.1 Ad Valorem Property Taxes On Non-Exempt Amounts. The first \$25 million in real market value of the Project, subject to annual increase at the rate of three percent (3%), shall be taxable at its assessed value as provided by ORS 307.123 and 308.146. Property taxes on such value will be payable in accordance with ORS 311.505. The remainder of the real market value of the Project shall be exempt from taxation as provided by ORS 307.123.

4.2.2 Community Service Fee ("CSF"). For each year of the SIP Exemption Period, Wheatridge shall pay to the County a CSF, in an amount equal to twenty-five percent (25%) of the taxes that would, but for the exemption, be due on the exempt Property in each assessment year, but not exceeding \$500,000 in any Property Tax Year. The CSF will be calculated pursuant to ORS 285C.609(4)(b)(B).

4.2.3 Additional Amount. If for any Property Tax Year of the SIP Exemption Period, the Statutory Amount is less than the Minimum Revenue amount for the property tax year in either County, then Wheatridge shall pay to that County an amount equal to the difference between the Minimum Revenue Amount and the Statutory Amount (the "Additional Amount"). Each year, no later than October 25, the County shall provide Wheatridge with a statement describing its calculations and the Additional Amount due, if any, for the Property Tax Year ended on the prior June 30, and Wheatridge shall pay any Additional Amount to the County within 60 days of receipt of the calculations. The Additional Amount shall be payable in addition to any property taxes and CSF for the year. For purposes of this Agreement, the following definitions apply:

"Statutory Amount" means the sum of (i) the ad valorem property taxes due for the property tax year pursuant to Section 4.2.1, and (ii) the aggregate CSF.

"Per-Megawatt Amount" means \$8,000.00.

"Minimum Revenue Amount" means the sum of the product of (a) the connected nameplate capacity (in Megawatts) of the Project as of January 1 of that year multiplied by (b) the Per-Megawatt Amount for the Property Tax Year.

4.2.4 County Education Enhancement Program. County recognizes the economic benefits that come from an adequately funded education system in Morrow County. County has determined that providing funding for the creation and continued funding of a STEM (Science, Technology, Engineering, and Mathematics) program will assist in educating the students of Morrow County and act as incentive for families to move to Morrow County and create further economic development. County further believes that providing art and music opportunities to students helps provide a well-rounded education for students in Morrow County. In furtherance of these goals, County has determined that the following funds received from this SIP Agreement shall be directed to schools in Morrow County:

STEM Program: \$600,000.00 yearly. Amount will be distributed on a yearly basis, based upon continued need and approval of a Memorandum of Understanding Agreement between the County and school district.

Art and Music Programs: \$400,000.00 yearly. Amount will be distributed on a yearly basis, based upon continued need and approval of a Memorandum of Understanding Agreement between the County and school district.

Funding of the County Education Enhancement Program for STEM, Art, and Music will be contingent upon County receiving adequate funding each year from this SIP Agreement. Funding is also contingent upon County and school districts entering into a Memorandum of Understanding that details the uses of the funding, and is agreeable to County and school districts receiving the funding. Nothing in this Section 4.2.4 imposes on Wheatridge an obligation to make a payment beyond the payments required by Section 4.2.1, Section 4.2.2, Section 4.2.3 and Section 4.2.5.

4.2.5 County Cost of Preparation of SIP Agreement. In addition to the above, Wheatridge agrees to reimburse the County Ten Thousand dollars (\$10,000) for the costs incurred for SIP Agreement preparation, including staff, legal, administrative, and professional fees. Payment shall be made within ninety (90) days of the signing of the SIP Agreement.

4.3 SIP Application. Wheatridge shall file a SIP application with the State and pay all applicable fees as provided in ORS 285C.612 and applicable administrative rules.

4.4 First-Source Hiring Agreement. Wheatridge shall enter into first-source hiring agreements with an appropriate third party acceptable to the County in substantially the form required pursuant to OAR 123-070-1000 to -1900. The County is to be designated a third-party beneficiary of the agreement and is entitled to enforce its terms. If the third-party provider is unable to perform the first-source hiring agreement to the satisfaction of Wheatridge or the County, then the Parties shall cooperate in procuring the services of a substitute provider.

4.5 Property Tax Statements and Information. Wheatridge shall notify the County on an annual basis, at the time of the filing with the Oregon Department of Revenue ("DOR") of the annual statement for property tax purposes covering the Project, of the connected nameplate capacity (in Megawatts) of the Project as of January 1 of that year.

4.6 State Road Repair Agreement. Wheatridge agrees to coordinate with and reasonably satisfy requests of Oregon Department of Transportation (ODOT) for repair of any State highways impacted by project construction traffic and, in addition, reimburse County its direct, out-

of-pocket cost of any repair or extraordinary maintenance of County roads resulting from Wheatridge's construction.

**5. County Obligations.**

5.1 Within 9 days after the Effective Date, the County shall request that the OECDD determine that the Property constituting the Project be granted exemption from ad valorem Property taxation for each Property Tax Year of the SIP Exemption Period.

5.2 The County shall be solely responsible for determining how to dispose of the CSF (pursuant to Oregon rules and statute) and the Additional Amount, including paying any portions that are due or payable to any other jurisdictions. In no event shall Wheatridge have any liability in connection with any disagreement, error, or conflict between the County and any other jurisdiction related to the division, allocation, or distribution of such amounts or related to the county education enhancement program described in Section 4.2.4. In no event shall Wheatridge have any liability or obligation to any other person with respect to the CSF, the Additional Amount, or the Section 4.2.4 county education enhancement program after it has discharged its duty to pay as set forth in Section 4 above, and the County shall hold Wheatridge harmless with respect to any claims to the contrary, to the extent allowed and permitted by the Oregon Constitution and other Oregon law.

**6. Joint Obligations.** In addition to the other obligations set forth in this Agreement, the Parties shall:

6.1 Cooperate with the OECDD and the DOR to secure approval of the SIP and take such steps as may, from time to time, be reasonably necessary to maintain the Project's tax exemption.

6.2 Provide such information and resources to each other as may be reasonably necessary to ensure proper calculation of the amounts due under this Agreement.

**7. Ad Valorem Property Taxes.** Nothing herein shall govern the assessment, payment, or collection of ad valorem property taxes on the portion of the Project that is taxable as described in Section 4.2.1 of this Agreement or on Property unrelated to the Project.

**8. Miscellaneous Provisions.**

8.1 The laws of the State of Oregon shall govern this Agreement. Venue is in the Circuit Court of the State of Oregon for the County of Morrow. The Parties agree that in case of any disputes that arise under this Agreement they shall first attempt to resolve such disputes through good-faith negotiations between authorized representatives for both Parties for a period of thirty (30) days before filing any litigation.

8.2 Wheatridge shall cause to be installed and utilize a Aircraft Detection Lighting System (ADLS) on each wind tower installed in the Project, so long as use has been authorized by the Federal Aviation Administration (FAA) and comply with all FAA rules and regulations.



8.3 Unless defined herein, the terms herein shall be given their normal and customary meaning, except that terms relating to the payment of Property taxes and fees included in this SIP agreement shall be construed consistently with the tax laws and rules of the State of Oregon. No provision shall be construed against a Party simply because that Party drafted the provision.

8.4 Failure to make payment in full of the CSFs or the Additional Amounts by the due date shall result in interest being charged on the past due balance in the same amount as is provided by law for late payment of ad valorem property taxes.

8.5 If Wheatridge fails to pay the CSF by the end of a Property Tax Year in which it is due, the tax exemption for the Project shall be revoked and the property shall be fully taxable for the following Property Tax Year and for each subsequent Property Tax Year for which the CSF remains unpaid. If an unpaid CSF is paid after the exemption is revoked, the property shall again be eligible for the exemption, beginning with the Property Tax Year after the payment is made. Reinstatement of the exemption shall not extend the 15-year SIP Exemption Period.

The County shall have the right to enforce payment of any and all amounts due to it by Wheatridge and/or any permitted assignee (including interest, as provided in Section 8.4) through an appropriate action to collect such amounts. In the event suit or action is instituted to enforce compliance with any of the terms, covenants, or conditions of this Agreement, or to collect the payment amounts due hereunder, if Wheatridge is found to be in default of this Agreement, it agrees to pay in addition to the costs and disbursements provided by statute, such additional sums as the court may adjudge reasonable for attorneys' fees, consulting fees, and other out-of-pocket expenses allowed plaintiff in any suit or action, provided County is the prevailing party. Wheatridge also agrees to pay and discharge all reasonable costs and expenses actually incurred, including County's reasonable attorney fees, reasonable consulting fees, and other reasonable expenses that arise from enforcement of any provisions of this Agreement, even though no suit or action is commenced.

8.6 The County and Wheatridge hereby agree to this Agreement in its entirety. The Parties understand and agree that the County will only get the full benefit of its bargain if it receives all payments covered by this Agreement. The "Default Amount" shall mean the amount equal to Minimum Revenue Amount for the Property Tax Year in which the Default occurred, multiplied by the number of Property Tax Years remaining in the SIP Exemption Period. "Default" shall mean the material breach of this Agreement by Wheatridge that is not cured default within thirty (30) days after Wheatridge receives notice thereof from the County.

8.6.1 In the event that Wheatridge fails to pay the amounts due pursuant to Sections 4.2.2, 4.2.3 and 4.2.4 for a given Property Tax Year, then in addition to any other remedies allowed at law or in equity, the following shall apply:

8.6.1.1. This Agreement and the SIP exemption may thereupon be terminated at the County's election after thirty (30) days written notice to Wheatridge.

8.6.1.2. Wheatridge shall thereupon be obligated to pay to the County the Default Amount, which shall represent the County's liquidated damages. The County shall submit to Wheatridge an invoice for the amount of liquidated damages due, together with a statement setting forth its calculations. If Wheatridge becomes liable for liquidated damages under this provision, it

shall pay such invoiced amounts on or before sixty (60) days after its receipt of the County's invoice; provided, however, in the event Wheatridge does not agree with the County's calculations, Wheatridge and the County shall attempt to resolve such disputes through good faith negotiations between authorized representatives of each Party to occur during such sixty (60) day period.

8.6.2 In accordance with Oregon law, in the event of an overpayment of the CSF or any Additional Amount, the County shall either issue an overpayment refund check or return the incorrect payment and request that Wheatridge reissue payment in the correct amount. In the event of a return of overpayment, the County assessor shall establish a reasonable schedule for payment of the amount actually due under this Agreement.

8.6.3 If Wheatridge fails to pay the CSF or any Additional Amount by the end of the Property Tax Year in which it is due, and no cure is made within thirty (30) days after Wheatridge receives written notice from the County of such failure, the tax exemption for the Project shall thereupon be suspended. The Property shall thereupon be fully taxable for the following Property Tax Year and for each subsequent Property Tax Year for which the amounts due under this Agreement remain unpaid. If the unpaid amounts are paid after the exemption is suspended, the Property shall again be eligible for the exemption, beginning with the Property Tax Year after the payment is made. Reinstatement of the exemption shall not extend the 15-year exemption period.

8.7 All notices and other communications required or permitted under this Agreement shall be in writing and shall be either hand delivered in person, sent by facsimile, sent by certified or registered first-class mail, postage pre-paid, or sent by nationally recognized express courier service. Such notices and other communications shall be effective upon receipt if hand delivered or sent by facsimile, three days after mailing if sent by mail, and one day after dispatch if sent by express courier, to the following addresses, or such other addresses as either Party may notify the other Party in accordance with this Section 8.5.

If to Wheatridge, to:

Wheatridge Wind Energy, LLC.  
700 Universe Blvd  
Juno Beach, FL 33408  
Facsimile No.: (561) 691-7307  
Telephone No.: (561) 329-4550  
Attention: Business Manager

If to County, to:

Morrow County Assessor  
Post Office Box 247  
Heppner, Oregon 97836  
Facsimile No.: 541-676-5610  
Telephone No.: 541-676-5607  
Attention: County Assessor

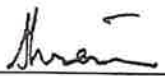
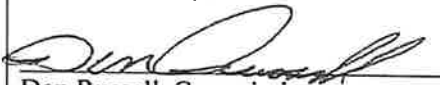
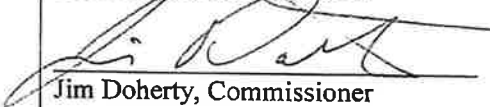
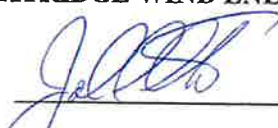
9. **Merger.** This Agreement constitutes the complete and exclusive agreement between the Parties with respect to the SIP, and supersedes all prior agreements and proposals, oral or written and any other communication between the Parties on this matter. No waiver, modification, amendment or other change will be binding on either Party, except as a written addendum, signed by authorized agents for both Parties.

10. **Assignment.** Upon prior written notice to the County, but without prior approval by the County, Wheatridge may assign its rights and release its obligations under this Agreement to any assignee of its choosing; provided, however, that the assignee must satisfy all applicable requirements under ORS 285C.600 to 285C.620 and must agree to assume the obligations, conditions, requirements and other terms of this Agreement and, further provided, that no assignment shall be permitted unless

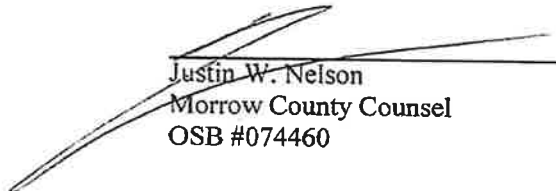
all payments due the County under this Agreement, as of the date of the assignment, have been paid in full.

11. **Term.** The term of this Agreement shall extend from the effective date, specified below, until the date on which Wheatridge shall have made the last installment payment it is obligated to make to the County pursuant to Section 4.2.3, provided Wheatridge is not in default under the terms of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective the 6th of September, 2017

<b>MORROW COUNTY</b>  Melissa Lindsay, Chair  Don Russell, Commissioner  Jim Doherty, Commissioner	<b>WHEATRIDGE WIND ENERGY, LLC</b> By:  Name: <u>John Di Donato</u> Title: <u>Vice President</u>
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Approve as to Form:

  
Justin W. Nelson  
Morrow County Counsel  
OSB #074460

Attest:

  
Bobbi Childers, County Clerk





AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
59

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Darrell Green
Department: Administration
Short Title of Agenda Item: CIS Endpoint Security Services
(No acronyms please)

Date submitted to reviewers:
Requested Agenda Date: 1/05/2022

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time: 10 minutes
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:

Department Director Required for all BOC meetings
DATE
Administrator Required for all BOC meetings
DATE
County Counsel \*Required for all legal documents
DATE
Finance Office \*Required for all contracts; other items as appropriate.
DATE
Human Resources \*If appropriate
DATE

\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

# AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

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## **1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

At our Long Range Planning Work Session on December 15th, I proposed improving our cyber security by purchasing CIS Endpoint Security Services (CIS ESS).

CIS ESS are available to government entities and is discounted to make this cyber security more affordable as the Federal Government recognizes the vulnerability smaller government entities have along with the malicious attackers focus on government entities to infiltrate our computer systems.

CIS ESS provides an active defense against both known (signature based) and unknown (behavioral based) malicious activity. The service can stop an attack in its tracks upon identifying a threat on an endpoint (computer or laptop) and take an active role in mitigating and remediating the malware affecting an organizations devices by killing or quarantining files.

CIS ESS has a 24x7x365 Security Operation Center (SOC) that will continuously monitor and manage their software, including analyzing malicious activity and escalating actionable threats.

Due to the current and highly probable future threats Morrow County has experienced, I am recommending we purchase this service asap to protect our information and computer systems.

## **2. FISCAL IMPACT:**

GL 217-125-5-40-4401 \$9,690.00 for the first year of service

## **3. SUGGESTED ACTION(S)/MOTION(S):**

Motion to approve the purchase of CIS Endpoint Security Services and have Chair Doherty sign the contract.

Attach additional background documentation as needed.



Center for Internet Security, Inc.  
 31 Tech Valley Drive  
 East Greenbush, New York 12061  
 United States

**QUOTE for Morrow County**  
 Quote: SQ-211228-0008723  
 Created Date: 12/28/2021  
 Valid Through: 1/27/2022  
 Prepared by: Mark Talty  
 Phone: (518) 880-0772

## Quote

### Address Information

**Bill To:**

Morrow County  
 100 S. Court Street  
 Heppner, Oregon 97836  
 United States

**Buying Contact:** Darrell Green

**Buying Email:** dgreen@co.morrow.or.us

**Ship To:**

Intermountain Education Service District  
 2001 SW Nye Avenue  
 Pendleton, Oregon 97801  
 United States

**Shipping Contact:** Jordan Standley

**Shipping Email:** jordan.standley@imesd.k12.or.us

### Related Information

**Currency:** USD

**Billing Frequency:** One-Time

### Service Lines

Product/Service	Product Code	Description	Date	Qty	Term	List Price	Sales Price	Discount	NET
CIS Services MDR Advanced powered by CrowdStrike	CIS-MDR-ADV-CS-CISS	ESS 190 Endpoints	12/28/2021	190	12 Mon	\$5.00	\$5.00	15.00%	\$9,690.00
			12/27/2022						

List Price Total: \$11,400.00

Sales Price Total: \$11,400.00

Service Discount Amount: (\$1,710.00)

Net Amount: \$9,690.00

**Balance Due Amount: \$9,690.00**

### Standard Terms

Please note that if the purchase(s) listed above are related to a new product/service, the Date(s) are determined based upon both the order being approved and all pre service requirements met. If the purchase(s) listed above are for a renewing product/service, the Date(s) reflect the actual term.

Any taxes or fees to be collected by a taxing jurisdiction, financial institution or payment processor incidental to the payment of Products/Services by Customer to CIS shall in no way limit the amount of the Products/Services to be paid by Customer to CIS.

All rights reserved. Copyright Center for Internet Security, Inc.



(/)

Feedback

## CIS Endpoint Security Services (ESS)

CIS Endpoint Security Services (ESS) are available to U.S. State, Local, Tribal, and Territorial (SLTT) government entities, offered in partnership with CrowdStrike. CIS ESS is a solution deployed on endpoint devices to identify, detect, respond to, and remediate security incidents and alerts.

### Protection and Response at the Endpoint

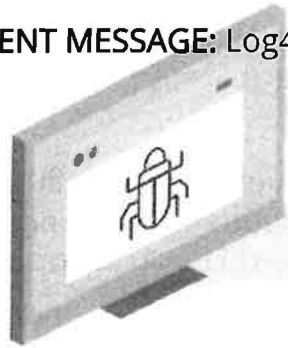
CIS ESS provides an additional layer of cybersecurity protection by deploying directly on devices like workstations and servers. The service offers device-level protection and response to strengthen an organization's cybersecurity program, and provides active defense against both known (signature-based) and unknown (behavioral-based) malicious activity. The service can stop an attack in its tracks upon identifying a threat on an endpoint, regardless of the network it is connected to, taking an active role in mitigating and remediating malware affecting an organization's devices by killing or quarantining files.

### CIS Monitoring and Management

Organizations using CIS ESS benefit from a cybersecurity defense partner in our 24x7x365 Security Operations Center (SOC). Our SOC will continuously monitor and manage CIS ESS software, including analyzing malicious activity and escalating actionable threats to the affected SLTT organizations.

**URGENT MESSAGE:** Log4j Zero-Day Vulnerability Response | [Learn more \(https://www.cisecurity.org/log4j-zero-day-vulnerability-response/\)](https://www.cisecurity.org/log4j-zero-day-vulnerability-response/)

X



**ESS detects  
and/or blocks  
malicious activity**



**Alert generated and  
sent to 24x7x365 SOC**



**Analysis conducted  
in 24x7x365 SOC**  
FALSE POSITIVES  
ELIMINATED



**Notification sent for  
actionable events only**

Feedback

Additionally, any organization protected by CIS ESS can request the assistance of our Cyber Incident Response Team (CIRT) when they experience a cyber incident. Our CIRT analysts can reach directly into an affected system and conduct digital forensics remotely, acquiring evidence to uncover what happened and performing analysis to determine the root cause, the scope of the incident, attack methodologies, and more.

## Pricing

Please contact us for pricing and more information at [services@cisecurity.org](mailto:services@cisecurity.org) (mailto:services@cisecurity.org).

## Information Hub



## 2021 Committee & Board Assignments

### Commissioner Melissa Lindsay

Airport Advisory Committee  
 Association of Oregon Counties (AOC) Representative  
 Boardman Chamber of Commerce – All  
 Boardman Community Development Association – All  
 Budget Committee - All  
 Columbia River Enterprise Zone II Board – Alternate to  
 Comm. Doherty (Appt. 1-13-21, two-year term)  
 Community Action Program of East Central Oregon (CAPECO)  
 Community Renewable Energy Association – Alternate to  
 Comm. Russell  
 Court Security Committee  
 Eastern Oregon Jobs Council – Alternate to Commissioner  
 Russell  
 Eastern Oregon Workforce Investment Board – Alternate to  
 Commissioner Russell  
 Equity Fund Committee – All  
 Fair Board – All, rotates as convenient  
 Greater Eastern Oregon Development Corporation (GEODC)  
 Heppner Chamber of Commerce – All  
 Ione Community Agri-Business Organization (ICABO) – All  
 Irrigon Chamber of Commerce – All  
 Local Emergency Planning Committee – All  
 Local Public Safety Coordinating Council  
 Lower Umatilla Basin Groundwater Management Area  
 Military Economic Advisory Committee  
 Morrow County Advisory Board for Community Counseling  
 Solutions  
 Morrow County Economic Development Group – All  
 Morrow County Emergency Operations Center  
 Morrow County Government Command Center  
 Neighborhood Center of South Morrow County  
 Regional Solutions  
 Road Committee  
 Rodeo Committee  
 Willow Creek Valley Economic Development Group

### Chair Don Russell

Airport Advisory Committee - Alternate to Comm. Lindsay  
 AOC Representative  
 Board of Property Tax Appeals  
 Boardman Chamber of Commerce - All  
 Boardman Community Development Association – All  
 Budget Committee – All  
 Columbia Development Authority – Alternate to Comm. Doherty  
 (Appointed 1-20-21, four-year term)  
 Community Renewable Energy Association  
 Early Childhood Committee  
 Eastern Oregon Jobs Council  
 Eastern Oregon Workforce Board  
 Equity Fund Committee – All  
 Fair Board – All, rotates as convenient  
 Heppner Chamber of Commerce – All  
 Ione Community Agri-Business Organization (ICABO) – All  
 Irrigon Chamber of Commerce – All  
 Irrigon-Boardman Emergency Assistance Center  
 Local Community Advisory Council (Public Health)  
 Local Emergency Planning Committee – All  
 Morrow County Economic Development Group - All  
 Parks Committee  
 Port of Morrow Liaison  
 Regional Community Advisory Council (Public Health)  
 Road Committee  
 Solid Waste Advisory Committee

### Commissioner Jim Doherty

AOC Representative  
 Blues Intergovernmental Council (BIC)  
 Boardman Chamber of Commerce – All  
 Boardman Community Development Association – All  
 Boardman Food Pantry  
 Budget Committee - All  
 Columbia Development Authority (Appointed 1-20-21, four-year  
 term)  
 Columbia River Enterprise Zone II Board (Appointed 1-13-21,  
 two-year term)  
 Eastern Oregon Counties Association  
 Equity Fund Committee - All  
 Fair Board – All, rotates as convenient  
 Forest Collaborative  
 Greater Eastern Oregon Development Corporation (GEODC) –  
 Alternate to Comm. Lindsay  
 Heppner Chamber of Commerce - All  
 Ione Community Agri-Business Organization (ICABO) – All  
 Irrigon Chamber of Commerce – All  
 Local Emergency Planning Committee – All  
 Morrow County Economic Development Group – All  
 National Association of Counties (NACo) Representative  
 NACo Western Interstate Region Representative  
 North East Area Commission on Transportation  
 Regional Travel Shed Analysis & Transit Development Analysis  
 Road Committee  
 The Loop –Morrow County Transportation Advisory Committees  
 Wolf Depredation Advisory Committee



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: H Paul Gray
Department: Emergency Management
Short Title of Agenda Item: (No acronyms please) Morrow County Vaccine/Testing Policy to follow US OSHA Guidelines
Date submitted to reviewers:
Requested Agenda Date: 1/5/2022

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading 2nd Reading
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time: 15 minutes
Purchase Pre-Authorization
Other

N/A
Purchase Pre-Authorizations, Contracts & Agreements
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? Yes No

Reviewed By:
H Paul Gray 1/4/2022 Department Director Required for all BOC meetings
Administrator Required for all BOC meetings
County Counsel \*Required for all legal documents
Finance Office \*Required for all contracts; other items as appropriate.
Human Resources \*If appropriate
\*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

**AGENDA ITEM COVER SHEET**  
**Morrow County Board of Commissioners**  
**(Page 2 of 2)**

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**1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):**

Below are some topics highlighted in the policy we would like to review and discuss:

Page 4; Sick leave per US OSHA gives employees 2 days per each initial vaccine. This could be the employees sick leave, but if an employee does not have any sick leave, the county must give the employee sick days. This option could be covered by past COVID funding if the Board of Commissioners would like use this option.

Page 5; Updated new CDC guidance on isolation, the amount of days required to isolate has changed

Page 6; COVID19 testing protocols. The US OSHA does not state who should pay for the tests.

- 1) Should the County pay for the Antigen Rapid tests?
- 2) Should the employees pay for the tests?
- 3) Or should the county pay for the tests and have on hand for the employees to purchase, thus having no stock shortages fall on the employee?

**2. FISCAL IMPACT:**

If the County buys the testing materials, pricing could reach \$15,000-\$25,000, dependent on availability and pricing.

**3. SUGGESTED ACTION(S)/MOTION(S):**

Motion to approve Vaccine/Testing policy

Attach additional background documentation as needed.



## **Morrow County COVID-19 Vaccination Testing and Face Covering Policy**

*Effective: January 10, 2022*

### **Purpose:**

This policy complies with OSHA's Emergency Temporary Standard on Vaccination and Testing (29 CFR 1910.501).

### **Scope:**

This COVID-19 Policy on vaccination, testing, and face-covering use applies to all employees of Morrow County, except for employees who do not report to a workplace where other individuals (such as coworkers or customers) are present; employees while working from home; and employees who work exclusively outdoors.

Employees are considered fully two weeks after the second dose in a two-dose series, such as the Pfizer or Moderna vaccines, or two weeks after a single-dose vaccine, such as the Johnson & Johnson's vaccine. Employees who are not fully vaccinated will be required to provide proof of weekly COVID-19 testing before entering the workplace.

Due to their specific position, some employees may be required to have or obtain a COVID-19 vaccination as a term and condition of employment at Morrow County. Employees subject to mandatory vaccination requirements should follow all relevant vaccination procedures in this policy and are not given the choice to choose testing and face-covering use instead of vaccination. Currently, these specific employees include Public Health department employees and those that work in School systems.

All employees are required to report their vaccination status and, if vaccinated, provide proof of vaccination. Employees must provide truthful and accurate information about their COVID-19 vaccination status, and, if not fully vaccinated, their testing results. Employees not in compliance with this policy will be subject to discipline, including termination.

Employees who wish to request an exception from vaccination requirements for medical or religious reasons will be considered unvaccinated and will be required to weekly testing instead of vaccination.

## **Procedures:**

### **Overview and General Information**

#### **Vaccination**

Any Morrow County employee that chooses to or is required to be vaccinated against COVID-19 must be fully vaccinated no later than February 9, 2022. Any employee not fully vaccinated by February 9, 2022, will be subject to the regular testing requirements of the policy.

To be fully vaccinated by February 9, 2022, an employee must:

- Obtain the first dose of a two-dose vaccine no later than December 29, 2021, for Moderna and January 5, 2022, for Pfizer and the second dose no later than January 26, 2022, OR
- Obtain one dose of a single dose vaccine no later than January 26, 2022.

Employees will be considered fully vaccinated two weeks after receiving the requisite number of doses of a COVID-19 vaccine as stated above. An employee will be considered partially vaccinated if they have received only one dose of a two-dose vaccine.

Employees may schedule a vaccination appointment through Morrow County's Public Health department or their medical provider. Paid time will be provided to those receiving a COVID-19 vaccine, up to 4 hours.

To schedule a COVID-19 vaccine with the Morrow County Health Department, please call 541-676-5421 or 541-481-4200.

#### **Testing and Face Coverings**

### **Vaccination Status and Acceptable Forms of Proof of Vaccination**

#### **Vaccinated Employees**

All vaccinated employees are required to provide proof of COVID-19 vaccination, regardless of where they received the vaccination. Proof of vaccination status can be submitted via your department head or human resources. Proof of vaccination must be received by January 10, 2022 otherwise the employee will be treated as not vaccinated.

Acceptable proof of vaccination status is:

1. The record of immunization from a health care provider or pharmacy; OR
2. A copy of the COVID-19 Vaccination Record Card; OR
3. A copy of medical records documenting the vaccination; OR
4. A copy of immunization records from a public health, state, or tribal immunization information system; OR

5. A copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s).

Proof of vaccination generally should include the employee’s name, the type of vaccine administered, the date(s) of administration, and the name of the health care professional(s) or clinic site(s) that administered the vaccine. In some cases, state immunization records may not include one or more of these data fields, such as clinic sites; in those circumstances, Morrow County will still accept the state immunization record as acceptable proof of vaccination.

If an employee is unable to produce one of these acceptable forms of proof of vaccination, despite attempts to do so (e.g., by trying to contact the vaccine administrator or state health department), the employee can provide a signed and dated statement attesting to their vaccination status (fully vaccinated or partially vaccinated); attesting that they have lost and are otherwise unable to produce one of the other forms of acceptable proof, and including the following language:

*“I certify that this statement about my vaccination status is true and accurate. I understand that knowingly providing false information regarding my vaccination status on this form may subject me to criminal penalties.”*

An employee who attests to their vaccination status in this way should to the best of their recollection, include in their attestation the type of vaccine administered, the date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine.

**All Employees – Vaccination Status**

All vaccinated and unvaccinated employees must inform Morrow County of their vaccination status. The following table outlines the requirements for submitting vaccination status documentation.

Vaccination Status	Instructions	Deadline(s)
Employees who are fully vaccinated.	Submit proof of vaccination that indicates full vaccination.	January 10, 2022
Employees who are partially vaccinated (i.e., one dose of a two-dose vaccine series).	Submit proof of vaccination that indicates when the first dose of vaccination was received, followed by proof of the second dose when it is obtained.	January 10, 2022
Employees who are not vaccinated.	Submit a statement that you are unvaccinated, but are planning to receive vaccination by the deadline.	January 10, 2022

*\*Any employee who has not submitted vaccine status documentation, will be considered unvaccinated. \**

## **Time Off for COVID-19 Vaccination**

An employee may take up to four hours of duty time per dose to travel to the vaccination site, receive a vaccination, and return to work. This would mean a maximum of eight hours of duty time for employees receiving two doses. If an employee spends less time getting the vaccine, only the necessary amount of duty time will be granted. If an employee is vaccinated outside of their approved duty time they will not be compensated.

Employees may utilize up to two workdays of sick leave immediately following each dose if they have side effects from the COVID-19 vaccination that prevent them from working. Employees who have no sick leave will be granted up to two days of additional sick leave immediately following each dose if necessary.

The following procedures apply for requesting and granting duty time to obtain the COVID-19 vaccine or sick leave to recover from side effects:

If the employee has side effects after each initial dose of the vaccine (Moderna and Pfizer are a 2-shot vaccination dose and J&J is a single shot vaccination dose), they can request sick leave from their supervisor and use pay code 100[COVID19 SICK A] for those sick days.

**New pay codes? How should employees obtain approval? How leave is being granted?**

## **Employee Notification of COVID-19 and Removal from the Workplace**

Morrow County will require employees to promptly notify their supervisor and Public Health when they have tested positive for COVID-19 or have been diagnosed with COVID-19 by a licensed healthcare provider. Furthermore, employees who are sick or are experiencing symptoms will be required to notify their supervisor promptly.

Employees who test positive or who are diagnosed with COVID-19 may be eligible for the Family Medical Leave Act or the Oregon Family Leave Act. For more information visit BOLI: <https://www.oregon.gov/boli/employers/Pages/COVID-19-resources.aspx>

## **Medical Removal from the Workplace**

Morrow County has also implemented a policy for keeping COVID-19 positive employees from the workplace in certain circumstances. Morrow County will immediately remove an employee from the workplace if they have received a positive COVID-19 test or have been diagnosed with COVID-19 by a licensed healthcare provider (i.e., immediately send them home or to seek medical care, as appropriate).

Whenever an employee participates in quarantine or isolation for COVID-19, the employer must allow the affected employee(s) to work at home if suitable work is available and the employee's condition does not prevent it. If remote work is approved, employees will be required to complete the temporary telecommuting policy and agreement form.

## Return to Work Criteria

For any employee removed because they are COVID-19 positive, Morrow County will keep them removed from the workplace until the employee receives a negative result on a COVID-19 nucleic acid amplification test (NAAT) following a positive result on a COVID-19 antigen test if the employee chooses to seek a NAAT test for confirmatory testing; meets the return to work criteria in CDC's "Isolation Guidance"; or receives a recommendation to return to work from a licensed healthcare provider.

Under CDC's "Isolation Guidance," asymptomatic employees may return to work once 5 days have passed since the positive test, and symptomatic employees may return to work after all the following are true:

- At least 5 days have passed since symptoms first appeared, AND
- At least 24 hours have passed with no fever without fever-reducing medication, AND
- Other symptoms of COVID-19 are improving (loss of taste and smell may persist for weeks or months and need not delay the end of isolation).

After the 5-day isolation, employees must wear a CDC-approved face mask for an additional 5 days around any others to minimize the risk of infecting people they encounter.

**This is the new CDC guidance released December 27, 2021.**

If an employee has severe COVID-19 or immune disease, Morrow County will follow the guidance of a licensed healthcare provider regarding return to work.

## **COVID-19 Testing**

All employees who are not fully vaccinated will be required to comply with this policy for testing.

Employees who report to the workplace:

(A) must be tested for COVID-19 at least once every seven days; AND

(B) must provide documentation of the most recent COVID-19 test result to the supervisor no later than the seventh day following the date on which the employee last provided a test result.

Any employee who does not report to the workplace during a period of seven or more days (e.g., if they were teleworking for two weeks before reporting to the workplace):

(A) must be tested for COVID-19 within seven days before returning to the workplace; AND

(B) must provide documentation of that test result to the supervisor upon return to the workplace.



If an employee does not provide documentation of a COVID-19 test result as required by this policy, they will be removed from the workplace until they provide a test result.

Employees who have received a positive COVID-19 test, or have been diagnosed with COVID-19 by a licensed healthcare provider, are not required to undergo COVID-19 testing for 90 days following the date of their positive test or diagnosis.

Employees can either go to their doctor to be tested and give a copy of the report to their supervisor or bring in an at-home test and perform the test in front of their supervisor. If testing at work, the employee must arrange with their supervisor to complete the test prior to their first shift of the week. Employees using an at-home test must bring in their own CDC-approved test purchased by the employee.

This part is up to the BOC, should the employee pay for the test or should the County.

## **Face Coverings**

### **Per the State of Oregon/Oregon Health Authority:**

Individuals, regardless of vaccination status, are required to wear a mask, face-covering, or face shield, except as exempted by this rule, when:

1. In an indoor space
2. In an outdoor space if the individuals cannot or do not consistently maintain at least six feet of distance from individuals not in their household.
3. When occupying a vehicle with another person for work purposes.

Employees with a disability or medical condition may request an accommodation if they cannot wear a mask, face shield, or face covering.

Morrow County will provide disposable masks for employees at no cost. If an employee chooses to wear their mask or face-covering, the employee may do so as long as it meets the standards set by the CDC (vaccinated employees) or the FDA (non-vaccinated employees). If an employee chooses to wear a mask or face-covering even when it is not required, Morrow County will allow them to do so.

The following are exceptions to Morrow County's requirements for face coverings:

1. When an employee is alone in a room with floor-to-ceiling walls and a closed door.
2. For a limited time, while an employee is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements.
3. When an employee is wearing a respirator or facemask.
4. Where Morrow County has determined that the use of face coverings is infeasible or creates a greater hazard (e.g., when it is important to see the employee's mouth for reasons related to their job duties, when the work requires the use of the employee's uncovered mouth, or when the use of a face-covering presents a risk of serious injury or

death to the employee).

**New Hires:**

All new employees are required to comply with the vaccination, testing, and face-covering requirements outlined in this policy as soon as practicable and as a condition of employment. Potential candidates for employment will be notified of the requirements of this policy before the start of employment.

**Confidentiality and Privacy:**

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing, will be treated by applicable laws and policies on confidentiality and privacy.

**Questions:**

Please direct any questions regarding this policy to BOC Chair Jim Doherty at [jdoherly@co.morrow.or.us](mailto:jdoherly@co.morrow.or.us).

lea



## Administration

P.O. Box 788 • Heppner OR 97836  
(541) 676-2529 Fax (541) 676-5619

Darrell Green  
County Administrator  
dgreen@co.morrow.or.us

**TO:** Board of Commissioners  
**FROM:** Darrell Green, County Administrator  
**DATE:** December 30, 2021  
**RE:** Administrator Monthly Report for December 2021

Below are the highlights for the month of December

1. North County Government Building update:

The BIG NEWS, we moved in to the Morrow County Government Center on December 21<sup>st</sup>! A BIG THANK YOU to all the staff, Tony and his crew, Jordan and IMESD staff for their hard work moving over all of their stuff and getting their offices set up. On December 29<sup>th</sup>, we had a very nice Flag Raising Ceremony led by Tony Clement. We also liquidated furniture to local entities and the public on December 29 and 30<sup>th</sup>. The majority of the furniture has left the building. The abatement of the Irrigon Annex should start the first week of January and the demolition of the building will happen once the abatement is completed.

2. Courthouse Feasibility Study- With the assistance of Commissioner Lindsay, we have formed a committee comprised of Justin Nelson, Roy Blaine, Irma Solis, Mike Gorman, John Bowles and Kate Knop to review and discuss what option the DLR Group proposed in their feasibility study to bring to the AOC-OJD Court Facilities Task Force. We will meet on January 4, 2021.
3. The Leadership TEAM- Eight members of the Leadership TEAM have signed up for the NACo High Powered Leadership Academy! This is a 12 week online interactive course that will cover Leadership Mindset and Positive Engagement, Leading Effective Change, Communication and Collaboration, Leading High Performance Teams. The eight members are John Bowles, Kristin Bowles, Tamra Mabbott, Kate Knop, Stephanie Case, Paul Gray, Christy Kenny and myself.
4. Other projects/activities; Property search for a Bus Barn/Transit Facility, Cyber Security and Long Range Planning.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell J Green".

Darrell J Green



## Morrow County Sheriff's Office - Monthly Stats 2021

Incident	July	August	Sept	October	Nov	Dec
Alarms	13	17	16	10	10	13
Animal Complaint	26	26	27	19	16	22
Agency Assist	10	14	1	31	8	16
Assaults	5	2	1	5	2	2
Burglary	3	3	0	3	1	2
CHL	25	19	88	14	23	8
Citizen Assist	10	13	12	11	10	16
Civil Service	66	73	47	49	43	44
County Code Calls	4	4	5	7	13	4
Heppner area	0	0	1	0	0	0
Irrigon area	3	4	4	7	13	4
Bdmn area	1	0	0	0	0	0
lone/Lex area	0	0	0	0	0	0
Death Investigation	1	1	2	4	1	1
Disturbance	20	12	11	16	8	10
Dog	46	35	41	42	43	51
Driving Complaints	74	73	64	60	72	53
Drunk/Impaired Driver	2	2	2	1	1	4
EMS	7	18	9	14	8	15
Hit & Run	4	2	2	3	2	4
Juvenile Complaints	10	10	6	8	13	5
Motor Vehicle Crashes	8	10	9	17	13	18
RV Code	1	0	0	0	0	0
Suicidal	4	1	7	1	2	3
Suspicious Activity	33	32	23	43	30	41
Theft	16	6	11	16	9	9
Trespass	9	7	4	6	12	6
Traffic Stops - Cite	59	55	53	30	21	57
Total Traffic Stops	168	216	171	101	127	162
UUMV-Stolen vehicle	0	2	1	1	2	1
Welfare Check	10	17	21	24	9	14
<b>Totals</b>	<b>634</b>	<b>670</b>	<b>634</b>	<b>532</b>	<b>499</b>	<b>581</b>
Other Misc. Incidents	678	569	532	621	603	671
<b>Total # of Incidents</b>	<b>1312</b>	<b>1239</b>	<b>1166</b>	<b>1153</b>	<b>1102</b>	<b>1252</b>
Felony Arrests	18	12	5	16	9	16
<b>Total # of Arrests</b>	<b>40</b>	<b>32</b>	<b>17</b>	<b>37</b>	<b>20</b>	<b>31</b>
<b>Total # M-110 Citations</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>1</b>



## Morrow County Sheriff's Office - Monthly Stats 2021

Incident	Jan	Feb	Mar	April	May	June
Alarms	4	9	5	6	13	12
Animal Complaint	23	13	15	28	35	32
Agency Assist	34	13	12	14	18	19
Assaults	2	1	4	5	1	2
Burglary	5	5	1	1	2	3
CHL	32	10	56	46	40	29
Citizen Assist	23	17	15	17	21	12
Civil Service	38	71	58	51	34	50
County Code Calls	17	19	19	13	8	10
Hepner area	0	2	2	1	0	0
Irrigon area	9	9	10	2	7	8
Bdmn area	8	8	7	10	1	1
lone/Lex area	0	0	0	0	0	0
Death Investigation	0	3	0	0	1	1
Disturbance	6	12	17	14	20	15
Dog	51	53	52	41	43	51
Driving Complaints	64	57	81	69	75	58
Drunk/Impaired Driver	1	4	3	3	1	2
EMS	8	16	12	12	11	12
Hit & Run	5	1	1	1	1	5
Juvenile Complaints	23	22	9	16	15	12
Motor Vehicle Crashes	7	9	4	3	7	9
RV Code	0	0	0	0	0	0
Suicidal	1	3	2	6	3	1
Suspicious Activity	36	22	40	26	21	35
Theft	6	6	21	7	9	13
Trespass	5	4	8	11	11	13
Traffic Stops - Cite	36	44	32	34	61	33
<b>Total Traffic Stops</b>	<b>146</b>	<b>176</b>	<b>109</b>	<b>102</b>	<b>174</b>	<b>131</b>
UUMV-Stolen vehicle	4	1	3	5	2	3
Welfare Check	12	6	17	20	12	12
<b>Totals</b>	<b>589</b>	<b>597</b>	<b>596</b>	<b>551</b>	<b>640</b>	<b>575</b>
<b>Other Misc. Incidents</b>	<b>586</b>	<b>568</b>	<b>606</b>	<b>657</b>	<b>727</b>	<b>687</b>
<b>Total # of Incidents</b>	<b>1175</b>	<b>1165</b>	<b>1202</b>	<b>1208</b>	<b>1367</b>	<b>1262</b>
Felony Arrests	16	13	14	15	16	15
<b>Total # of Arrests</b>	<b>43</b>	<b>27</b>	<b>36</b>	<b>31</b>	<b>32</b>	<b>29</b>

1/4/22

Morrow County Fair Report:

We were able to meet with Steve Mileham with LRS Architects over zoom, Steve and his company specialize in county fairs and they have agreed to come out to the grounds next week and do a "walk thru" of the buildings and look at some of the ideas that we have been talking about and give us an idea of their thoughts so we can move forward with either getting feasibility study or being able to just look at what the building needs and how/if we can remodel & update it.

4H Livestock premium book is out on our website, and I will be revising the 2022 book soon.

Erin Heideman resigned as 4-H agent, we have not heard what their thoughts are going to be on replacing her as of right now. The board discussed this at the last meeting and are ready to help the 4-H in any way that we may need to if they have not replaced her for fair. Our board right now consists of 2 leaders in the swine department, 1 involved in dairy and sheep, and 1 in beef. We feel very confident that things will continue to go smoothly for them.

Fair sponsorship packets will be going out soon to business as we start planning and preparing for 2022 fair.

We are looking forward to the Challenge of Champions and will be working on the details at our upcoming meeting.

The Oregon Fairs Association convention will be held February 6-9 in Salem. As of right now I will be the only one attending this year.

Fair Dates for 2022: August 15-20

**From:** Merkley, Merkley Press Office (Merkley)  
**Sent:** Friday, December 17, 2021 3:20 PM  
**To:** Merkley, Merkley Press Office (Merkley) <[MerkleyPressOffice@merkley.senate.gov](mailto:MerkleyPressOffice@merkley.senate.gov)>  
**Subject:** Merkley, Wyden Announce Major IJIA Funding for Oregon's Airports

News Release . . .

# United States Senate

FOR IMMEDIATE RELEASE

December 17, 2021

Contact: Martina McLennan/Ray Zaccaro (Merkley) – 202-224-3753

Contact: Hank Stern (Wyden) – 503-326-7539

## **Merkley, Wyden Announce Major IJIA Funding for Oregon's Airports**

WASHINGTON, D.C. – As the bipartisan *Infrastructure Investment and Jobs Act* (IIJA) begins to make an impact across the nation, Oregon's U.S. Senators Jeff Merkley and Ron Wyden today announced the allocation of \$43 million in federal funding to Oregon's airports for key infrastructure needs.

"Having safe and sustainable airports benefits Oregonians who want to stay connected to out-of-state loved ones, and businesses that rely on the airways to expand economic opportunity," **said Merkley**. "We passed this bipartisan infrastructure plan to address critical infrastructure concerns in the state, and I'm pleased this funding will upgrade our regional airport facilities to provide more safer and reliable travel for all Oregonians. I will continue to fight for resources that tackle infrastructure problems at the source, and I look forward to seeing more results as this bipartisan law goes into effect."

"Oregonians flying during the holidays and year-round, along with small businesses statewide counting on reliable air service for their products both know the importance of secure and dependable airports everywhere in Oregon." **Wyden said**. "The bipartisan infrastructure plan I'm proud to have supported helps airports large and small in Oregon. And I'll keep battling for Oregon to get our fair share of federal resources for these airports as well as for additional infrastructure needs in our state's rural, urban and suburban communities."

The *Infrastructure Investment and Jobs Act* included a \$3 billion provision for Airport Infrastructure Grants, which will allocate funding to support airports across the country. Both Merkley and Wyden supported the IIJA and its major investments in roads, bridges, ports, and airports. Oregon will be allocated \$43 million from those grants, and they will be distributed to the following airports:

- \$20,077,197 for the Portland International Airport
- \$3,891,571 for the Mahlon Sweet Field Airport (Eugene)

- \$3,759,459 for the Rogue Valley International-Medford Airport
- \$3,602,899 for the Roberts Field Airport (Redmond)
- \$1,008,684 for the Southwest Oregon Regional Airport
- \$763,000 for the Aurora State Airport
- \$763,000 for the Bend Municipal Airport
- \$763,000 for the Portland-Hillsboro Airport
- \$295,000 for the Corvallis Municipal Airport
- \$295,000 for the Grants Pass Airport
- \$295,000 for the Hermiston Municipal Airport
- \$295,000 for the Crater Lake-Klamath Regional Airport
- \$295,000 for the McMinnville Municipal Airport
- \$295,000 for the Newport Municipal Airport
- \$295,000 for the Eastern Oregon Regional Airport at Pendleton
- \$295,000 for the Roseburg Regional Airport
- \$295,000 for the McNary Field Airport
- \$159,000 for the Albany Municipal Airport
- \$159,000 for the Ashland Municipal-Summer Parker Field Airport
- \$159,000 for the Astoria Regional Airport
- \$159,000 for the Baker City Municipal Airport
- \$159,000 for the Bandon State Airport
- \$159,000 for the Brookings Airport
- \$159,000 for the Illinois Valley Airport
- \$159,000 for the Cottage Grove State Airport
- \$159,000 for the Hobby Field Airport
- \$159,000 for the Florence Municipal Airport
- \$159,000 for the Ken Jernstedt Airfield
- \$159,000 for the Independence State Airport
- \$159,000 for the Joseph State Airport
- \$159,000 for the La Grande-Union County Airport
- \$159,000 for the Lake County Airport
- \$159,000 for the Lebanon State Airport
- \$159,000 for the Madras Municipal Airport
- \$159,000 for the Ontario Municipal Airport
- \$159,000 for the Portland-Troutdale Airport
- \$159,000 for the Mulino State Airport
- \$159,000 for the Prineville Airport
- \$159,000 for the Scappoose Industrial Airpark
- \$159,000 for the Columbia Gorge Regional/The Dalles Municipal Airport
- \$159,000 for the Tillamook Airport
- \$110,000 for the Burns Municipal Airport
- \$110,000 for the Chiloquin State Airport
- \$110,000 for the Christmas Valley Airport
- \$110,000 for the Condon State Pauling Field Airport
- \$110,000 for the Siletz Bay State Airport



- \$110,000 for the Gold Beach Municipal Airport
- \$110,000 for the Grant County Regional/Ogilvie Field Airport
- \$110,000 for the Lexington Airport
- \$110,000 for the McDermitt State Airport
- \$110,000 for the Myrtle Creek Municipal Airport

###

# **CITY of BOARDMAN**

## **Community Development**

### **NOTICE OF DECISION**

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**DATE: December 22, 2021**

**TO: Applicant and interested parties**

**FROM: Barry C. Beyeler, Community Development Director**

**SUBJECT: UEC Application for ZP 21-066**

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#### **ZP21-066 - Decision**

File: ZP21 – 066

Applicant: Umatilla Electric Cooperation

Project: Olson Rd. 230kv Transmission Line

Based on the application, the evidence in the record and the criteria and findings described below, the application in ZP21-066 is **APPROVED**.

#### **ZP21-066 - Findings**

##### Background

1. Applicant: Umatilla Electric Cooperative.
2. Application Date: The application in File ZP21-066 was submitted on November 2, 2021.
3. Completeness: The application was deemed complete on November 3, 2021.
4. Subject Property: The subject property includes Tax Lots 3205 and 3302 (map 4N 25E S10).
5. Zoning: Commercial/Service Center Subdistrict ("C-SC").
6. Proposed use: The application proposes to install two segments of a 230kV electrical transmission line.
7. Applicable Approval Criteria: Boardman Development Code ("BDC") 2.2, 3.4 and 4.1.400.

##### Findings

1. The application was submitted on November 2, 2021, and deemed complete the following day, November 3, 2021. The application seeks approval to construct a portion of a 230 kV electrical

transmission line. The transmission line will be constructed within an easement owned by the applicant over Tax Lots 3205 and 3302 (map 4N 25E S10).

2. The site is zone Commercial/Service Center subject to BDC 2.2.200. Electrical facilities are listed as a permitted use in BDC Table 2.2.200.B.2. An application for a permitted use in the C-SC zone subject to the city's Type II review procedures.
3. Public Notice was posted on the tax lots #3205 and #3302 of tax map 4N 25E 10, and on-line at the city's webpage on December 2, 2021, and Published in the East Oregonian newspaper on December 3, 2021, for a Type II – Administrative Decision process. Additionally, public notice was mailed to all properties within 250 feet of the subject lots and to interested parties.
4. As described in the application, the proposed project is needed to reliably provide for electrical growth in the Boardman area. The line will be rated 230kV and integrated into UEC's area grid. As further described in the application, UEC's electrical load in the Boardman area has grown from 62 MW in 2009 to 260 MW in 2019 with forecasted growth to be above 535 MW by the end of 2029. This growth is driving the need for additional transmission facilities. UEC obtained a Certificate of Public Convenience and Necessity for the transmission line from the Oregon Public Utility Commission.
5. The proposed electrical transmission line is a permitted use in the C-SC Zone. BDC 2.2.200(B) states that "the land uses listed in Table 2.2.200B are permitted in the Service Center Sub District, subject to the provisions of this Chapter." Table 2.2.200(B)2.b lists the following as an outright permitted use: "Private utilities (e.g. natural gas, electricity, telephone, cable and similar facilities)." Where a use listed in Table 2.2.200B is subject to any additional standards beyond those in BDC Chapter 2.2.200, the table notes which additional standards apply. For private utilities, no additional standards are listed.
6. The Community Development Director finds that the proposed transmission line is a private utility that provides electrical service. The UEC is a private cooperative organized under ORS Chapter 62 and is registered as such with the Oregon Secretary of State, therefore the transmission line is a "private" utility line.
7. BDC 2.2.200(A) states that "[t]he base standards of the Commercial District apply, except as modified by the standards of this Sub District." Based on the figures and other information in the record provided by the Applicant, the transmission line satisfies applicable base standards of the Commercial District.
8. BDC 2.2.120. Setbacks.

- C. Front yard setbacks. There is not a minimum or maximum front yard setback in the C-SC zone.
  - D. Rear yard setbacks. The rear yard setback is zero (0) for street access lots. Tax lots 3302 and 3305 have street access. Therefore, the required setback is zero.
  - E. Side yard setbacks. There is no minimum side yard setback
9. BDC 2.2.130 Lot Coverage. There is no minimum or maximum lot coverage requirement.
  10. BDC 2.2.140. Building height. This section establishes a maximum "building" height. The proposed structures are not "buildings," therefore this criterion does not apply.
  11. BDC 2.2.150 Design Standards. This section establishes design standards for "buildings." The proposed structures are not "buildings," therefore this criterion does not apply.
  12. BDC 2.2.160 Pedestrian amenities. This section applies to an application for a public or institutional building, three or more townhomes, duplex or triplex development, multi-family housing, or a commercial or mixed use building. Because the proposed transmission line and towers are not one of the listed development types, this section does not apply.
  13. The Community Development Director finds that there are no other standards in the base zone (BDC Chapter 2.2) that apply to the proposed transmission line. Accordingly, the proposed use complies with the base zone standards.
  14. BDC Chapter 3.4 establishes standards for specific public facilities. Section 3.4.500 applies to "utilities" and requires utility lines in a subdivision to be placed underground. The application does not propose a subdivision, therefore this section does not apply. Moreover, the section exempts "high capacity electric lines operating at 50,000 volts or above." The proposed transmission line operates above 50,000 volts. Accordingly, this section does not apply.

#### Public Comments

1. The City received written comments from Kelly Doherty (email dated 12.22.21) and Sarah Mitchell on behalf of 1<sup>st</sup> John 2:17, LLC (letter dated 12.15.21). These comments raise the following issues:
  - A. BDC Sections 4.1.770.D requires the application to be submitted by "a record owner" of the property or, alternatively, the property owner of record. The comments assert that 1<sup>st</sup> John 2:17, LLC, is the record owner and did not consent to the application. Therefore, they argue that the application must be denied. To support this claim, they rely on the LUBA decision in *Baker v. Washington County*, 46 Or LUBA 591 (2004).

Finding: The Baker case involved an application to construct a driveway within an access easement owned by Black over property owned by Baker. There, the county code required the application to be initiated by “all the owners of the subject property.” No one in the case contested that Black was an owner, but LUBA concluded that because Baker did not sign the application, it was not initiated by all owners and reversed the county’s decision to approve the driveway. In this case, the evidence in the record demonstrates that UEC is “a record owner” (singular) of an interest in the property for purposes of BDC 4.1.700.D. Moreover, the application includes an order from the Morrow County circuit court that expressly grants UEC the right to immediately occupy the property for the purpose of constructing the electrical facilities that are the subject of this application. (“[UEC] shall be entitled to occupy and make use of the Easement . . . for all purposes and uses as described in the Easement.”) The order also expressly prohibits 1<sup>st</sup> John 2:17, LLC from interfering with UEC’s occupancy and use of the easement. (Neither Defendant nor its contractors, employees, invitees, licensees, guests, agents or representatives, shall interfere with [UEC’s] occupancy and use of the Easement.”) Finally, because the court order expressly authorizes UEC to use the property for the transmission towers, UEC is authorized to submit the application on behalf of the fee owners for purposes of BDC 4.1.700.D.1.b. For these reasons, the application complies with BDC 4.1.700.D.

- B. 1<sup>st</sup> John 2:17 asserts that then public notice of the application did not include certain information required by BDC 4.1.400.C. Doherty claims that the notice does not include certain information required by ORS 197.763.

Finding: As an initial matter, ORS 197.763 only applies to public notice of a “quasi-judicial land use hearing.” The county has not scheduled or conducted a hearing on this application, therefore ORS 197.763 does not apply.

With respect to BDC 4.1.400.C, 1<sup>st</sup> John 2:17, LLC does not claim that the missing information hindered their ability to identify the relevant approval criteria, gather responsive evidence, submit comments into the record, or otherwise meaningfully participate in the decision. As such, the fact that the notice is missing some information described in BDC 4.1.400.C is a technical violation that did not prejudice their substantive rights or ability to participate.

- C. 1<sup>st</sup> John 2:17, LLC claims that the use is not allowed in the C-SC zone. While acknowledging that “electricity facilities” are a permitted use in the zone under BDC Table 2.2.200.B, they

claim that “this modest allowance for small, individual distribution lines to homes and businesses, does not authorize major, high-voltage transmission lines and tower facilities.”

Finding: 1<sup>st</sup> John 2:17, LLC simply inserts words and limitations into the code language that do not exist. Nothing in the text of BDC Table 2.2.200.B limits electricity facilities to distribution lines, or “modest” facilities to homes and businesses. Imposing the limitations 1<sup>st</sup> John 2:17, LLC requests would violate the express terms of the relevant approval standards. The application proposed to construct “electricity facilities” in the C-SC zone, which is expressly allowed under BDC Table 2.2.200.B. As such, the application complies with this criterion.

2. The City also received email comments from F.E. Glenn on December 20, 2021. Mr. Glenn raises the following issues:

A. The application materials incorrectly label Laurel Lane as Laurel Road or Laurel Lane Road.

Finding: While Mr. Glenn’s comment is technically correct, his comments do not suggest he was confused about which roadway was intended. Using the proper name in an application is not an approval criterion and does not provide a basis to deny the application.

B. The application materials incorrectly refer to the subject property as the “Tallman properties,” when they are owned by 1<sup>st</sup> John 2:17, LLC.

Finding: Again, while technically correct, the comments demonstrate that Mr. Glenn knew which properties were the subject of the application and proposed development. As such, the fact that the application materials variously refer to the property as the “Tallman property” or the “1<sup>st</sup> John 2:17, LLC property” does not provide a basis to deny the application.

C. Finally, Mr. Glenn notes that maps included with the application incorrectly show the location of Devin Loop road.

Finding: Here again, while technically correct, Mr. Glenn does not identify an approval criterion that requires the application to demonstrate the correct location of Devin Loop. Mr. Glenn’s comments demonstrate he has a clear understanding of what is proposed, where, and the correct nomenclature and location of surrounding public facilities. Accordingly, his ability to meaningfully review and respond to the application was not hindered by the error. As such, the errors he identifies in the map do not provide a basis to deny the application.

Conclusion

Based on the evidence in the record, the applicable criteria and the findings set forth above, the Director finds that all of the relevant and applicable criteria and standards in BDC Chapters 2.2 and 3.4 are met. Accordingly, the application in ZP-21-066 is APPROVED.

A copy of this decision can be obtained by contacting the Community Development Director, Barry Beyeler, at [beyelerb@cityofboardman.com](mailto:beyelerb@cityofboardman.com). The decision is final unless it is appealed. Anyone who is entitled to notice of the decision or is otherwise adversely affected or aggrieved may appeal the decision by filing an appeal under BDC 4.1.400.G.2.