



Legislation Text

File #: 2014-0523, Version: 1

AN ORDINANCE TO WAIVE THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVE A ONE YEAR CONTRACT WITH MOTOROLA SOLUTIONS, INC. IN THE AMOUNT OF \$98,422.92 PLUS APPLICABLE TAXES WITH AUTOMATIC RENEWAL FOR FOUR ADDITIONAL YEARS FOR MAINTENANCE OF THE CITY'S MOTOROLA SIMULCAST RADIO SYSTEM

WHEREAS, the City's Motorola simulcast radio project was completed in 2012; and

WHEREAS, Motorola Solutions, Inc. provides factory authorized training, field technical representation services and other technical support to provide maintenance on the Motorola simulcast system and has provided these services since 2012; and

WHEREAS, due to the complexity of the system and Motorola Solutions, Inc.'s unique knowledge of the technical aspects of the system and how it connects to the Arkansas Wireless Network (AWIN), it is necessary for them to continue providing the necessary maintenance for the system;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a one year contract with Motorola Solutions, Inc. in the amount of \$98,422.92 plus applicable taxes per year with automatic renewal for four additional years for maintenance of the City's Motorola simulcast radio system.

City of Fayetteville Staff Review Form

2014-0523

Legistar File ID

12/16/2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chief Greg Tabor

11/18/2014

Central Dispatch /
Police Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of an ordinance waiving the requirements of formal competitive bidding and award a five year contract with Motorola Inc. for radio maintenance in the amount of \$98,422.92 plus tax. Motorola Inc. agrees the contract price will remain fixed for the initial term and for four one year subsequent renewals.

Budget Impact:

Various Radio Maintenance Accounts

Various Funds

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	Yes	Current Budget	\$ 108,019.15
		Funds Obligated	\$ -
		Current Balance	\$ 108,019.15
Does item have a cost?	Yes	Item Cost	
Budget Adjustment Attached?	No	Budget Adjustment	
		Remaining Budget	\$ 108,019.15

V20140710

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Approval Date: _____

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF DECEMBER 16, 2014

TO: Mayor and City Council
THRU: Greg Tabor, Chief of Police
FROM: Kathleen Stocker, Dispatch Manager
DATE: November 12, 2014
SUBJECT: **Approve Radio Maintenance Contract from Motorola Inc.**

RECOMMENDATION:

Staff recommends approval of an ordinance to waive the requirements of formal competitive bidding and to approve a five (5) year contract with Motorola for radio maintenance in the amount of \$98,422.92 plus tax. Motorola agrees the contract price listed will remain fixed for the initial term and for four one year subsequent renewals.

BACKGROUND:

The City of Fayetteville's simulcast radio project was completed in 2012. This radio maintenance includes all dispatch equipment, older radios that were upgraded in the project and new mobiles and portables that are now coming off warranty.

DISCUSSION:

Motorola Inc. offers factory authorized training, field technical representation services (engineers) and other technical support to provide maintenance on the Motorola Simulcast system. Motorola subcontracts with Smith Two Way a local authorized Motorola service and repair center in Fayetteville to help provide on-site service to the dispatch center and fire departments. Due to the complexity of this type of system; Motorola's unique knowledge of the technical aspects of our system; and how it connects to the Arkansas Wireless Network it is necessary for them to provide the maintenance for this system.

BUDGET/STAFF IMPACT:

Funding is contingent upon approval of the 2015 proposed budget. A check request will be prepared for this item in January of 2015.

Attachments:

Staff Review Form
Motorola Contract



SERVICES AGREEMENT

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

Contract Number: S00001012130
 Contract Modifier: RN24-JUN-14 13:02:40

Date: 07/07/2014

Company Name:	Fayetteville, City Of
Attn:	
Billing Address:	113 W Mountain St
City, State, Zip:	Fayetteville,AR,72701
Customer Contact:	
Phone:	

Required P.O.: No
 Customer #: 1011442374
 Bill to Tag #: 0001
 Contract Start Date: 01/01/2015
 Contract End Date: 12/31/2015
 Anniversary Day: Dec 31st
 Payment Cycle: ANNUAL
 PO #:

QTY	MODEL/OPTION	SERVICES DESCRIPTION	MONTHLY EXT	EXTENDED AMT
		***** Recurring Services *****		
1	SVC01SVC0033A SVC828AE	SECURITY MONITORING DISPATCH SITE	\$251.33	\$3,015.96
1	SVC01SVC1101C SVC060AD	INFRASTRUCTURE REPAIR WITH ADV REPL ASTRO25 DISPATCH SITE	\$626.35	\$7,516.20
6	SVC062AD	ASTRO25 OPERATOR POSITIONS		
2	SVC01SVC1102C SVC084AD	DISPATCH SERVICE ASTRO25 DISPATCH SITE	\$29.05	\$348.60
1	SVC01SVC1103C SVC049AD	NETWORK MONITORING ASTRO25 DISPATCH SITE	\$207.07	\$2,484.84
2	SVC01SVC1104C SVC040AD	TECHNICAL SUPPORT ASTRO25 DISPATCH SITE	\$74.19	\$890.28
1	SVC01SVC1405C SVC126AD	NETWORK PREVENTATIVE MAINTENANCE A ASTRO25 DISPATCH SITE	\$95.87	\$1,150.44
2	SVC01SVC1413C SVC115AD	ONSITE INFRASTRUCTURE RESPONSE-PREMIER ASTRO25 DISPATCH SITE	\$585.03	\$7,020.36
1	SVC117AD	ASTRO25 OPERATOR POSITIONS		
204	SVC01SVC1422C SVC118AG	LOCAL RADIO COMBO PACKAGE ENH: APX6000	\$6,000.45	\$72,005.40
98	SVC122AG	ENH: APX6500		
44	SVC26AC	XTS2500		
14	SVC27AC	XTS5000		
86	SVC607AB	XTS1500 - PORTABLE		
15	SVC619AB	XTL5000 - MOBILE		
27	SVC964AD	ENH: XTL2500		
3	SVC972AE	ENH: APX7500		
144	SVC997AD	ENH: XTL1500		
1	SVC04SVC0016C SVC835AE	SECURITY UPDATE SERVICE DISPATCH SITE	\$332.57	\$3,990.84
SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS			Subtotal - Recurring Services	\$8,201.91
				\$98,422.92

	Subtotal - One-Time Event Services	\$.00	\$.00
	Total	\$8,201.91	\$98,422.92
	Taxes	-	-
	Grand Total	\$8,201.91	\$98,422.92
THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA.			
	Subcontractor(s)	City	State
	MOTOROLA SYSTEM SUPPORT CENTER	ELGIN	IL
	MOTOROLA SSC NETWORK SECURITY DO298	SCHAUMBURG	IL
	MOTOROLA SYSTEM SUPPORT CENTER-NETWORK MGMT DO067	SCHAUMBURG	IL
	MOTOROLA SYSTEM SUPPORT CTR-CALL CENTER DO066	SCHAUMBURG	IL
	MOTOROLA SYSTEM SUPPORT-TECHNICAL SUPPORT DO068	SCHAUMBURG	IL
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR
	SMITH TWO WAY RADIO INC	FAYETTEVILLE	AR

I received Statements of Work that describe the services provided on this Agreement. Motorola's Service Terms and Conditions, a copy of which is attached to this Service Agreement, is incorporated herein by this reference.

AUTHORIZED CUSTOMER SIGNATURE	TITLE	DATE
CUSTOMER (PRINT NAME)		
<i>Homer Lancaster</i>	<i>CSM Mgr</i>	<i>11-17-14</i>
MOTOROLA REPRESENTATIVE(SIGNATURE)	TITLE	DATE
<i>Brian Lasher</i>	<i>Homer Lancaster</i>	<i>501-515-2356</i>
MOTOROLA REPRESENTATIVE(PRINT NAME)	PHONE	<i>901-238-0138</i>

Company Name: Fayetteville, City Of
 Contract Number: S00001012130
 Contract Modifier: RN24-JUN-14 13:02:40
 Contract Start Date: 01/01/2015
 Contract End Date: 12/31/2015

Service Terms and Conditions

Motorola Solutions, Inc. ("Motorola") and the City of Fayetteville ("City") hereby agree as follows:

Section 1 APPLICABILITY

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

Section 2 DEFINITIONS AND INTERPRETATION

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

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

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

Section 3 ACCEPTANCE

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

Section 4 SCOPE OF SERVICES

4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At City's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

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

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

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

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

4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced 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 Service that Equipment.

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

Section 5 EXCLUDED SERVICES

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

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

Section 6 TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at City's location, City 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. City will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, City agrees to reimburse Motorola for those charges and expenses.

Section 7 CITY CONTACT

City 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 City's personnel to maintain contact, as needed, with Motorola.

Section 8 PAYMENT

Unless alternative payment terms are stated in this Agreement, Motorola will invoice City in advance for each payment period. All other charges will be billed monthly, and City must pay each invoice in U.S. dollars within twenty (20) days of the invoice date. City 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.

Section 9 WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are

completed. In the event of a breach of this warranty, City's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10 DEFAULT/TERMINATION

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

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

Section 11 LIMITATION OF LIABILITY

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

Section 12 EXCLUSIVE TERMS AND CONDITIONS

12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. Changes, modifications, or amendments in scope, price or fees to this Agreement shall not be allowed without a prior formal Agreement Amendment to be approved by Motorola and the Mayor and the City Council in advance of the change in scope, cost or fees. 12.2. City agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a City purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13 PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to City under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential to the extent permitted by law, and will be promptly returned at Motorola's request. City may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement. Notwithstanding anything herein to the contrary, Motorola acknowledges that City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Motorola will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A 25-19-101 et. seq) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

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

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

Section 14 FCC LICENSES AND OTHER AUTHORIZATIONS

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

Section 15 COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, City 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.

Section 16 MATERIALS, TOOLS AND EQUIPMENT

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

Section 17 GENERAL TERMS

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

17.2. This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State of Arkansas.

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

17.4. Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

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

17.6. 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 City. 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.

17.7. THIS AGREEMENT SHALL COMMENCE ON JANUARY 1, 2015 AND CONTINUE FOR A TERM OF ONE (1) YEAR WITH AUTOMATIC ANNUAL RENEWAL UP TO FOUR (4) ADDITIONAL ONE-YEAR PERIODS. EITHER PARTY MAY TERMINATE THIS AGREEMENT BY PROVIDING THE OTHER PARTY WITH AT LEAST THIRTY (30) DAYS WRITTEN NOTICE PRIOR TO THE END OF THE THEN CURRENT TERM OR RENEWAL TERM. Motorola agrees that the contract price listed on the Cover Page will remain fixed for the initial term and for four one year subsequent renewals.

17.8. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and City agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.