

**Town of Valdese  
Town Council Meeting  
Valdese Town Hall  
102 Massel Avenue SW, Valdese  
Monday, December 7, 2020  
6:00 P.M.**

- 1. Call Meeting to Order**
- 2. Invocation**
- 3. Pledge of Allegiance**

**4. Informational Items:**

- A. Communication Notes
- B. Reading Material

**5. Open Forum/Public Comment**

**6. Consent Agenda**

All items below are considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item 8.

- A. Approval of Regular Meeting Minutes of November 2, 2020
- B. Resolution Adopting 2021 Town Council Meetings Calendar
- C. Appointments/Reappointments to Boards and Commissions

**7. New Business**

- A. Presentation of Safety Awards
- B. Presentation of Fiscal Year Ending June 30, 2020 Financial Update
- C. Approval of FY 20-21 Audit Contract – Lowdermilk Church & Co., LLP
- D. Award of Bid – Road Culvert Replacement – Pineburr Ave. SW
- E. Adoption of Resolution to Lease New Police Operational Programming System
- F. Capital Project Ordinance Amendment
- G. Budget Amendments

**8. Manager's Report**

- A. Visits from Santa, Saturday, December 5, 2020, 10:00 a.m. – 12:00 noon
- B. The Valdese Christmas Tree at the Old Rock School will be lit on Saturday, December 5, 2020
- C. Downtown Merchants are encouraged to decorate their storefronts and the public will vote. Submissions are due by Monday, December 7, 2020, voting will start, Tuesday, December 8 - 11, 2020 and winners will be announced Monday, December 14, 2020.
- D. Letters to Santa can be placed in the mailbox at the Old Rock School.
- E. Submissions for the Home Holiday Decorating contest are due by Monday, December 7, 2020. Winners will be announced on Monday, December 14, 2020.
- F. Story Time with Santa will be held on the Town of Valdese Facebook page December 8, 10, 15, and 17 at 7:30 p.m.
- G. Town Offices Will Be Closed December 24, 25 & 28, 2020, in Observance of Christmas and January 1, 2021 for New Year's Day
- H. Next Council meeting scheduled for Monday, January 4, 2021, 6:00 p.m.

**9. Mayor and Council Comments**

**10. Adjournment**

## COMMUNICATION NOTES

**To:** Mayor Black  
Town Council

**From:** Seth Eckard, Town Manager

**Date:** December 4, 2020

**Subject:** Monday, December 7, 2020 Council Meeting

### 6. Consent Agenda:

#### A. Approval of Regular Meeting Minutes of November 2, 2020

#### B. Resolution Adopting 2021 Town Council Meetings Calendar

Enclosed in the agenda packet is a resolution for the 2021 Town Council meeting dates.

#### C. Appointments/Reappointments to Boards and Commissions

Staff Liaisons contacted representatives with expiring terms on the town's boards and commissions; most everyone agreed to be reappointed. Staff contacted a replacement representative for the one who chose not to be reappointed, with recommendations for replacement included on the list in the agenda packet.

### 7. New Business:

#### A. Presentation of Safety Awards

Safety Director Charlie Watts will present the departmental safety awards for 2019.

#### B. Presentation of Fiscal Year Ending June 30, 2020 Financial Update

Enclosed in your agenda packet is a financial highlight sheet. Phil Church of Lowdermilk Church & Co. will be at the meeting to update the Town's finances for the fiscal year ending June 30, 2020.

#### C. Approval of FY 20-21 Audit Contract – Lowdermilk Church & Co., LLP

Enclosed in the agenda packet is a memo from Finance Director Bo Weichel and a contract with Lowdermilk Church & Co., LLP, to audit the Town's accounts for FY21, in the amount of \$16,310.00. The contract price last year was \$15,960.00.

**Requested Action:** Staff recommends that Council approve the FY 21 audit contract in the amount of \$16,310.00.

**D. Award of Bid – Road Culvert Replacement – Pineburr Ave. SW**

Enclosed in the agenda packet is a memo, picture presentation and bid letters for the replacement of the Pineburr Ave. SW storm drain. Staff is recommending the bid be awarded to the lowest bidder, Hickory Sand Company, Inc., in the amount of \$51,345. (Other bids: Eggers Construction Co. - \$91,597.50, and Iron Mountain Construction Co., Inc., - \$54,760) Public Services Director Greg Padgett will be at the meeting to discuss.

**Requested Action:** Staff recommends that Council award the bid to the lowest bidder, Hickory Sand Company, Inc., in the amount of \$51,345.

**E. Adoption of Resolution to Lease New Police Operational Programming System**

Enclosed in the agenda packet is a memo from Police Chief Jack Moss, a Lessee agreement and contract for the change of dispatch equipment to Motorola CAD/Records Management System, which will be utilized for daily operations by Burke County Sheriff's Department, Morganton Police Department, Valdese Police Department, and Drexel Police Department.

**Requested Action:** Staff recommends that Council adopt the Resolution to enter into a lease agreement with Motorola Solutions contingent upon Burke County's authorization of this agreement.

**F. Capital Project Ordinance Amendment**

Enclosed in the agenda packet is a Capital Project Ordinance Amendment prepared by Finance Director Bo Weichel. This amendment will move funds to appropriate accounts. Mr. Weichel will be at the meeting to present.

**Requested Action:** Staff recommends that Council approve the Capital Project Ordinance Amendment as presented.

**G. Budget Amendments**

Enclosed in the agenda packet are two Budget Amendments prepared by Finance Director Bo Weichel. These amendments will move funds to appropriate accounts. Mr. Weichel will be at the meeting to present the amendments.

**Requested Action:** Staff recommends that Council approve the Budget Amendments as presented.



# READING MATERIAL

## VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT

### OCTOBER 1st-31st, 2020

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF OCTOBER, 2020. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<u>ACTIVITY / FUNCTION</u>	<u>MONTHLY TOTAL</u>
STATION DUTY	269 HOURS
VEHICLE DUTY	107 HOURS
EQUIPMENT DUTY	89 HOURS
EMERGENCY RESPONSES (ON DUTY)	64 HOURS
TRAINING (ON DUTY)	167 HOURS
FIRE ADMINISTRATION	165 HOURS
TRAINING ADMINISTRATION	23 HOURS
MEETINGS	17 HOURS
FIRE PREVENTION ADMINISTRATION	6 HOURS
FIRE PREVENTION INSPECTIONS	8 HOURS

<u>TYPE</u>	<u>NUMBER OF INSPECTIONS</u>	<u>VIOLATIONS</u>
ASSEMBLY	1	50
BUSINESS	0	0
DAYCARE	1	0
EDUCATIONAL	3	10
HAZARDOUS	0	0
INSTITUTIONAL	0	0
MERCANTILE	0	0
RESIDENTIAL	0	0
FOSTER HOMES	1	0
UTILITY/MISC	0	0
REINSPECTIONS	0	0
<b>TOTAL:</b>	<b>6</b>	<b>60</b>

PUBLIC RELATIONS	21 HOURS
HYDRANT MAINTENANCE	0 HOURS
SAFETY ADMINISTRATION	28 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS	8 HOURS
EXTRA DUTY FIRES	18 HOURS
NON-DEPARTMENTAL DUTIES	0 HOURS
EXTRA DUTY TRAINING	51 HOURS
EXTRA DUTY FIRE/MED STANDBY	0 HOURS
PHYSICAL TRAINING	32 HOURS
EXTRA DUTY MEDICAL RESPONSES	42 HOURS
VOLUNTEER FIREFIGHTER TRAINING	344 HOURS
<b>TOTAL TRAINING MANHOURS:</b>	<b>562 HOURS</b>

**FIRE DEPARTMENT EMERGENCY RESPONSES:**

<b><u>FIRE:</u></b>	<b><u>MONTHLY TOTAL</u></b>
FIRE ALARM	5
ODOR/SMOKE INVESTIGATION	0
MUTUAL AID TO STATION 67	0
VEHICLE FIRE	0
STRUCTURE FIRE	1
OUTSIDE FIRE	0
ELECTICAL HAZARD	7
SERVICE CALLS	0
TREE DOWN	8
SAFETY STANDBY	<u>0</u>
	<b>21</b>
<b><u>MEDICAL:</u></b>	
ABDOMINAL PAIN	0
ALLERGIC REACTION	0
ANIMAL BITE	0
ASSAULT	0
ASSIST EMS	0
BACK PAIN	0
CANCELLED ENROUTE	0
CARDIAC	0
CHEST PAIN	2
CHOKING	0
CODE BLUE	0
DIABETIC	1
DOA	3
FAINTING	1
FALL	7
GUNSHOT	0
LACERATION/HEMORRAGE	1
OTHER	1
OVERDOSE/INTOXICATED	0
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	9
SEIZURE	0
SICK	6
STABBING	0
STROKE	1
TRAUMATIC INJURY	3
UNCONSCIOUS	<u>0</u>
	<b>35</b>
<b><u>FIRE AND MEDICAL:</u></b>	
MOTOR VEHICLE ACCIDENT	<u>3</u>
	<b>3</b>
<b><u>TOTAL RESPONSES:</u></b>	<b><u>59</u></b>

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GREG STAFFORD, CHIEF  
VALDESE FIRE DEPARTMENT



# TOWN OF VALDESE, NC

## ADVANCED METERING INFRASTRUCTURE IMPLEMENTATION PROJECT

### MONTHLY PROJECT SUMMARY REPORT

November 2020

Prepared by:



703 W. Johnson St.  
Raleigh, NC 27603

## I. PROJECT SUMMARY

- Town approved Mueller extension date request for substantial completion of project in 12/15/20
- Mueller completed node performance mitigation efforts onsite; action plan to resolve nodes with issues in progress
- As of 11/09, about 99.4% of the Town's meters have been replaced with the remaining majority being RTU's

## II. NETWORK

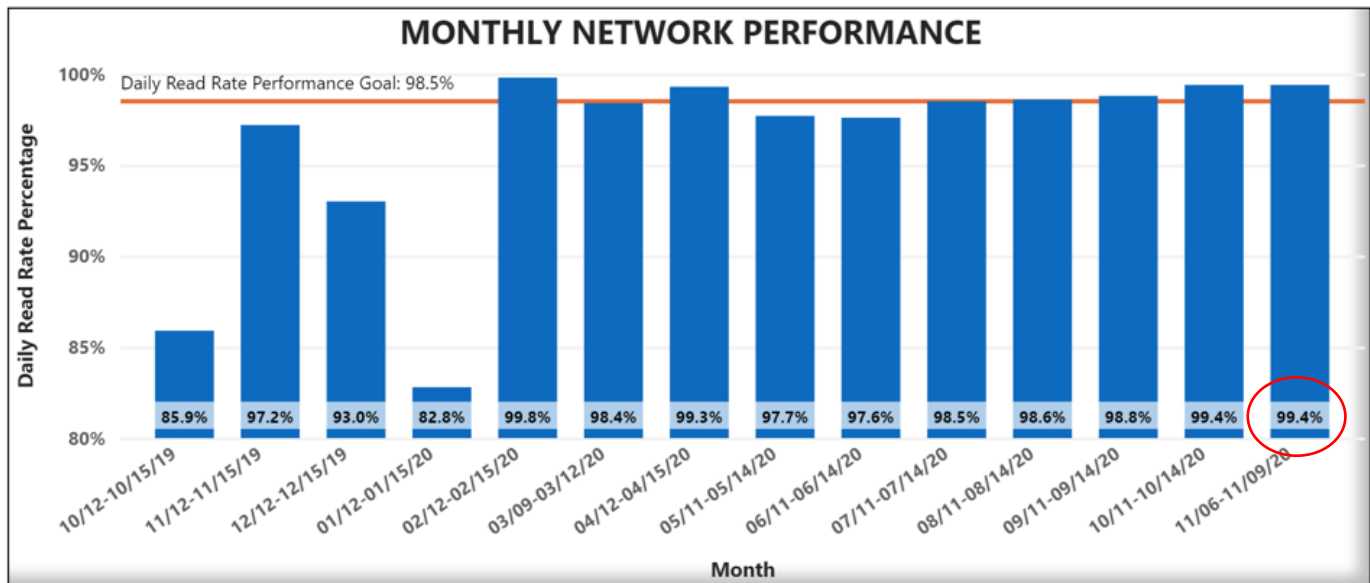


Figure 1. Valdese Monthly Network Performance Read Rate Percentage



Figure 2. Mi.Net Network Devices Performance Screenshot

- Mueller is currently mitigating a battery charger fault alert at collector located at Milton Rd. pump station and an antenna collector signal alert at the Drexel Rd Collector; alerts are not impacting network performance

## III. INSTALLATION/EQUIPMENT

- Pending:
  - 26 meters to be changed out and are awaiting meter shipment; due to ship on 12/2/2020
- In Progress:
  - Fortiline has 10 meters to changeout and retrofit
  - Town has 16 meters that require non-standard work to complete
- Mueller finishing up meter mitigation/optimization work

## Town of Valdese AMI Implementation Monthly Summary Report

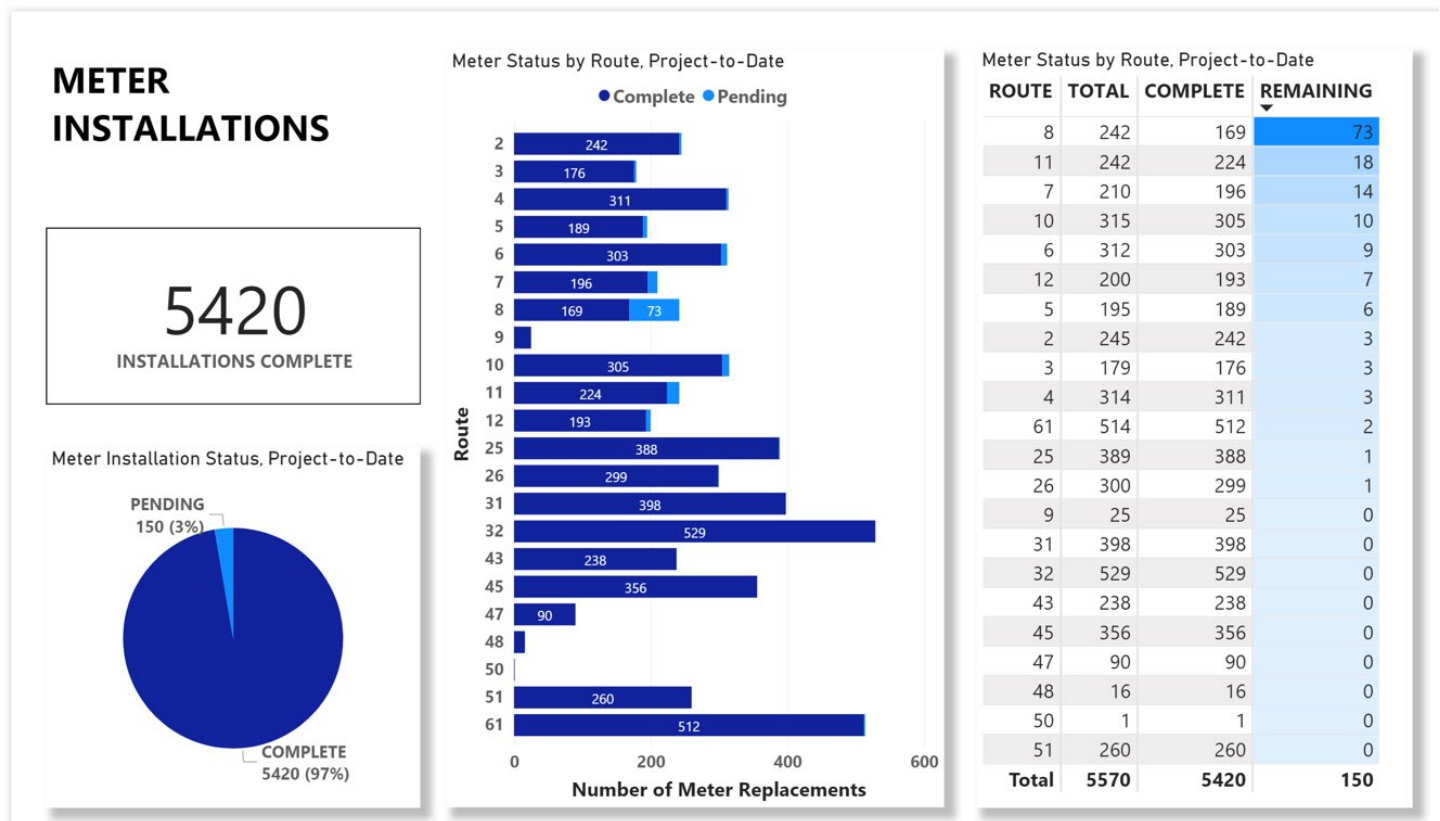


Figure 3. Valdese Meter Installation Summary Data

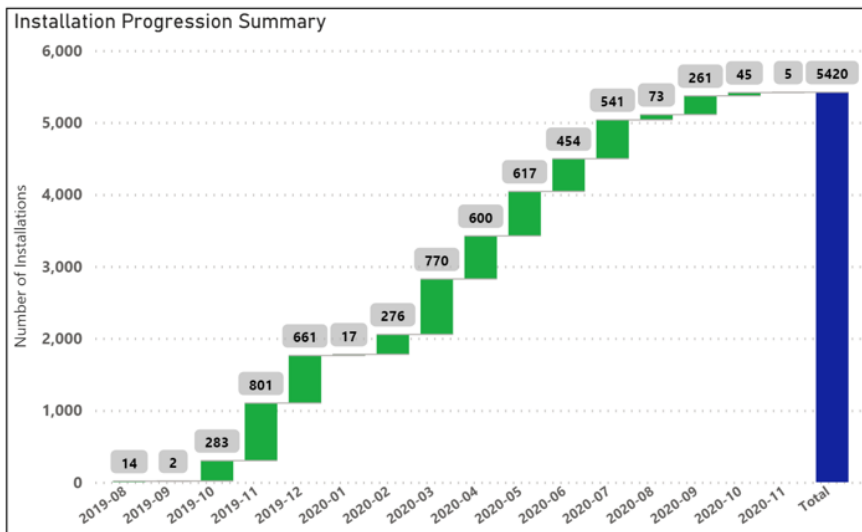


Figure 4. Valdese Monthly Meter Installation Progression Summary

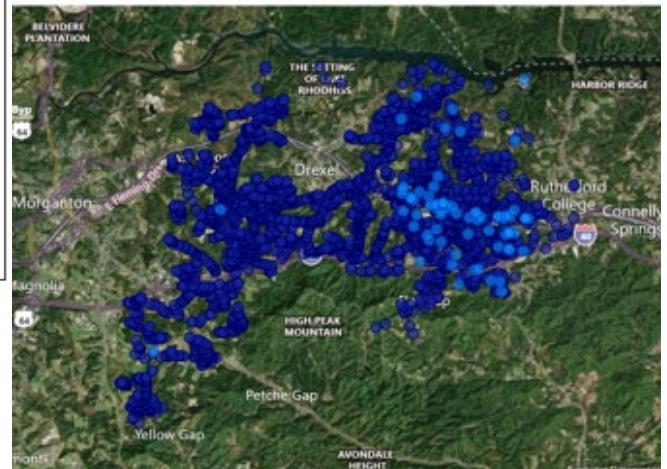


Figure 5. Valdese Completed Meter Installations Map

## IV. EQUIPMENT AND INVENTORY

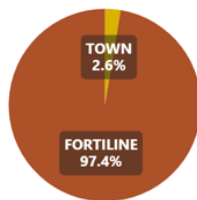
Meter Replacements Completed by Meter Size, Project-to-Date

METER SIZE	TOWN	FORTLINE
5/8" - RDM	129	5078
1"	13	122
1 1/2"	0	21
2"	1	20
3"	0	5
4"	0	15
6"	0	11
8"	0	4
10"	0	1
<b>Total</b>	<b>143</b>	<b>5277</b>

Equipment Inventory by Meter Size, Project-to-Date

METER SIZE	ORIGINAL CONTRACT QTY	ACTUAL CONTRACT QTY	MUELLER METER INSTALLS	REMAINING INVENTORY	OTHER INSTALLS
5/8" - RDM	5100	5424	5207	217	0
1"	31	126	135	-9	0
1 1/2"	13	21	18	3	3
2"	10	13	18	-5	3
3"	3	3	3	0	2
4"	16	16	11	5	4
6"	12	12	8	4	3
8"	3	3	3	0	1
10"	1	1	1	0	0
<b>Total</b>	<b>5189</b>	<b>5619</b>	<b>5404</b>	<b>215</b>	<b>16</b>

% Completed by Installation Group, Project-to-Date



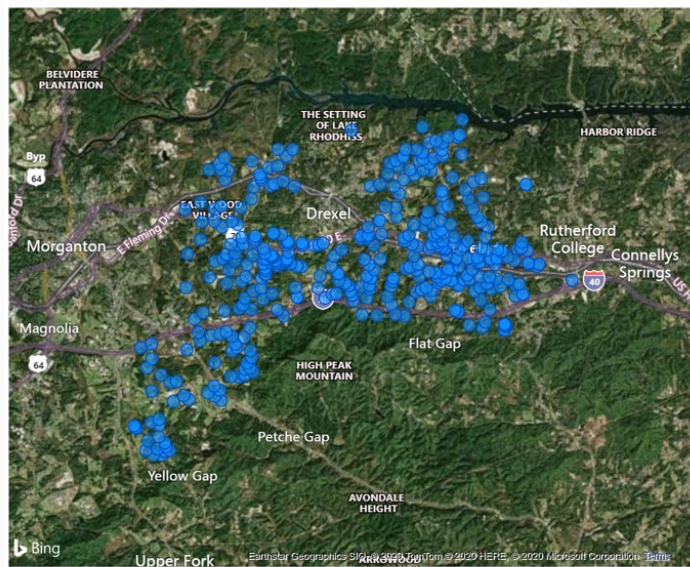
Note: Other Installs include Retrofits or Non-Mueller meter change outs. Meter equipment utilized for these installations are not taken from inventory and therefore are not reflected in the Remaining Inventory count.

Figure 6. Valdese Equipment Inventory as of 11/09

## QUALITY ASSURANCE AUDIT



QA Audit Locations



QA Audits by Route, Project-to-Date

ROUTE	QA AUDIT
2	15
3	10
4	20
5	10
6	11
7	19
8	18
9	3
10	19
11	15
12	12
25	21
26	20
31	24
32	47
43	20
45	37
48	2
51	18
61	41
<b>Total</b>	<b>382</b>

Figure 7. MeterSYS QA Audit Locations and Data

## V. SYSTEMS INTEGRATION

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- MeterSYS will complete another data QC between Harris and Mi.Net systems for data clean up

## VI. FINANCIALS MANAGEMENT

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- In progress:
  - Mueller to issue credit memo for returned large meters

DESCRIPTION	VENDOR/ PRIME	APPROPRIATION	PERCENT EXPENDED	EXPENDED FUNDS	REMAINING FUNDS
<b>SYSTEM IMPROVEMENTS</b>	<b>MUELLER</b>	\$ 1,990,180.63	99%	\$1,976,213.89	\$ 13,966.74
<b>PROJECT MANAGEMENT</b>	<b>METERSYS</b>	\$ 198,742.50	86%	\$ 171,085.92	\$ 27,656.58
<b>CONTINGENCY / CHANGE ORDER</b>		\$ 162,291.76	79%	\$ 127,600.05	\$ 34,691.71
	<b>MUELLER</b>			\$ 121,375.05	
	<b>HARRIS</b>			\$ 6,225.00	
<b>GRANT ADMINISTRATION</b>	<b>WEST</b>	\$ 7,057.00	100%	\$ 7,057.00	\$ -
<b>TOTAL</b>		<b>\$ 2,358,271.89</b>	<b>102%</b>	<b>\$2,409,556.91</b>	<b>\$ 76,315.03</b>

Figure 8. Valdese AMI Project Budget Spend as of 11/17

## VII. UPCOMING ACTIVITIES

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- Full Team Project Closeout Planning Call on 11/17/20



**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Kimberly Cline / Tax Collector  
**Agenda:** 12/07/2020  
**Re:** Foreclosure Taxes Missed

**REQUEST**

No action requested. Informational item only.

**BACKGROUND**

Regarding foreclosures, G.S. 105-375(i) mandates that the "purchaser at the execution sale shall acquire title to the property in fee simple free and clear of all claims, rights, interests, and liens except the liens of OTHER taxes or SPECIAL ASSESSMENTS not paid from the purchase price and not included in the judgement".

If a property is foreclosed upon, a taxing unit has the option of providing a certification of property taxes due and delinquent to be settled upon the execution of the sale.

Prior staff of the Tax Office for the Town of Valdese were failing to report for the tax years before 2014 when providing these certifications.

As a result, the property taxes were paid to the Town of Valdese, according to the certificate amount, upon finalization of the foreclosure process.

**ANALYSIS**

Currently, there are four known properties in which taxes were improperly certified when supplying answers to judgements for foreclosure, therefore, taxes are no longer collectible.

- 1- Patricia Wright, 816 Faet St SW, now owned by Jason Cox, for the years of 2012 and 2013, base amounts respectively were \$236.89 and \$248.00, totaling \$484.89
- 2- John and Leslie Adkins, 1104 Anthony St, now owned by Jason Hunter and Pang Xiong, for the year 2013, base amount was \$579.57.
- 3- Christine Sherrill, Trailer Park at 595 Perkins Road SE, now owned by Phiifer Heavner, for the years of 2011, 2012, and 2013, base amounts respectively were \$298.94, \$298.94, and \$392.56, totaling \$990.44
- 4- Christine Sherrill, 468 Perkins Road SE, now owned by Phiifer Heavner, for the years of 2010, 2011, 2012, and 2013, base amounts respectively were \$12.60, \$12.60, \$12.60, and \$62.81, totaling \$100.61

These taxes were written-off, in an effort to maintain correct records.

**RECOMMENDATION**

No action requested. Informational item only.

**BUDGET ANALYSIS:*****Budgetary Action***

Is a Budget Amendment required?

Yes

☐

No

☒
**LIST THE EXPENDITURE CODE:**

# Celebrate the Season in Valdese

December 5 - 10am

## *Visits from Santa*

In lieu of the Annual Christmas Parade, Santa will tour through Valdese with his reindeer. Santa's route will be released December 1st at [townofvaldese.com](http://townofvaldese.com)

December 5

## *Tree Lighting*

The Valdese Christmas Tree will be lit to kick off the Holiday Season! The Valdese Christmas Tree is located on the Old Rock School front lawn.

Vote for your favorite Christmas storefront!

## *Window Decoration Contest*

Downtown merchants are encouraged to decorate their storefronts & the public will be invited to vote for their Holiday favorite on Town of Valdese Facebook Page.

Submissions due by December 7

Voting December 8-11

Winner Announced: December 14

## *Letters from Santa*

Letters to Santa can be placed in the mailbox on the Old Rock School front lawn. Letters to the North Pole will be collected in December. Santa has been known to respond to those who provide return addresses.

## *Holiday Decoration Contest*

Decorate your home with Christmas flair and enter to win the Home Decoration Contest. Winners will receive gift cards for 1st, 2nd, and 3rd place.

Submissions due by December 7

Judging December 8-11

Winners Announced: December 14

December Dates TBA

## *Story Time with Santa!*

Virtual Event hosted on Town of Valdese Facebook Page

TOWN OF  
**VALDESE**  
COMMUNITY AFFAIRS

Missing your annual event favorites? We are too! Please know that our annual events like Mingle with Kris Kringle, Valdese Christmas Parade, Christmas in Valdese and Christmas Movie Night are not gone forever. We hope to bring them back when the concerns surrounding COVID-19 are no more. Please enjoy our 2020 Event Schedule and know that the Town of Valdese wishes you and your family a wonderful, safe Holiday Season!



Dear Honorable Mayor and Town Council of Valdese,

On behalf of the Board of Directors of Old Colony Players and myself, I would like to sincerely thank you for all the support the Town of Valdese has given to Old Colony Players over the 52 years of our existence. We were born out of a love for this town and its heritage and strive to continue the long history of bringing quality theatre to Valdese, Burke County, and beyond. "From This Day Forward" is our banner production and we cherish the opportunity to bring our shared history alive year after year.

This year has been incredibly challenging for performing arts with the advent of the Covid-19 pandemic, but we have successfully managed to stay true to our mission while keeping the health and safety of our casts, crews and patrons in the forefront of our endeavors. The Fred B. Cranford Amphitheatre is a unique space which has enabled us to continue with our mission in ways other theatres could not. Our Covid-19 protocols have become a template for other theatres as we continue to navigate the challenges that are presented to all performing arts organizations during this pandemic. With that in mind, I would like to update you all on what we have been up to for the past year.

- After the 2019 season of From This Day Forward, we presented a dinner theatre, Murder at the Howard Johnson's in conjunction with the American Legion Hut and Old World Baking Company. With 5 performances, we averaged 50 per performance to the delight of those who were able to come to this farcical comedy.
- Our October show, "The Ward of Sleepy Hollow" was written and directed by one of our own local playwrights and produced at the amphitheatre.
- Our 2019 Christmas production, "A Christmas Story" was very well attended at the Old Rock School.
- In January of 2020 we presented the classical Arthur Miller production of "Cat on a Hot Tin Roof" also at the Old Rock School.
- Our spring musical, "Once Upon a Mattress" was cancelled a month prior to opening due to the Corona Virus pandemic.
- In July we were able to present "From This Day Forward" for the 52<sup>nd</sup> season. We did this only with strict covid protocols in place. All rehearsals and performances were done with the utmost safety in mind. All the actors and crew wore masks for all rehearsals and performances and daily health checks were mandatory. Safety protocols were put in place for our patrons who attended, as well. Because of statewide mandates, our audiences were limited to 25 per performance for the 10 performances. We are proud to say that we had a "sold out" season with people coming from as far as New Mexico, Florida and Georgia to see us once again. We are also proud to say that with our protocols in place, no one in the cast or crew became sick during the rehearsal period or the run of the show.
- With the success of our summer season, we produced the classic "The Crucible" at the Fred B. Cranford Amphitheatre. This script is part of the NC high school English curriculum. We stuck to our covid protocols, but with the lessening of restrictions for a time, we were able to accommodate an average of 85 patrons per show. Many of our patrons were high school students from Burke, Caldwell and Catawba Counties. Once again, our safety protocols proved reliable as all stayed well during the rehearsal period and run of the show.



At this time, we do not feel that it is responsible to perform shows indoors as the pandemic continues to spread in our country and in our community. It is also not feasible to produce shows at the amphitheatre during the winter months. Therefore, we have made the decision to cancel our annual Christmas show and put our planned production of "Steel Magnolias" (planned for January/February of 2021) on hold until we know we can produce it safely. We plan on producing "The Wizard of Oz" at the amphitheatre in late April and the first weekend of May if conditions are appropriate to do so, followed by our 53<sup>rd</sup> season of "From This Day Forward" next July and August.

Again, I would like to thank you for the support that you all individually and the Town of Valdese gives to Old Colony Players. Over the past few years, we have been able to broaden our talent and audience base, regularly drawing talent and patrons from not only Burke County, but also from towns up to an hour away. Our last production had actors from Hickory, Marion, Boone, Lincolnton, Cherryville, Morganton and Valdese and patrons from as far as Asheville, Charlotte and Winston-Salem. We ask for your continued support as we strive to continue to live out our mission statement "to preserve Waldensian cultural heritage, promote quality theatre, and celebrate diverse artistic expression." This is only possible because of the great community we share and the ways you all work to make our town a great place to be. I look forward to the time when the pandemic is mediated and controlled so we can meet again face to face. In the meantime, keep up the great work you are all doing on behalf of Valdese and its citizens.

Gratefully Submitted,  
Edyth Pruitt  
General Manager of Old Colony Players.

Murder at the Howard Johnsons



The Ward of Sleepy Hollow



A Christmas Story



**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
NOVEMBER 2, 2020**

The Town of Valdese Town Council met on Monday, November 2, 2020, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The following were present: Mayor John F. "Chip" Black, Jr., Councilwoman Frances Hildebran, Councilman J. Andrew Thompson, and Councilman Roy F. Sweezy. Also present were: Town Attorney Marc Mitchell, Town Manager Seth Eckard, Deputy Town Clerk Jessica Lail, and Police Chief Jack Moss.

Absent: Councilwoman Susan Stevenson and Councilman Keith Ogle

A quorum was present.

Mayor Black called the meeting to order at 6:00 p.m. He offered the invocation and led in the Pledge of Allegiance to the Flag.

**OPEN FORUM/PUBLIC COMMENT:**

**ALAN WOOD – EXECUTIVE BOARD FOR BURKE COUNTY UNITED WAY:** Mr. Wood presented the following Proclamation:

**Proclamation  
Burke County, NC Nonprofit Day  
(aka 1BurkeGives)**

**Whereas**, charitable nonprofit organizations throughout Burke County save taxpayers thousands of dollars through their services and contribute significantly to the high quality of life for all citizens; and

**Whereas**, these organizations are committed to serving the educational, cultural, civic, health, religious, human service, recreational, philanthropic, environmental, and other diverse needs of Burke County; and

**Whereas**, the staff and volunteers of all Burke County nonprofit organizations are dedicated to upholding the highest standards of community service, donating their time and effort to making a difference in the lives of others; and

**Whereas**, Tuesday, December 1, 2020 observance of "Burke County, NC Nonprofit Day" (aka 1BurkeGives) provides a unique opportunity for the citizens of Burke County to join together in appreciation and support of the many contributions made by nonprofit organizations to our continued wellbeing while boosting awareness for continued growth.

**Now, therefore**, I, [elected official], [official title], do hereby proclaim Tuesday, December 1, 2020 as Burke County, NC Nonprofit Day (aka 1BurkeGives) and encourage all citizens to recognize the positive impact nonprofit organizations have on the quality of life of the citizens of Burke County.

Mr. Wood shared that this is open to all non-profits in Burke County. There will be several awards for the non-profits that have the most giving during a particular hour on December 1<sup>st</sup>, 2020.

**CONSENT AGENDA:** (enacted by one motion)

**APPROVED REGULAR MEETING MINUTES OF OCTOBER 5, 2020**

**APPROVED ELECTRIC LINE EASEMENT AT BURKE BUSINESS PARK**

**November 2, 2020, MB#31  
ELECTRIC LINE EASEMENT  
BURKE COUNTY**

THIS ELECTRIC LINE EASEMENT is dated the \_\_\_\_ day of \_\_\_\_\_, 2020, and is between BURKE PARTNERSHIP FOR ECONOMIC DEVELOPMENT INC., hereinafter called the "Grantor" and the CITY OF MORGANTON, a municipal corporation located in Burke County, North Carolina, herein referred to as the "Grantee";

**W I T N E S S E T H:**

The Grantor is the owner in fee simple of those tracts of real property described in deed recorded in Deed Book 1465, at Page 320 of the Burke Registry, also identified as Burke County Tax Parcels (PIN) 1762617148, 176200393 and 1762603031 (the "Premises"); and

The Grantee City of Morganton owns and operates a municipal water system which already serves the Premises, but which cannot currently provide adequate fire protection for potential industrial development, so that a new elevated water tank is to be erected on the Premises, upon a small tract to be conveyed to the Grantee; and

The Grantee City also owns and operates a municipal electric power distribution system, and the parties hereto desire that system to provide electric service to the new elevated water tank and its associated infrastructure; and

To enable construction and operation of the new City electric line to serve the water tank site, Grantor must grant a permanent easement across its Premises, which shall be 40 feet in width for the portions where the line will be above-ground, and 20 feet in width for the portions to be below-ground; and

The Grantor corporation is owned and controlled by the County of Burke, the City of Morganton, and the Towns of Valdese, Drexel, and Rutherford College, and the governing bodies of all those entities have given their approval to the granting of this Easement.

THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby bargain, sell and convey unto the Grantee, its successors and assigns, a permanent easement for electric transmission lines and necessary appurtenances and infrastructure, including the operation, maintenance, repair and replacement of the same, said easement being and extending 20 feet on either side of and parallel to the following described centerline, except where a narrower easement is specified:

BEGINNING on a point in the common line between Grantor and Wanda Faye Jenkins property described in Book 1860, Page 757, said beginning point being located North 53° 35' 59" West 24.16 feet from a ¾" existing iron pipe, common corner of Grantor Jenkins and property of Lillian F. Harris, et al described in Deed recorded in Book 1930, at Page 916, and from said beginning point runs thence South 2° 16' 08" West 13.16 feet to a point near a sanitary sewer manhole; thence South 4° 32' 25" West 295.89 feet to a point; thence South crossing a branch twice South 58° 22' 00" West 640.93 feet to a point; and continuing as an easement 20 feet in width and being 10 feet on either side of and parallel to the following described center line; thence along the arc of a circle having a radius of 1,478.13 feet, chord bearing South 21° 24' 47" West, chord length 195.96 feet for an arc distance of 196.11 feet to a point; thence South 25° 12' 49" West 303.38 feet to a point; thence along the arc of a circle having a radius of 516.99 feet, chord bearing South 42° 43' 08" West, chord length 311.01 feet for an arc distance of 315.91 feet to a point near a catch basin; thence along the arc of a circle having a radius of 148.77 feet, chord bearing South 21° 56' 44" West, chord length 184.32 feet for an arc distance of 198.78 feet to a point located South 54° 55' 06" East 105.82 feet from a 5/8" existing iron rod; thence continuing with the margin of the proposed 60 foot road, South 16° 20' 00" East 315.01 feet to a point; thence crossing the proposed road and along the arc of a circle having a radius of 78.92 feet, chord bearing South 24° 36' 10" West, chord length 103.42 feet for an arc distance of 112.77 feet to a point; thence South 65° 32' 20" West 167.76 feet to a point in a fence line, boundary of the water tank site to be conveyed to the City of Morganton, all as shown on that survey for the City of Morganton prepared by David Mark Huffman, NCPLS, dated October 22, 2020.

TO HAVE AND TO HOLD the above described permanent easement together with all rights and privileges thereunto belonging unto the said Grantee and its successors and assigns forever, but subject to the following general conditions:

(a) Grantor shall have the right to use the surface of the easement for any purposes which are not inconsistent with any utility facilities installed or located within the easement.

(b) In the event the Grantee installs utility lines or other facilities within the above described easement, the Grantee shall restore the surface area and repair any damage to its original condition in as reasonable manner as possible, except that the Grantee shall not be required to replace structures or other permanent improvements made by the property owners within the area of the right-of-way, nor replace trees or other vegetation damaged in the course of installing or repairing utility lines and drainage facilities installed within the easement.

IN WITNESS WHEREOF, the Grantor has caused this utility easement to be executed and become effective as of the date first above set out.

GRANTOR:

BURKE PARTNERSHIP FOR ECONOMIC  
DEVELOPMENT INC.

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

GRANTEE:

CITY OF MORGANTON

By: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Clerk

Councilman Sweezy made a motion to approve the aforementioned items on the Consent Agenda, seconded by Councilwoman Hildebran. The vote was unanimous.

### ***End Consent Agenda***

**ITEMS REMOVED FROM CONSENT AGENDA:** None

**PRESENTATION OF SAFETY AWARDS:** Mayor Black tabled this item to the December 7<sup>th</sup>, 2020 meeting.

**WPCOG CODE ENFORCEMENT UPDATE:** WPCOG Code Enforcement Officer Todd Justice provided Council with an update on completed and current code enforcement cases. Mr. Justice shared that there have been 37 action items since he started in January 2020.

## OCT 2020 - CODE ENFORCEMENT ACTIONS TRACKER

CEO Todd Justice, 828-485-4264, todd.justice@wpcog.org

	Address	Status	Mailed NOV/Cit/Order	Category	Violation	Current Status	Latest Activity/Date	Next Suspense
1	832 Cline Ave	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
2	330 Sterling St	-	Y/N/N	Min Housing	Min Housing	On hold per order of TM	-	-
3	808 Colonial St	-	Y/Y/N	Nuisance, AJNMV	Junk and Debris, Junk Veh	Order to Remove	20-Oct-20	-
4	161 Laurel Ave	-	Y/N/N	Non-Res Min	Min Standards for roof	Resolved	-	-
5	401 Bass St	-	Y/N/Y	Nuisance, AJNMV	Junk and Debris, Junk Veh	Resolved	-	-
6	708 Church St	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
7	708 Church St	-	Y/N/N	AJNMV	2 Junk vehicles	Resolved	-	-
8	909 Main St	-	Y/N/Y	Nuisance	Overgrown	Resolved	-	-
9	909 Main St	-	Y/N/Y	Min Housing	Min Housing	NOV Issued	Hearing 4 NOV 2020	-
10	804 Carolina St	-	Y/N/N	Nuisance, AJNMV	Junk and Debris, Junk Veh	Resolved	-	-
11	1300 Carolina St	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
12	1436 Main St	-	Y/N/N	Nuisance	Junk and Debris	NOV Issued	Extended	31OCT2020
13	1436 Main St	-	Y/N/N	AJNMV	Junk Vehicle	Resolved	-	-
14	725 Tron Ave	-	Y/N/N	AJNMV	2 Junk Vehicles	Resolved	-	-
15	1017 Praley St SW	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
16	805 Carolina St	-	Y/N/N	Non-Res Min	Dilapidated outbuildings	Pending demolish	Owner working, extended	1NOV2020
17	520 Walnut Ave	-	Y/N/N	Min Res	Needs roof/paint	NOV mailed	Town will handle	-
18	102 Meytre Ave	-	Y/N/N	Nuisance	Overgrowth	Resolved	-	-
19	321 Becker St	-	Y/N/N	Nuisance	Overgrowth	Resolved	-	-
20	3305 Holly Hill	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
21	216 Columbo St	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
22	216 Columbo St	-	Y/N/N	AJNMV	Junk Vehicles	Resolved	-	-

## OCT 2020 - CODE ENFORCEMENT ACTIONS TRACKER

CEO Todd Justice, 828-485-4264, todd.justice@wpcog.org

23	708 Church St	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
24	708 Church St	-	Y/N/N	Res-Min-Housing	No Power	Resolved	-	-
25	630 Perkins Rd	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
26	616 Lincoln St	-	Y/N/N	AJNMV	Junk Vehicle	Resolved	-	-
27	814 Cline Ave	-	Y/N/N	Nuisance	Overgrowth	Resolved	-	-
29	408 Pineburr Ave	-	Y/N/N	Nuisance	Overgrowth	Resolved	-	-
30	3386 Holly Hills	-	Y/N/N	Nuisance	Overgrowth	Resolved	-	-
31	5388 Montaya View Ct	-	Y/N/N	Nuisance	Overgrowth	Resolved	-	-
32	719 Hickory Ave	-	Y/N/N	AJNMV	Junk Vehicle	Resolved	-	-
33	601 Carolina	-	Y/N/N	Nuisance	Junk and Debris	Resolved	-	-
34	305 Roderet	-	Y/N/N	Nuisance	Junk and Debris, Junk Veh	NOV Issued	1-Sep-20	18SEP2020
35	817 Woodlawn	-	Y/N/N	Nuisance	Junk and Debris, Junk Veh	NOV Issued	8-Oct-20	30OCT2020
36	819 Woodlawn	-	Y/N/N	Nuisance	Junk and Debris, Junk Veh	NOV Issued	8-Oct-20	30OCT2020
37	605 Cline	-	Y/N/N	AJNMV	Junk Vehicles	NOV Issued	23-Sep-20	16OCT2020
<b>Key</b>								
			Resolved/Abated	NOV = Notice of Violation				
			Owner Notified, proceeding	Cit = Citation, usually \$50 a day for 15 days				
			New violation	Order = Order to Remove, Repair or Demolish				

Mr. Justice noted that at 808 Colonial St. the owner is a hoarder and has filled up her carport and front porch with boxes. The boxes in the carport have been covered by tarps. There are also old vehicles in the yard. Mr. Justice explained that Code Enforcement had sent numerous notices to her over the last few years. The next step is to determine if we want to fine her or get a court order to clean up the property. Councilwoman Hildebran expressed her concern with this home because she has received multiple calls for years. Councilwoman Hildebran wants to move forward with cleaning up this home based on the comments and calls she has received.

Mr. Justice explained to Council that 909 Main Street is still pending due to the property owner's death. The property owner's sister is trying to get her matters in order to sell the home. Mr. Justice shared that he has given her another month. Councilwoman Hildebran expressed her concern with this property and wants to move forward with Code Enforcement on this home. Mr. Justice understands her concern but noted that all the delays on this property had been legitimate, and we have to follow the process.

Mayor Black clarified that the Town was not handling 250 Walnut Ave. but the Town was working with WPCOG to get CDBG (Community Development Block Grants) funds to make improvements to the home. Mayor Black also asked Mr. Justice about the back of 408 Pineburr (Pineburr Mill). Mr. Justice shared that



a real estate company managed that property in Asheville. Mr. Justice said he would revisit and look into this property.

**MANAGER'S REPORT:** Town Manager Seth Eckard made the following announcements:

The Lakeside Park Groundbreaking Ceremony will be held on Thursday, November 5<sup>th</sup>, 2020, at 1:15 p.m. This event is invitation-only due to COVID-19 restrictions.

The Downtown Merchants Dinner scheduled on Tuesday, November 10<sup>th</sup>, 2020, has been canceled due to COVID-19.

Town Offices will be closed on November 11<sup>th</sup>, 2020, in observance of Veterans Day and November 26<sup>th</sup> and 27<sup>th</sup>, 2020, in observance of Thanksgiving.

**MAYOR AND COUNCIL COMMENTS:** Councilwoman Hildebran thanked Mayor Black for the letter he wrote to the citizens regarding COVID-19 published on the Town's social media page.

**ADJOURNMENT:** At 6:21 p.m., there being no further business to come before Council, Councilman Sweezy made a motion to adjourn, seconded by Councilman Thompson. The vote was unanimous.

The next regular Council meeting is scheduled for Monday, December 7<sup>th</sup>, 2020.

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Town Clerk

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Mayor

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**TOWN OF VALDESE  
RESOLUTION ADOPTING 2021 TOWN COUNCIL MEETING SCHEDULE**

WHEREAS, pursuant to Section 2-1011 of the Town of Valdese Code of Ordinances, there shall be a regular meeting of the council at the town hall, on the first Monday in each month, at 6:00 p.m., unless another place, date or time shall be designated.

NOW, THEREFORE, BE IT RESOLVED that the Town of Valdese Town Council adopts the following Meeting Schedule for 2021:

<b>January 4, 2021</b>	
<b>February 1, 2021</b>	
<b>March 1, 2021</b>	
<b>March 22, 2021</b>	Annual Budget Retreat - Old Rock School - Waldensian Room Day 1: 9:00 a.m. – 5:00 p.m.
<b>March 23, 2021</b>	Annual Budget Retreat - Old Rock School - Waldensian Room Day 2: 1:00 p.m. – 5:00 p.m.
<b>April 12, 2021</b>	April 5 <sup>th</sup> is Easter Monday and break for Burke County Schools
<b>April 19, 2021</b>	Council Budget Workshop 1 Dinner Town Hall - Community Room, 6:00 p.m.
<b>May 3, 2021</b>	
<b>May 24, 2021</b>	Council Budget Workshop 2 (If needed) Town Hall – Community Room, 6:00 p.m.
<b>June 7, 2021</b>	
<b>June 28, 2021</b>	Budget Public Hearing; serves as the July Council Meeting
<b>August 2, 2021</b>	
<b>September 7, 2021</b>	Tuesday, due to Labor Day Holiday
<b>October 4, 2021</b>	
<b>November 1, 2021</b>	
<b>November 9, 2021</b>	Tuesday, Annual Dinner Meeting with Valdese Merchants Association Old Rock School - Waldensian Room, 6:30 p.m.
<b>December 6, 2021</b>	

This 7<sup>th</sup> day of December, 2020.

\_\_\_\_\_  
John F. “Chip” Black, Jr., Mayor

## **2021 Board and Commission Appointments/Reappointments**

### **Arbor-Beautification (3-year terms)**

Reappointment of Councilman Keith Ogle

Reappointment of Ronnie Pruitt

### **Parks and Recreation Commission (3-year terms)**

Reappointment of Beth Heile

Reappointment of Grayson Turner

Reappointment of Donnie Edwards

### **Planning Board & Board of Adjustment (4-year terms)**

Reappointment of Scott Watts

### **Public Art Commission (3-year terms)**

Appointment of Sharon Bowman

Reappointment Gretchen Costner

Reappointment Linda Rostan

Reappointment Councilman Andy Thompson

### **Valdese Housing Authority (5-year term)**

Appointment of Patricia Ribet Garrou

## VALDESE FIRE DEPARTMENT

Serving The Community With Pride,  
Integrity And Courage.

Charles Watts  
Safety Director  
Post Office Box 339  
121 Faet Street  
Valdese, North Carolina 28690

Telephone: (828) 879-2103  
Fax: (828) 879-2106

TO: Seth Eckard, Town Manager  
Valdese Town Council

FROM: Charles Watts, Safety Director

DATE: December 4, 2020

REF: North Carolina Department of Labor Safety Awards

The goal of the Safety Awards Program is to recognize those entities that go the extra mile to promote safety in the workplace. For the year 2019, each Town Department received recognition from the North Carolina Department of Labor for their prevention of work place injuries and illnesses. These achievements are due in part to our Department Heads and employees working and training together to ensure that safe workplace practices are followed, and safety is first and foremost in everyone's job description.

Those Town Departments receiving Safety Awards for the year of 2019 are as follows:

- Administration (32<sup>nd</sup> consecutive year)
- Community Affairs (9<sup>th</sup> consecutive year)
- Fire Department (5<sup>th</sup> consecutive year)
- Police Department (1<sup>st</sup> year)
- Public Works (2<sup>nd</sup> year)
- Recreation (9<sup>th</sup> consecutive year)
- Water Department (3<sup>rd</sup> consecutive year)
- Waste Water Department (4<sup>th</sup> consecutive year)

Particular attention should be paid to those Departments receiving consecutive Safety Awards, especially departments where accident rates are usually elevated due to the nature of their work.

Thank you.

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**TOWN OF VALDESE**
**Financial Highlights**  
**Years Ended June 30, 2020 and 2019**


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<b><u>General Fund (Includes Powell Bill Funds)</u></b>	<b><u>2020 Summarized Budget</u></b>	<b><u>2020</u></b>	<b><u>2019</u></b>
Total assets		\$ 4,734,056	\$ 4,479,555
Fund balance		\$ 4,528,448	\$ 4,164,568
Fund balance - Reserved for Streets - Powell Bill (included in total fund balance)		\$ 9,107	\$ 57,421
Total revenue	\$ 4,933,980	\$ 5,043,110	\$ 5,428,003
Total expenditures	\$ 5,440,217	\$ 4,771,543	\$ 5,129,278
Revenues over (under) expenditures before other financing sources (uses)		\$ 271,567	\$ 298,725
Other income (expense)	\$ 506,237	\$ 92,313	\$ 1,699,790
Increase (decrease) in fund balance		\$ 363,880	\$ 1,998,515
Ad valorem taxes collected		\$ 2,220,386	\$ 2,015,158
Percent of taxes collected - current year levy		97.89%	96.32%
Investment income		\$ 89,543	\$ 63,668
<b>Fund Balance Available</b>			
Unassigned Fund Balance		<u>3,524,437</u>	<u>3,105,101</u>
Expenditures and other financing sources and uses		4,771,543	5,129,278
Unassigned Fund Balance Percentage		73.86%	60.54%

\* Local Government Commission minimum recommended general fund balance should be at least 8% of general fund expenditures at the end of the fiscal year.

	<u>2020</u>	<u>2019</u>
<b><u>Water and Sewer Fund</u></b>		
Cash, cash equivalents and investments	\$ 829,467	\$ 811,332
Total assets	\$25,005,206	\$23,184,697
Net position	\$20,630,921	\$20,925,241
Operating revenue	\$ 4,947,109	\$ 4,968,903
Operating expenses	\$ 5,139,005	\$ 4,825,593
Operating income (loss)	\$ (191,895)	\$ 143,310
Nonoperating revenue (expenses)	\$ (177,114)	\$ (194,257)
Transfers (to) from	\$ (126,935)	\$ (387,000)
Capital Contributions	\$ 201,624	\$ 1,111,132
Change in net position, includes \$960,430 of depreciation expense 2020	\$ (294,320)	\$ 673,185
Accounts receivable - customers	\$ 561,937	\$ 552,754
Investment income	\$ 12,830	\$ 14,075
Days sales in accounts receivable	41.48	40.60
<b>Fund Balance Available</b>		
Unrestricted Fund Balance	<u>\$ 1,265,793</u>	<u>\$ 1,322,495</u>
Expenditures and other financing sources and uses	5,139,005	4,825,593
Unrestricted Fund Balance Percentage	24.63%	27.40%

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo D. Weichel / Finance Director  
**Agenda:** 12/07/2020

**REQUEST**

Accept and approve the audit contract for FY21 with Lowdermilk Church & Co., LLP.

**BACKGROUND**

The Town has utilized the services of Lowdermilk Church & Co. for the past several years with excellent results. This firm was also contracted to produce the Town's Financial Statements.

**ANALYSIS**

The North Carolina Local Government Commission (LGC) does not enforce formal bid requirements for auditing services due to the professional relationship formed between auditors and clients over an extended work history. The Secretary of the Local Government Commission approves all local government contracts for audit or audit-related work.

Lowdermilk Church & Co. offers a competitive rate for their services and is widely known for their professional staff and service throughout the local government community. The proposed fees for the Town for fiscal years ending June 30, 2020 is \$16,310. This price reflects a 2.19% increase over the prior year. However, the contract price has not changed in the previous four years.

Funds will be included in the FY21-22 budget process.

**RECOMMENDATION**

Staff recommends approval to accept the contract for auditing services with Lowdermilk Church & Co.

**BUDGET ANALYSIS:*****Budgetary Action***

Is a Budget Amendment required?

Yes

☐

No

☒

The of and	Governing Board Town Council
	Primary Government Unit (or charter holder) Town of Valdese
	Discretely Presented Component Unit (DPCU) (if applicable)

*Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)*

and	Auditor Name Lowdermilk Church & Co., LLP
	Auditor Address 121 North Sterling Street, Morganton, NC 28655

*Hereinafter referred to as Auditor*

for	Fiscal Year Ending 06/30/21	Audit Report Due Date 10/31/21
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*Must be within four months of FYE*

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).



3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.)(G.S. 159-34 and 115C-447) All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to



the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).

11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.

13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the



Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern.



30. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

31. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).

32. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

33. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

34. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

## FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Governmental Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title and Unit / Company:

Email Address:

Bo Weichel

Finance Director

bweichel@valdesenc.gov

OR Not Applicable ☐ (Identification of SKE Individual not applicable for GAAS-only audit or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the billings for the last annual audit of the unit submitted to the Secretary of the LGC. Should the 75% cap provided below conflict with the cap calculated by LGC Staff based on the billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

## PRIMARY GOVERNMENT FEES


Primary Government Unit	Town of Valdese
Audit Fee	\$ 11,420
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$
Writing Financial Statements	\$ 4,890
All Other Non-Attest Services	\$
<b>75% Cap for Interim Invoice Approval</b> (not applicable to hospital contracts)	\$ 12,230.00

## DPCU FEES (if applicable)

Discretely Presented Component Unit	
Audit Fee	\$
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
<b>75% Cap for Interim Invoice Approval</b> (not applicable to hospital contracts)	\$

## SIGNATURE PAGE

## AUDIT FIRM

Audit Firm*	
Lowdermilk Church & Co., LLP	
Authorized Firm Representative (typed or printed)*	Signature*
Phillip E Church	
Date*	Email Address*
11-23-2020	phil.church@lowdermilkchurchcpa.com

## GOVERNMENTAL UNIT

Governmental Unit*	
Town of Valdese	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)*	Signature*
John F Black, Mayor	
Date	Email Address
	mayor@valdesenc.gov

Chair of Audit Committee (typed or printed, or "NA")	Signature
NA	
Date	Email Address

## GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).  
Not applicable to hospital contracts.

*This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.*

Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
Bo Weichel	
Date of Pre-Audit Certificate*	Email Address*
	bweichel@valdesenc.gov

**SIGNATURE PAGE – DPCU**  
(complete only if applicable)

**DISCRETELY PRESENTED COMPONENT UNIT**

DPCU*	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

**DPCU – PRE-AUDIT CERTIFICATE**

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).  
Not applicable to hospital contracts.

*This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.*

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all  
required signatures prior to submission.

PRINT



**Lowdermilk Church & Co., L.L.P.**  
*Certified Public Accountants*

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121 N. Sterling Street  
 Morganton, North Carolina 28655  
 Phone: (828) 433-1226  
 Fax: (828) 433-1230

To the Honorable Mayor and Members of  
 the Town Council  
 Town of Valdese  
 Valdese, North Carolina

November 20, 2020

We are pleased to confirm our understanding of the services we are to provide for Town of Valdese for the year ending June 30, 2021. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of Town of Valdese as of and for the year ending June 30, 2021. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as the Management's Discussion and Analysis (MD&A), to supplement Town of Valdese's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Town of Valdese's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information, because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis.
- 2) Budgetary Comparison Information.
- 3) Law Enforcement Officers' Special Separation Allowance Schedules of Changes in Total Pension Liability and Total Pension Liability as a Percentage of Covered Payroll.
- 4) Local Government Employees' Retirement System Schedule of the Proportionate Share of Net Pension Liability (Asset) and Schedule of Contributions.
- 5) Schedule of Changes in the Total OPEB Liabilities and Related Ratios.

We have also been engaged to report on supplementary information other than RSI that accompanies Town of Valdese's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements, and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements, or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

- 1) Schedule of Expenditures of Federal and State Awards.
- 2) Combining and Individual Fund Financial Statements.
- 3) Budgetary Schedules.
- 4) Other Schedules.



## Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with the provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with Government Auditing Standards.
- Internal control over compliance related to major programs and an opinion (or a disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The Government Auditing Standards report on internal control over financial reporting, and on compliance and other matters, will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance, and the results of that testing, based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Town Council of Town of Valdese. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit, or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets which, in our professional judgement, prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.



## Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and Government Auditing Standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or any misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories and direct confirmation of receivables and certain other assets and liabilities, by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; the Schedule of Expenditures of Federal and State Awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

## Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Government Auditing Standards.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and to those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, Government Auditing Standards, and the Uniform Guidance.



## **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Town of Valdese's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to Government Auditing Standards.

The Uniform Guidance also requires that we plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of Town of Valdese's major programs. The purpose of these procedures will be to express an opinion on Town of Valdese's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

## **Other Services**

We will also assist in preparing the financial statements, the Schedule of Expenditures of Federal and State Awards, and the related notes of Town of Valdese in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. We will also prepare the following based on information provided by you: AFIR Data Collection Form and Unit Data Input Worksheet. These nonaudit services do not constitute an audit under Government Auditing Standards, and such services will not be conducted in accordance with Government Auditing Standards. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, the Schedule of Expenditures of Federal and State Awards, and the related notes services previously defined. We, in our sole judgement, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

## **Management Responsibilities**

Management is responsible for (1) designing, implementing, establishing and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal and State awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management is reliable and the financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, the Schedule of Expenditures of Federal and State Awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information, of which you are aware, that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.



Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud, or suspected fraud, affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal and State awards received and understanding and complying with the compliance requirements and for the preparation of the Schedule of Expenditures of Federal and State Awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the Schedule of Expenditures of Federal and State Awards in any document that contains, and indicates that we have reported on, the Schedule of Expenditures of Federal and State Awards. You also agree to include the audited financial statements with any presentation of the Schedule of Expenditures of Federal and State Awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the Schedule of Expenditures of Federal and State Awards in accordance with the Uniform Guidance; (2) you believe the Schedule of Expenditures of Federal and State Awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the Schedule of Expenditures of Federal and State Awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.



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Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements, the Schedule of Expenditures of Federal and State Awards, and the related notes and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, the Schedule of Expenditures of Federal and State Awards and the related notes, and that you have reviewed and approved the financial statements, the Schedule of Expenditures of Federal and State Awards, and the related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; to evaluate the adequacy and results of those services; and to accept responsibility for them.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed, and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for the interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

#### **Engagement Administration, Fees, and Other**

We understand that your employees will prepare all cash, accounts receivable, or other confirmations and schedules we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including the financial statements, the Schedule of Expenditures of Federal and State Awards, the summary schedule of prior audit findings, the auditors' reports, and the corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the Town; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.



The audit documentation for this engagement is the property of Lowdermilk Church & Co., L.L.P. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request, and in a timely manner, to the Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Lowdermilk Church & Co., L.L.P. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Local Government Commission. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Phillip E. Church is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

To ensure that Lowdermilk Church & Co., L.L.P.'s independence is not impaired under the AICPA Code of Professional Conduct, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel.

Our fee for these services will be at our standard hourly rates, plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$16,310. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. We are required to inform you that we charge interest at a rate of 18% per annum on all invoices over 30 days old.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you regarding the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

We are providing you with a copy of our 2018 external peer review report which accompanies this letter.

We appreciate the opportunity to be of service to Town of Valdese and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

  
Phillip E. Church  
Partner

RESPONSE:

This letter correctly sets forth the understanding of Town of Valdese.

Management signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

Governance signature: \_\_\_\_\_

Title: \_\_\_\_\_

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





Bernard Robinson & Company, L.L.P.

## **Report on the Firm's System of Quality Control**

October 30, 2018

To the Partners of Lowdermilk Church & Co., L.L.P.  
and the Peer Review Committee of the North Carolina  
Association of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Lowdermilk Church & Co., L.L.P. (the firm) in effect for the year ended May 31, 2018. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

### **Firm's Responsibility**

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

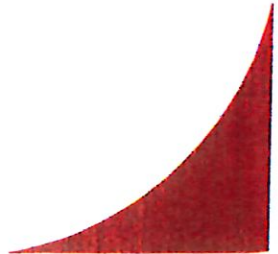
### **Peer Reviewer's Responsibility**

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

### **Required Selections and Considerations**

Engagements selected for review included an engagement performed under *Government Auditing Standards*, including a compliance audit under the Single Audit Act.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.



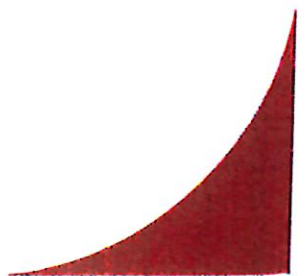
Lowdermilk Church & Co., L.L.P.  
October 30, 2018  
Page 2

### Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Lowdermilk Church & Co., L.L.P. in effect for the year ended May 31, 2018, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Lowdermilk Church & Co., L.L.P. has received a peer review rating of *pass*.

*Bernard Robinson & Company, L.L.P.*

BERNARD ROBINSON & COMPANY, L.L.P.



**TOWN OF VALDESE**

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2120 | FAX (828) 879-2139 | TOWNOFVALDESE.COM

**Memorandum**

To: John Black, Mayor  
Valdeese Town Council

From: Greg Padgett, Public Service Director

Date: December 4, 2020

Subject: Award of Bid – Road Culvert Replacement – Pineburr Ave SW

Staff is requesting funding to replace a roadway culvert under Pineburr Ave. SW. The existing storm drain is 24-inch RCP and conveys a creek under Pineburr Ave; the approximate location is between Rodoret St. S and Hillside St. SW. (See attached location map). The storm pipe intersects a 6-inch and 8-inch water line. There is also a sewer line intersecting the storm pipe. Currently, (2) 3' sections of pipe have been washed out, and the north side of Pineburr Ave. has been eroded away and is threatening to compromise the integrity of the roadway. (See attached photos of erosion). There is also an offset of the storm pipe under the roadway.

Staff is recommending the removal of the existing 24-inch RCP and installation of 60 feet of new 36-inch HDPE with bedding. The contractor will be responsible for protection of the all water and sewer lines in the area of construction. (see utility map). The contract includes the replacement of asphalt, shoring of the north and south side of Pineburr Ave. with stone, and general restoration to the impacted work area.

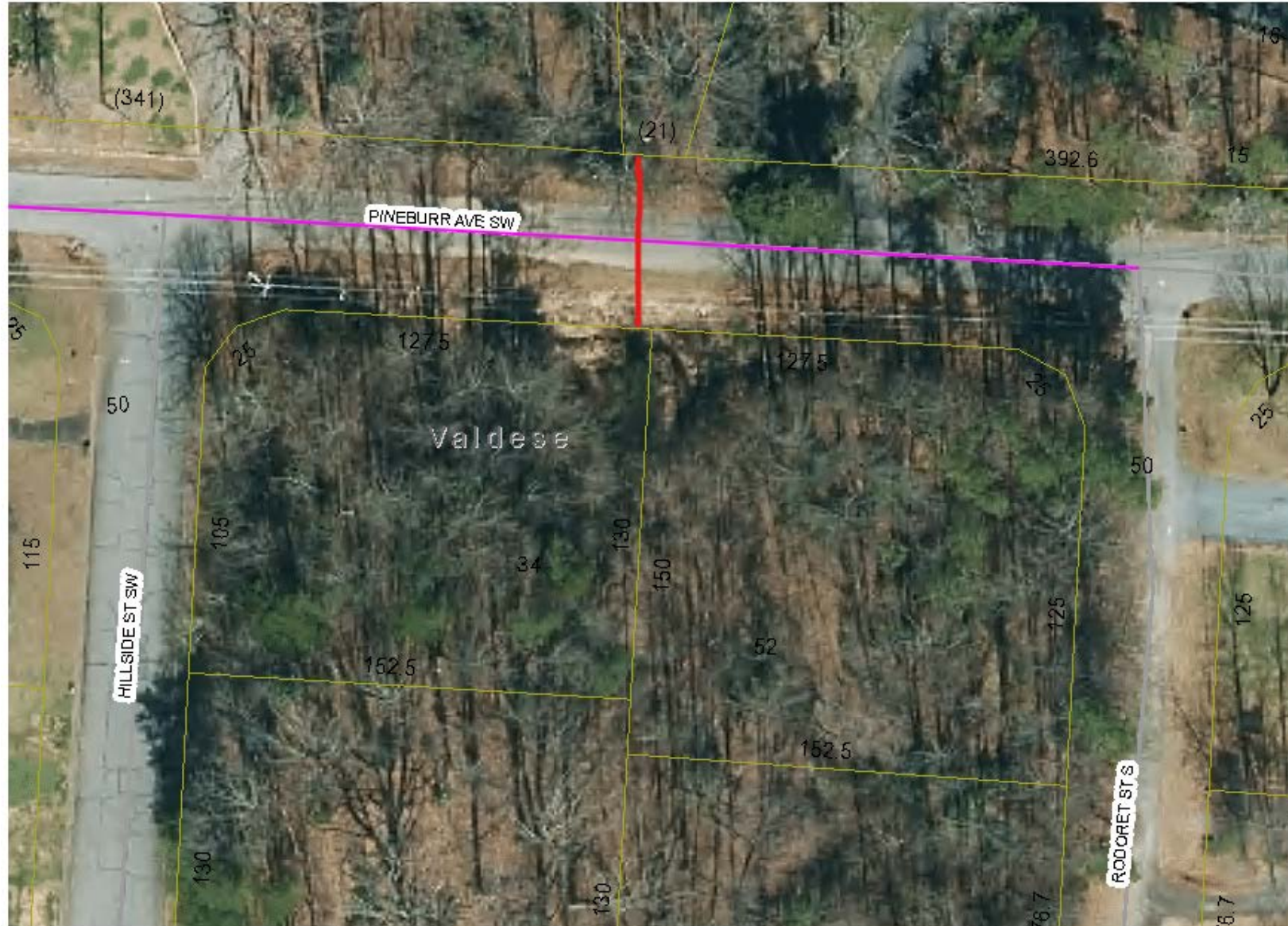
Please see (3) attached estimates. All three contractors come highly recommended, and having personal knowledge of the work of 2 of the contractors, staff is recommending the low bidder, Hickory Sand Company Inc., for the project.

Eggers Construction Co.	\$91,597.50
Hickory Sand Company Inc.	\$51,345.00
Iron Mountain Construction Co. Inc.	\$54,760.00

Please, feel free to email me or call with any questions or clarifications prior to the council meeting.

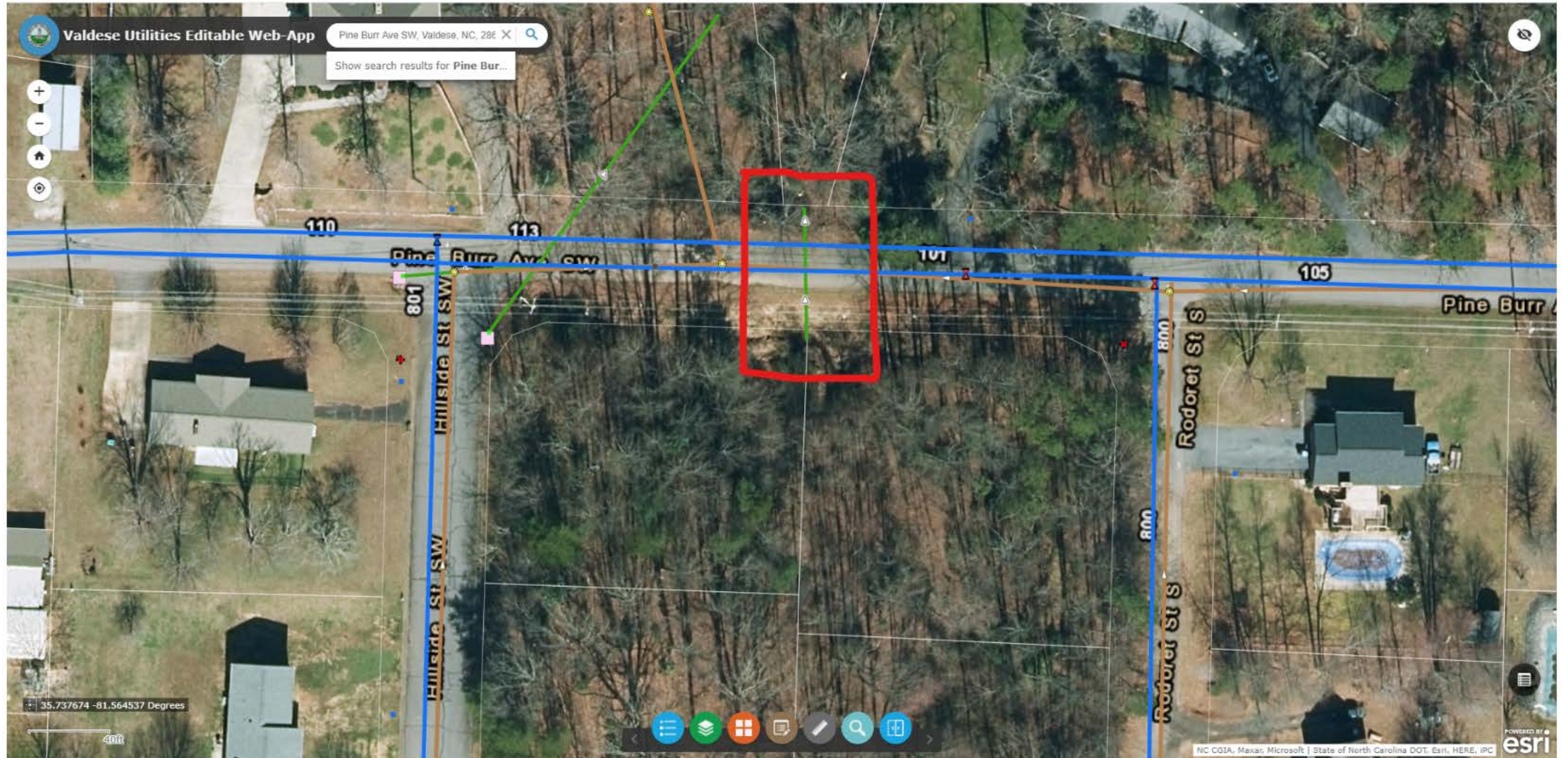


# Aerial view of storm pipe location





# Area of work showing utilities



# Closer view at utilities





# Erosion undercutting Pineburr(North side)





# Offset looking South on Pineburr







1490 SOUTH CENTER STREET 28602  
POST OFFICE BOX 2007  
HICKORY, NORTH CAROLINA 28603

## Utility Contractors

TELEPHONE 828-328-1846 • FAX 828-328-1329

November 16, 2020

Mr. Allen Hudson  
Town of Valdese  
P.O. Box 339  
Valdese, N.C. 28690  
ahudson@valdesenc.gov

Subject: Storm Drain Replacement on Pineburr Road

Dear Mr. Hudson:

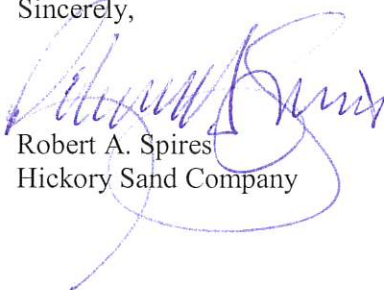
The Hickory Sand Company, Inc. proposes to install the following and proposes to provide all "competent person" supervision, labor, materials and insurance to complete the following items of work.

This project replaces and upsizes the existing 24-inch RCP storm drain. This proposal requires the removal of the existing 24-inch RCP, large poplar tree, and installation of approximately 60 linear feet of 36-inch HDPE with bedding. Due to the existing water lines, sanitary sewer and gas lines, this replacement will require additional excavation for the replacement. The area impacted on the road will require the removal and replacement of the asphalt up to 50 linear feet. The restoration of the road will have a minimum 12-inches of ABC, and 4-inches of surface asphalt. An approximate total of 30 tons of rip rap will be placed on the inlet side and the discharge side. Banks will require matting for the restoration. Upon completion the remaining disturbed areas will be restored.

The total cost for this project is **\$ 51,345.00**.

Due to our current commitments this work cannot be scheduled until after the end of January. This price will be good for ninety days. If have any questions please do not hesitate to call me.

Sincerely,



Robert A. Spires  
Hickory Sand Company



"In Business Since 1947"



**IRON MOUNTAIN CONSTRUCTION CO., INC.***“Safety & Quality 1<sup>st</sup>”*

October 21, 2020

Attention: Mr. Greg Padgett  
Town of Valdese

From: Sam Icenhour  
President

Quote for: Pineburr Avenue Storm Drain Replacement Dig & Replace

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Item	Quantity	Unit Price	Total
1. Mobilization	lump sum	1800.00	1800.00
2. Site prep	lump sum	1200.00	1200.00
3. 36" HDPE double wall pipe	60 lf	345.00	20,700.00
4. Washed stone	100 tons	36.00	3600.00
5. ABC Stone	60 tons	30.00	1800.00
6. Rip Rap	100 tons	48.00	4800.00
7. Asphalt	30 tons	240.00	7200.00
8. Restoration	lump sum	3600.00	3600.00
9. 6" DIP Waterline Replacement	20 lf	200.00	4000.00
10. 6" MJ sleeves	2 each	600.00	1200.00
11. 8" DIP Sewer line replacement	20 lf	204.00	4080.00
12. 8" Ferncos	2 each	390.00	780.00

Total: \$54,760.00

Note: Tree removal by others

Thank you for your consideration.

**Iron Mountain Construction Co., Inc. PO Box 24, Mountain City, TN 37683 Phone (423) 727-4483**

**Fax (423) 727-4200 kimhayworth@ironmntncc.com www.ironmntncc.com**

*Eggers/M & M Construction of Banner Elk, Inc.*  
Quality Site Development & Infrastructure



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8/24/20

P.O Box 695  
2107 Tynecastle Hwy  
Banner Elk, NC 28604  
(828) 898-5862 Office  
(828) 898-4008 Fax  
[GarnerJ54@Gmail.com](mailto:GarnerJ54@Gmail.com)  
NC License # 68167

Town of Valdese Pineburr Avenue Pipe Replacement

1. Demolition and removal of old culvert, roadway and large trees present on site.
2. Replacement of 60' of 14' deep 24" RCP with 36" HDPE pipe.
3. Backfill and compact over culvert and repair roadway section
4. Includes 195 syds of 2" 9.5 surface with 8" abc stone base

Total: 91,597.50

Note: We have not included anything for the utility repairs in this proposal. the extent of utility repairs are unknown at this time. We offer to perform the required water and sewer repairs as they arise on a time and materials basis. Spoils area to be provided for dirt storage as needed. Storage area to be restored after completion.

Thank you,

John Garner M & M Construction of Banner Elk, Inc.

2107 Tynecastle Hwy  
Banner Elk, NC 28604

[www.eggersconstructionco.com](http://www.eggersconstructionco.com)

P: (828) 898-5862  
F: (828) 898-4008

## VALDESE POLICE DEPARTMENT

Jack W. Moss  
Chief of Police  
Post Office Box 339  
121 Faet Street  
Valdese, North Carolina 28690

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Telephone 828-879-2109  
Fax 828-879-2106

December 4, 2020

To: Mayor, Council, and City Manager  
From: Chief Moss  
Re: Motorola CAD/Records Management system

The Burke County 911 Center currently houses the Central Square CAD/RMS system, which Morganton, Valdese, and Burke County Sheriff all utilize for daily operations. This program has been in operation for twenty years and is at the end of the lifecycle. Central Square informed Burke County, the company would no longer provide support for this product.

Several companies presented Burke County Sheriff's Department, Morganton Police Department, Valdese Police Department, and Drexel Police Department their respective CAD/RMS products during the past eighteen months, and we found Motorola Solutions to have the best price with more operation features.

Burke County's Board of Commissioners will be voting on December 7, 2020, for the Burke County 911 Dispatch Center to contract with Motorola Solutions to replace our existing (Central Square) Computer Automated Dispatch (CAD) and Records Management System (RMS). This change over will take approximately twelve to eighteen months to complete.

Staff recommends that Council adopt the Resolution to enter into a five-year lease option with Motorola Solutions with a deferred payment plan beginning December 2022. This is contingent upon the Burke County Board of Commissioners voting to contract with Motorola Solutions.

The lease plan allows Valdese to pay for five years of service over four years. Maintenance fees, upgrades, service fees, and program support are included in the yearly cost.

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year					
	Date	Lease Payment	Interest	Principal	Balance
Lease	12/15/2020				\$73,918.00
Rate	12/15/2021		\$ -	\$ -	\$73,918.00
	12/15/2021	Rate: 2.83%		Compounding: Annual	
1	12/15/2022	\$ 19,805.16	\$ 2,091.88	\$ 17,713.28	\$56,204.72
2	12/15/2023	\$ 19,805.16	\$ 1,590.59	\$ 18,214.57	\$37,990.15
3	12/15/2024	\$ 19,805.16	\$ 1,075.12	\$ 18,730.04	\$19,260.11
4	12/15/2025	\$ 19,805.16	\$ 545.05	\$ 19,260.11	\$ -
Grand Totals		\$ 79,220.64	\$ 5,302.64	\$ 73,918.00	

Thank you for your consideration of this matter.



11/30/20

Town of Valdese  
102 Massel Ave SW  
Valdese NC 28690

**RE: Municipal Lease # 24975**

Enclosed for your review, please find the **Municipal Lease** documentation in connection with the [radio equipment] to be leased from Motorola. The interest rate and payment streams outlined in Equipment Lease-Purchase Agreement #24975 are valid for contracts that are executed and returned to Motorola on or before **December 15, 2020**. After **12/15/20**, the Lessor reserves the option to re-quote and re-price the transaction based on current market interest rates.

Please have the documents executed where indicated and forward the documents to the following address:

Motorola Solutions Credit Company LLC  
Attn: Bill Stancik / 44th Floor  
500 W. Monroe  
Chicago IL 60661

Should you have any questions, please contact me at 847-538-4531.

Thank You,

MOTOROLA SOLUTIONS CREDIT COMPANY LLC  
Bill Stancik

## LESSEE FACT SHEET

**Please help Motorola provide excellent billing service by providing the following information:**

1. Complete Billing Address      Town of Valdese  

E-mail Address:

Attention:

Phone:
2. Lessee County Location:
3. Federal Tax I.D. Number
4. Purchase Order Number to be referenced on invoice (if necessary) or other “descriptions” that may assist in determining the applicable cost center or department:
5. Equipment description that you would like to appear on your invoicing:

**Appropriate Contact for Documentation / System Acceptance Follow-up:**

6. Appropriate Contact & Mailing Address  

Phone:

Fax:
7. Payment remit to address:      **Motorola Solutions Credit Company LLC**  

**P.O. Box 71132**

**Chicago IL 60694-1132**

Thank you

## EQUIPMENT LEASE-PURCHASE AGREEMENT

**Lease Number: 24975**

**LESSEE:**

Town of Valdese  
102 Massel Ave SW  
Valdese NC 28690

**LESSOR:**

Motorola Solutions, Inc.  
500 W. Monroe  
Chicago IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment and/or software described in Schedule A attached hereto ("Equipment") in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement ("Lease").

**1. TERM.** This Lease will become effective upon the execution hereof by Lessor. The Term of this Lease will commence on date specified in Schedule A attached hereto and unless terminated according to terms hereof or the purchase option, provided in Section 18, is exercised this Lease will continue until the Expiration Date set forth in Schedule B attached hereto ("Lease Term").

**2. RENT.** Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion, in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that a request for appropriation for funds from which the Lease Payments may be made will be requested each fiscal period, including making provisions for such payment to the extent necessary in each budget submitted for the purpose of obtaining funding. It is Lessee's intent to make Lease Payment for the full Lease Term if funds are legally available therefor and in that regard Lessee represents that the Equipment will be used for one or more authorized governmental or proprietary functions essential to its proper, efficient and economic operation.

**3. DELIVERY AND ACCEPTANCE.** Lessor will cause the Equipment to be delivered to Lessee at the location specified in Schedule A ("Equipment Location"). Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment either (a) by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor; or (b) by executing and delivering the form of acceptance provided for in the Contract (defined below).

Even if Lessee has not executed and delivered to Lessor a Delivery and Acceptance Certificate or other form of acceptance acceptable to Lessor, if Lessor believes the Equipment has been delivered and is operational, Lessor may require Lessee to notify Lessor in writing (within five (5) days of Lessee's receipt of Lessor's request) whether or not Lessee deems the Equipment (i) to have been delivered and (ii) to be operational, and hence be accepted by Lessee. If Lessee fails to so respond in such five (5) day period, Lessee will be deemed to have accepted the Equipment and be deemed to have acknowledged that the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate or other form acceptable to Lessor.

**4. REPRESENTATIONS AND WARRANTIES.** Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the "Contract") covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee ("Assignee").



LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS". LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

Lessor is not responsible for, and shall not be liable to Lessee for damages relating to loss of value of the Equipment for any cause or situation (including, without limitation, governmental actions or regulations or actions of other third parties).

**5. NON-APPROPRIATION OF FUNDS.** Notwithstanding anything contained in this Lease to the contrary, Lessee has the right to not appropriate funds to make Lease Payments required hereunder in any fiscal period and in the event no funds are appropriated or in the event funds appropriated by Lessee's governing body or otherwise available by any lawful means whatsoever in any fiscal period of Lessee for Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Non-appropriation of funds shall not constitute a default hereunder for purposes of Section 16.

**6. LESSEE CERTIFICATION.** Lessee represents, covenants and warrants that: (i) Lessee is a state or a duly constituted political subdivision or agency of the state of the Equipment Location; (ii) the interest portion of the Lease Payments shall be excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as it may be amended from time to time (the "Code"); (iii) the execution, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the part of the Lessee; (iv) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; (v) Lessee will comply with the information reporting requirements of Section 149(e) of the Internal Revenue Code of 1986 (the "Code"), and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, this Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payment to be or become includible in gross income for Federal income taxation purposes under the Code; and (ix) Lessee will be the only entity to own, use and operate the Equipment during the Lease Term.

Lessee represents, covenants and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all laws relative to public bidding where necessary, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be payable solely from Legally Available Funds.

It is Lessor's and Lessee's intention that this Agreement not constitute a "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's intention that Lessee be considered the owner of the Equipment for federal income tax purposes.

**7. TITLE TO EQUIPMENT; SECURITY INTEREST.** Upon shipment of the Equipment to Lessee hereunder, title to the Equipment will vest in Lessee subject to any applicable license; provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its Assignee, and Lessee shall immediately discontinue use of the Equipment, remove the Equipment from Lessee's computers and other electronic devices and deliver the Equipment to Lessor or its Assignee. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom; (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest.

**8. USE; REPAIRS.** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies, the Contract, any licensing or other agreement, and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense will keep the Equipment in good repair and furnish and/or install all parts, mechanisms, updates, upgrades and devices required therefor.

**9. ALTERATIONS.** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

**10. LOCATION; INSPECTION.** The Equipment will not be removed from, [or if the Equipment consists of rolling stock, its permanent base will not be changed from] the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

**11. LIENS AND TAXES.** Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, licensing, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor within ten days of written demand.

**12. RISK OF LOSS: DAMAGE; DESTRUCTION.** Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair (an "Event of Loss"), Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of : (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Lease Term as set forth in Schedule B.

In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Balance Payment (as set forth in Schedule B) to be made by Lessee with respect to that part of the Equipment which has suffered the Event of Loss.

**13. INSURANCE.** Lessee will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts,

covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the amount of the then applicable Balance Payment with respect to such Equipment. The initial amount of insurance required is set forth in Schedule B. Each insurance policy will name Lessee as an insured and Lessor or its Assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its Assigns as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

**14. INDEMNIFICATION.** Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, licensing, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

**15. ASSIGNMENT.** Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment or; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Lessee covenants and agrees not to assert against the Assignee any claims or defenses by way of abatement, setoff, counterclaim, recoupment or the like which Lessee may have against Lessor. No assignment or reassignment of any Lessor's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of each such assignee; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in the Lease, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code, and the regulations, proposed or existing, from time to time promulgated thereunder. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

After notice of such assignment, Lessee shall name the Assignee as additional insured and loss payee in any insurance policies obtained or in force. Any Assignee of Lessor may reassign this Lease and its interest in the Equipment and the Lease Payments to any other person who, thereupon, shall be deemed to be Lessor's Assignee hereunder.

**16. EVENT OF DEFAULT.** The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease when funds have been appropriated sufficient for such purpose, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

**17. REMEDIES.** Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the fiscal period in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly discontinue use of the Equipment, remove the Equipment from all of Lessee's computers and electronic devices, return the Equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other amounts due prior to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, Lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; (iv) promptly return the Equipment to Lessor in the manner set forth in Section 5 hereof; and (v) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

**18. PURCHASE OPTION.** Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to purchase the Equipment on the Lease Payment dates set forth in Schedule B by paying to Lessor, on such date, the Lease Payment then due together with the Balance Payment amount set forth opposite such date. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

**19. NOTICES.** All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

**20. SECTION HEADINGS.** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

**21. GOVERNING LAW.** This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

**22. DELIVERY OF RELATED DOCUMENTS.** Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

**23. ENTIRE AGREEMENT; WAIVER.** This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of the Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

**24. EXECUTION IN COUNTERPARTS.** This Lease may be executed in several counterparts, either electronically or manually, all of which shall constitute but one and the same instrument. Lessor reserves the right to request receipt of a manually-executed counterpart from Lessee. Lessor and Lessee agree that the only original counterpart for purposes of perfection by possession shall be the original counterpart manually executed by Lessor and identified as "Original", regardless of whether Lessee's execution or delivery of said counterpart is done manually or electronically.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the \_\_\_\_ day of December, 2020.

**LESSEE:**  
Town of Valdese

**LESSOR:**  
**MOTOROLA SOLUTIONS, INC.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title Treasurer

### **CERTIFICATE OF INCUMBENCY**

I, \_\_\_\_\_ do hereby certify that I am the duly elected or  
(Printed Name of Secretary/Clerk )  
appointed and acting Secretary or Clerk of the Town of Valdese, an entity duly organized and existing under the laws of the **State of North Carolina** that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number **24975**, between Town of Valdese and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds \$1,000,000, attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

**IN WITNESS WHEREOF**, I have executed this certificate and affixed the seal of Town of Valdese, hereto this \_\_\_\_ day of December, 2020.

By: \_\_\_\_\_  
(Signature of Secretary/Clerk)

**SEAL**

### **OPINION OF COUNSEL**

With respect to that certain Equipment Lease-Purchase Agreement 24975 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee, (III) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law. This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.

\_\_\_\_\_  
Attorney for Town of Valdese

## SCHEDULE A EQUIPMENT LEASE-PURCHASE AGREEMENT

**Schedule A                      24975**  
**Lease Number:**

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **24975** ("Lease"), between Lessor and Lessee.

Lessor hereby leases to Lessee under and pursuant to the Lease, and Lessee hereby accepts and leases from Lessor under and pursuant to the Lease, subject to and upon the terms and conditions set forth in the Lease and upon the terms set forth below, the following items of Equipment

QUANTITY	DESCRIPTION (Manufacturer, Model, and Serial Nos.)
	Refer to attached Equipment List.
<b>Equipment Location:</b>	

**Initial Term: 60 Months**

**Commencement Date:      12/15/2020**

**First Payment Due Date:    12/15/2022**

**4 annual payments** as outlined in the attached Schedule B, plus Sales/Use Tax of \$0.00, payable on the Lease Payment Dates set forth in Schedule B.



Purchase Summary:

	Town of Valdese, NC	
Software Licenses	\$	51,607.00
Motorola Discount	\$	(20,093.00)
Included Maintenance/SaaS (year 1)	\$	7,520.00
Prepaid Maintenance/SaaS (years 2-5)	\$	33,210.00
Showed Prepaid Maintenance Discount	\$	(7,307.00)
<b>Total Software and Maintenance</b>	<b>\$</b>	<b>64,937.00</b>
Hardware	\$	2,285.00
Services	\$	6,696.00
<b>Total Hardware and Services</b>	<b>\$</b>	<b>8,981.00</b>
<b>Grand Total</b>	<b>\$</b>	<b>73,918.00</b>

Equipment Breakdown:**Valdese PD****Software and Services Summary**

Category	Total List Price	Motorola Partner Discount	Years 2-5 Maintenance	Maintenance Discount	Project Total
<b>Software and Services</b>					
Hub Suite	\$ 16,291	\$ (4,821)	\$ 5,396	\$ (1,187)	\$ 15,679
CAD Suite	\$ -	\$ -	\$ -	\$ -	\$ -
RMS Suite	\$ 18,257	\$ (6,457)	\$ 9,516	\$ (2,093)	\$ 19,222
Analytics Suite	\$ 746	\$ -	\$ 3,016	\$ (663)	\$ 3,098
Mobile Suite	\$ 16,856	\$ (6,790)	\$ 7,779	\$ (1,711)	\$ 16,134
Evidence Suite	\$ 4,464	\$ (865)	\$ 968	\$ (213)	\$ 4,354
Jail Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Dashboard Suite	\$ 5,130	\$ -	\$ 3,120	\$ (686)	\$ 7,564
<b>Hardware &amp; Data Conversion</b>					\$ -
Server & Backup	Provided by County				\$ -
Data Conversion	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Grand Total</b>	<b>\$ 61,744</b>	<b>\$ (18,934)</b>	<b>\$ 29,794</b>	<b>\$ (6,555)</b>	<b>\$ 66,050</b>

**Valdese FD****Software and Services Summary**

Category	Total List Price	Motorola Partner Discount	Years 2-5 Maintenance	Maintenance Discount	Project Total
<b>Software and Services</b>					
Hub Suite	\$ -	\$ -	\$ -	\$ -	\$ -
CAD Suite	\$ -	\$ -	\$ -	\$ -	\$ -
RMS Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Analytics Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Mobile Suite	\$ 6,362	\$ (1,159)	\$ 3,416	\$ (752)	\$ 7,868
Evidence Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Jail Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Dashboard Suite	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Hardware &amp; Data Conversion</b>					\$ -
Server & Backup	Provided by County				\$ -
Data Conversion	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Grand Total</b>	<b>\$ 6,362</b>	<b>\$ (1,159)</b>	<b>\$ 3,416</b>	<b>\$ (752)</b>	<b>\$ 7,868</b>

Town of Valdese (Schedule B)						
Compound Period:			Annual			
Nominal Annual Rate:			0.000%	first year		
Nominal Annual Rate:			2.830%	remaining term		
CASH FLOW DATA						
	Event	Date	Amount	Number	Period	End Date
1	Lease	12/15/2020	\$ 73,918.00	1		
2	Rate Change	12/15/2021	Rate: 2.830 %	Compounding:	Annual	
3	Lease Payment	12/15/2022	\$ 19,805.16	4	Annual	12/15/2025
AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year						
	Date	Lease Payment	Interest	Principal	Balance	
Lease	12/15/2020				\$73,918.00	
Rate	12/15/2021		\$ -	\$ -	\$73,918.00	
	12/15/2021	Rate: 2.83%		Compounding: Annual		
1	12/15/2022	\$ 19,805.16	\$ 2,091.88	\$ 17,713.28	\$56,204.72	
2	12/15/2023	\$ 19,805.16	\$ 1,590.59	\$ 18,214.57	\$37,990.15	
3	12/15/2024	\$ 19,805.16	\$ 1,075.12	\$ 18,730.04	\$19,260.11	
4	12/15/2025	\$ 19,805.16	\$ 545.05	\$ 19,260.11	\$ -	
Grand Totals		\$ 79,220.64	\$ 5,302.64	\$ 73,918.00		

## ORIGINAL ISSUE DISCOUNT:

Lessee acknowledges that the amount financed by Lessor is \$71,883.68 and that such amount is the issue price for this Lease Payment Schedule for federal income tax purposes. The difference between the principal amount of this Lease Payment Schedule and the issue price is original issue discount as defined in Section 1288 of the Code. The yield for this Lease Payment Schedule for federal income tax purposes is 2.83%. Such issue price and yield will be stated in the applicable Form 8038-G.

## INITIAL INSURANCE REQUIREMENT:

\$73,918.00

Except as specifically provided in Section five of the Lease hereof, Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, in the amounts and dates specified in the above payment schedule.

## **EVIDENCE OF INSURANCE**

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **24975** to that Equipment Lease Purchase Agreement number **24975** will be maintained by the Town of Valdese as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

\_\_\_\_\_  
Name of insurance provider

\_\_\_\_\_  
Address of insurance provider

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Phone number of local insurance provider

\_\_\_\_\_  
E-mail address

In accordance with the Equipment Lease Purchase Agreement Number **24975** , Town of Valdese , hereby certifies that following coverage are or will be in full force and effect:

<b>Type</b>	<b>Amount</b>	<b>Effective Date</b>	<b>Expiration Date</b>	<b>Policy Number</b>
Fire and Extended Coverage	_____	_____	_____	_____
Property Damage	_____	_____	_____	_____
Public Liability	_____	_____	_____	_____

**Certificate shall include the following:**

Description: All Equipment listed on Schedule A number 24975 to that Equipment Lease Purchase Agreement number 24975. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 24975 and list any deductibles.

**Certificate Holder:**

MOTOROLA SOLUTIONS, INC. and or its assignee as additional insured and loss payee  
1303 E. Algonquin Road  
Schaumburg, IL 60196

**If self insured, contact Motorola representative for template of self insurance letter.**

## STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS

To further understand the essential governmental use intended for the equipment together with an understanding of the sources from which payments will be made, please address the following questions by completing this form or by sending a separate letter:

1. What is the specific use of the equipment?
2. Why is the equipment essential to the operation of **Town of Valdese**?
3. Does the equipment replace existing equipment?  
  
If so, why is the replacement being made?
4. Is there a specific cost justification for the new equipment?  
  
If yes, please attach outline of justification.
5. What is the expected source of funds for the payments due under the Lease for the current fiscal year and future fiscal years?

## EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee and Lessor.

Equipment Lease Purchase Agreement No.: 24975

Lease Schedule A No. : 24975

### EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# 24975. See Schedule A for a detailed Equipment List.

LESSEE:

Town of Valdese

By: \_\_\_\_\_

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



### **CERTIFIED LESSEE RESOLUTION**

At a duly called meeting of the Governing Body of the Lessee (as defined in the Lease) held on December\_\_\_\_\_, 2020, the following resolution was introduced and adopted.

BE IT RESOLVED by the Governing Board of Lessee as follows:

1.     Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment or other personal property described in the Lease between Town of Valdese (Lessee) and Motorola Solutions, Inc. (Lessor).
2.     Approval and Authorization. The Governing body of Lessee has determined that the Lease, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment or other personal property, and the Governing Board hereby approves the entering into of the Lease by the Lessee and hereby designates and authorizes the following person(s) referenced in the Lease to execute and deliver the Lease on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transactions contemplated by the Lease.
3.     Adoption of Resolution. The signatures in the Lease from the designated individuals for the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.



## **Computer Aided Dispatch and Records System and Services Agreement (Lease)**

Motorola Solutions, Inc. ("Motorola") and Town of Valdese, North Carolina ("Customer") enter into this Computer Aided Dispatch ("CAD") and Records System and Services Agreement ("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:

### **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    Software License Agreements

Exhibit A-1   "Motorola Software License Agreement"

Exhibit A-2   Microsoft "End-User License Agreement(s)", if applicable

Exhibit A-3   "Microsoft Products terms", if applicable

Exhibit A-4   "ESRI OEM Software terms", if applicable

Exhibit B    "Payment Schedule"

Exhibit C    Technical and Implementation Documents

C-1    "Pricing Summary and Equipment List," dated April 27, 2020

C-2    "Statement of Work"

C-3    "Project Schedule" (to be mutually developed)

C-4    "Training Plan" (to be mutually developed)

C-5    "Technical Product Descriptions"

C-6    "Data Conversion Scope of Work"

Exhibit D    "Maintenance and Support Agreement", if applicable

Exhibit E    "System Acceptance Certificate"

Exhibit F    "Equipment Lease Purchase Agreement Delivery and Acceptance Certificate"

Exhibit G    "Subscription Services Addendum"

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 In interpreting this Agreement and resolving any ambiguities: 1) the main body of this Agreement takes precedence over the exhibits and any inconsistency between Exhibits A through G 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.

**“Acceptance Tests”** means those tests described in the Acceptance Test Plan, as applicable.

**“Beneficial Use”** means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

**“Confidential Information”** means all non-public information consistent with the fulfillment of this Agreement provided by either Party to the other 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 Schedule” or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

**“Customer Provided Equipment”** means any hardware, software or ancillary equipment provided for use with the System by the Customer. Motorola provides no warranty for Customer Provided Equipment.

**“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.

**“Equipment Lease-Purchase Agreement”** means the agreement by which Customer finances all or a portion of the Contract Price.

**“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.

**“Final System Acceptance”** means the Live Operations Cutover and any applicable reliability period have been completed and the System Acceptance Certificate has been memorialized.

**“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.

**“Live Operations Cut Over”** means the transition of operations from the legacy system to the System.

**“Microsoft Product”** means a Microsoft SQL Server and/or a Microsoft System Center Operations Manager, either or both of which may be integrated with the Motorola Products. Microsoft Products are subject to the following acknowledgement: “© Copyright 20\_\_ Microsoft Corporation. All rights reserved.”

**“Motorola Software”** means software that Motorola or its affiliated companies owns.

**“Non-Motorola Software”** means software provided by Motorola that a party other than Motorola or its affiliated companies owns, including software licensed by the third party to Motorola for distribution to Motorola’s customers with the Software, such as mapping software, database software, paging software, or open source software.

**“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-1).

**“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.

**“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 Data”** means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

**“System Acceptance”** means the Acceptance Tests have been successfully completed.

**“Utilities”** means the software utilities and tools provided by Motorola as part of the Software, including Motorola’s XML Query, ODBC interface and implementation code, ctpertl, dbdump, and dbload, as well as any other software utilities provided by Motorola in connection with the Software.

**“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 in accordance with Change Control Process in Technical and Implementation Documents. 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, expiration of the Warranty Period, or purchased maintenance period, 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 Motorola Online ("MOL"), and this Agreement will be the "Underlying Agreement" for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorolasolutions.com> and the MOL 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. **SHARED AGENCY ARRANGEMENTS.** If Customer and another agency (a "Shared Agency") desire to enter into an arrangement whereby Customer will act as a "Host Agency" and permit the Shared Agency to access the Software through Customer, the Shared Agency and Motorola will execute a Shared Agency Agreement for such arrangement and attach it to this Agreement as an additional exhibit. Unless otherwise expressly agreed in the Shared Agency Agreement, Motorola will invoice Customer for the full fees set forth in Exhibit B and Customer will be responsible for timely payment of such fees. Customer may at its option seek reimbursement from Shared Agencies for their share of such fees. However, if at any time a Shared Agency elects to purchase licenses to additional Motorola Software modules for its own use, the party responsible for payment and the payment terms will be mutually agreed in writing by the parties. Customer shall require the Shared Agency to comply with the terms of the Motorola Software License Agreement and Exhibits A-2, A-3, and A-4 as applicable, and shall notify Motorola and cooperate as reasonably requested by Motorola in the event of any non-compliance by the Shared Agency.
- 3.8. **COOPERATIVE PURCHASING.** Upon request of a third party state or local agency located in the same state as Customer (the "New Agency"), Motorola will negotiate an agreement with such New Agency that contains the same terms and conditions as this Agreement (excepting the terms described below), subject to the eligibility and validity of such cooperative arrangement under state law, and provided that Motorola and the New Agency agree in writing upon the software, products and Services to be licensed and purchased by the New Agency and the prices thereof, which shall be paid by the New Agency. Motorola shall require the New Agency's to comply with the terms of the Motorola Software License Agreement. New Agency's use of Microsoft or ESRI OEM software is subject to the terms of Exhibits A-2, A-3, and A-4 respectively, as applicable.
- 3.9. **THIRD PARTY PRODUCTS.**
  - 3.9.1 **THIRD PARTY PRODUCTS.** Customer acknowledges that Non-Motorola Software is included in the Solution. Further, Motorola may recommend purchase of additional third party software. In such case, Customer agrees to purchase from Motorola the third party

software and hardware identified in Exhibit C. Motorola makes no representations or warranties with respect to third party software or hardware, but agrees to pass through to Customer any warranties provided by the manufacturers of such products, to the extent permitted.

### 3.9.2 MICROSOFT PRODUCTS

- a. As to any Microsoft Products being furnished, the Microsoft software for those Microsoft Products is sublicensed to Licensee from Motorola pursuant to the Customer's Motorola Software License Agreement and is subject to the additional Microsoft End-User License Agreement terms, Exhibit A-2 and Microsoft Products terms, Exhibit A-3.

3.9.3 ESRI OEM SOFTWARE. Notwithstanding any provisions herein to the contrary, the provisions in ESRI OEM Software terms, Exhibit A-4, apply concerning the ESRI OEM Software.

3.10. 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.

3.11. 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.

### 3.12. UTILITIES; RESTRICTIONS ON USAGE.

3.12.1 UTILITIES. Motorola provides certain software Utilities as part of the Software. Motorola may add, modify, or remove Utilities from the Software during the term of this Agreement. The Utilities contain material that is proprietary to Motorola and/or its licensors, and may be used only as permitted by this Agreement.

3.12.2 USE OF UTILITIES. Customer is permitted to use the Utilities for read-only operations in connection with the authorized use of the Software, but may not allow third parties to use the Utilities unless an authorized official of Motorola consents in writing. Customer is also permitted to use the Utilities to write to Motorola's database, but any such use is solely at Customer's risk, as set forth in Section 3.13.3 below. Motorola strongly advises Customer to limit any such usage to personnel who have advanced training and experience in the use of such software tools.

3.12.3 DISCLAIMER. Motorola permits customers to use the Utilities, as set forth above. However, there is a high risk of data corruption and system slowdown or damage that may result from Customer's use of the Utilities or other software tools. Customer assumes all

risk and is responsible for any damages arising from or in connection with such use, regardless of Motorola's approval. Further, Motorola disclaims all liability for damages caused by Customer's use of the Utilities. Motorola is NOT responsible for any breach of warranty, damages to the Software or its database, data corruption, support issues, security issues or performance issues arising out of Customer's or a third party's use of the Utilities (even if permitted by Motorola) or use of any other software not specifically licensed in this Agreement (including any third party querying or writing to the database).

## **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. **MAINTENANCE AND SUPPORT SERVICES.** 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 Statement of Work set forth in the applicable Exhibit C-2. Maintenance Services and support during the Warranty Period are included in the Contract Price. Customer's purchase of post Warranty Period Maintenance and Support services is subject to the terms and conditions of Exhibit D. If after the execution of this Agreement Customer subsequently wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, and installation 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 those maintenance, support, and installation Services will be included in the Maintenance and Support Agreement, the applicable Statements of Work, and the proposal. These collective terms will govern the provision of such Services. Unless otherwise agreed in writing, Motorola reserves the right to change its pricing of Maintenance and Support services, effective upon no less than ninety (90) days written notice to Customer prior to the end of the Warranty Period, if such Services were quoted but not purchased at the time of the System sale. Maintenance and Support fees that have been previously prepaid by Customer are not affected by any subsequent change in such fees.  
  
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 "Maintenance and Support 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 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.
- 4.7.1 **LOCATION OF SOFTWARE.** Customer may install, access and use the Software only in Customer's own facilities, including any authorized mobile sites. Such mobile devices may log in and access the Software remotely from any location. Customer shall give Motorola two (2) weeks prior written notice of any change in the location of Customer's primary facility where the server-based Software is installed. However, if an immediate change in location is required due to an emergency or disaster recovery, Customer may do so provided that it notifies Motorola as soon as is feasible. Except as provided above, Customer shall not install the Software in any other computer system or use it at any other location without Motorola's express prior authorization, which will not be unreasonably withheld.
- 4.7.2 **RESTRICTIONS, COPIES.** Customer 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 related documentation to any third party, grant any sublicense or other rights in the Software or related documentation to any third party, or take any action that would cause the Software or related 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, except as necessary for system backup or disaster recovery. Customer may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; provided that Motorola's copyright notice is included, and Customer may not operate that copy of the Software at the same time as the original Software is being operated. Customer may make as many copies of the documentation as it may reasonably require for the internal use of the Software. The

foregoing restrictions on modifications and copying do not apply to open source software, which is governed by the license of the copyright owner.

- 4.7.3 **CUSTOMER USE ONLY.** Customer may use and execute the Software only for purposes of serving the internal needs of Customer's business, except as specifically set forth in this Agreement. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Customer 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 rental or sharing arrangement, except as expressly authorized in writing by Motorola.
- 4.7.4 **THIRD PARTY ACCESS AND QUERIES.** Except as expressly authorized in writing by Motorola, (i) Customer may not allow any other agency, entity, or individual to use or have access to the Software in any manner other than inquire-only; and (ii) such queries may be conducted solely for Customer's internal business purposes. Customer may not query the Software, or permit any third party to query the Software, for a third party's business purposes.
- 4.7.5 **COMPETITIVE USE.** Customer may not utilize or permit a third party to access or utilize any part of the Software (including the Utilities) in any manner that competes, directly or indirectly, with any product or Service provided by Motorola, without the express written permission of Motorola. This includes, without limitation, using the Software (or its Utilities) to develop any software, interfaces, or other products that compete with Motorola's products or Services, or using interfaces or other products connecting to the database of the Software in connection with a third party's competing product.
- 4.7.6 **ADDITIONAL COMPONENTS.** Other components (hardware and/or third party software) may be required for the use of the Software. For example, unless otherwise detailed in the Technical and Implementation Documents, Customer is required to provide workstations and personal computers, network, operating system, Internet connectivity and other components (e.g., cables, and wiring) associated with and necessary to effectively use the system that are typically supplied by the customer of such a system. Motorola has provided hardware specifications to Customer for use of the Software system. Motorola assumes no responsibility under this Agreement for obtaining and/or supporting such components except as expressly agreed in writing.
- 4.7.7 **PROPER ENVIRONMENT.** Customer is responsible for ensuring a proper environment and proper utilities for the computer system on which the Software will operate, including housing and operating the server equipment in a secure environment and according to the specifications for the equipment as specified by its manufacturer. 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, 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 Software system. Before installing the Software or any related hardware 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.
- 4.7.8 **DATA CONVERSION SERVICES.** If the parties have agreed that Motorola (or its subcontractor) will convert Customer's data files for use with the Software, such services will be set forth in Exhibit C and detailed in a data conversion scope of work. Except as agreed by the parties in writing, Motorola is not responsible for any data conversion services.

- 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 PROJECT SCHEDULE**

The Parties will perform their respective responsibilities in accordance with the Project Schedule. Unless otherwise agreed in writing, the Project Schedule is based upon work being accomplished Monday through Friday during normal business hours with the exception of holidays. On-site work activities will be performed Tuesday through Thursday during normal business hours.

## **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. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.
- 6.2. **CONTRACT PRICE.** The Contract Price in U.S. dollars is \$73,918.00. The Contract Price will be paid via the disbursement of the financing proceeds pursuant to the Equipment Lease-Purchase Agreement executed between the parties. 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 reduction in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Fees for professional, 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, if applicable. 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. Unless otherwise stated in the Equipment Lease-Purchase Agreement, 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:	Chief Jack Moss
Address:	121 Faet St., Valdese, NC 28690
Phone:	828.897.2102
E-INVOICE. To receive invoices via email:	jmosse@ci.valdese.nc.gov
Customer Account Number:	1036000256
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:	Director Brock Hall
Address:	650 Kirksey Dr., Morganton, NC 28655

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

Name:	Director Brock Hall
Address:	650 Kirksey Dr., Morganton, NC 28655
Phone:	828.437.1911

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.
- 7.4. **CUSTOMER PROVIDED EQUIPMENT.** Customer will hold all Customer Provided Equipment free and clear of any liens, charges, or encumbrances of any kind. Customer, at its sole cost and expense will maintain Customer Provided Equipment in good working order and repair, and will provide spare parts for all Customer Provided Equipment. Customer will be fully liable for Customer Provided Equipment and will immediately notify Motorola of any Customer Provided Equipment damage, loss, or theft that may impact Motorola's ability to provide Services under this Agreement. Customer will compensate Motorola for any re-work or changes to Services, and allow for changes to Project Schedule as a result of damage, loss or theft of Customer Provided Equipment. For all Customer Provided Equipment, (i) Customer is responsible for resolving issues affecting the performance of CAD application software; (ii) not provided per the agreed upon specification and within the project schedule time frame, the project is subject to delay.

## **Section 8      TRAINING**

Any training to be provided by Motorola to Customer will be described in the applicable Training Plan (Exhibit C-4). Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer: (i) reschedules a training program less than thirty (30) days before its scheduled start date; (ii) does not adhere to the session attendance outlined in the Training Plan; Customer will compensate Motorola in whole for these additional costs.

## **Section 9      SYSTEM ACCEPTANCE**

Many Systems require formal completion of an Acceptance Test Plan. If Customer is purchasing a System that does not require acceptance testing, then only Sections 9.3, 9.4, and 9.5 apply.

- 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 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 Customer reported anomalies will be validated and corrected according to a mutually agreed schedule.

- 9.3 **LIVE OPERATION CUTOVER.** Following System Acceptance, if applicable, transition to the live production use of the System will be conducted as set out in the Statement of Work and the Live Operations Cutover ("Go-Live") plan and constitute Beneficial Use.
- 9.4 **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 and Live Operation Cutover. Therefore, Customer will not commence Beneficial Use before System Acceptance and Live Operation Cutover 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.
- 9.5 **FINAL SYSTEM ACCEPTANCE.** Final System Acceptance will occur as described in the Technical and Implementation documents as may be amended as described in Section 3.2. Notwithstanding, the Final System Acceptance will be deemed complete upon Live Operations Cut Over, and after any applicable reliability period when all deliverables have been completed. When Final System Acceptance occurs, the Parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate (Exhibit E) and the Equipment Lease Purchase Agreement Delivery and Acceptance Certificate (Exhibit F).

## **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 or Go-Live, 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; or Customer changes to load usage or configuration outside the Specifications or Customer network availability.
- 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. In no event does the Warranty Period exceed 12 months from Live Operations Cut Over or Beneficial Use, whichever occurs first.
- 10.3. **SOFTWARE WARRANTY.** Except as 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. The warranty set forth Section 10.1 shall apply only to the most current version of the Software issued by Motorola. Issuance of updated versions of the Software does not result in a renewal or extension of the Warranty Period. Motorola assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Software. Such warranty also excludes non-performance issues that result from Non Motorola Software or hardware malfunctions or defects; modification of the Software by any person other than Motorola, or defects or problems that are outside the reasonable control of Motorola, including defects or damage resulting from use of the 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; or Customer's failure to comply with all applicable industry standards. Customer will reimburse Motorola for its reasonable time and expenses for any Services provided at Customer's request to remedy excluded non-performance issues. Additionally, Motorola is not responsible for any problems or errors with the Software or Customer's system resulting from Customer's use of the Utilities (e.g., ctpertl, dbload or ODBC) in any manner other than read-only. Customer expressly acknowledges that any use of the "write" or "update" features of these Utilities may damage Customer's database or cause other problems with its system.

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.

- 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; (vii) Customer Provided Equipment or equipment not provided by Motorola; and (viii) normal or customary wear and tear. Motorola is not responsible for obsolescence of the Software that may result from changes in Customer's requirements.
- 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. **THIRD PARTY PRODUCTS.** Notwithstanding any provisions herein to the contrary, the warranty provisions of Exhibit A-3 and Exhibit A-4 apply respectively to Microsoft Products and ESRI OEM Software.
- 10.7. **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.

- 10.8. 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.
- 10.9. 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. In addition, Motorola disclaims any warranty to any person other than Customer with respect to the Software or Documentation. Customer agrees that Motorola is not responsible, and Motorola disclaims all liability for any claims or damages arising out of or related to any unauthorized persons hacking into or accessing Customer's database or the Software.

## **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.
- 11.3. SOFTWARE SUPPORT. Support for Software will be provided during System deployment. If the "Go-Live" date, as reflected in the Schedule, is delayed for greater than thirty (30) days for any reason beyond Motorola's control, Motorola will continue to provide Software support during the remainder of the deployment of the System at the then current support rates. In the case of delay or Schedule modifications, the Parties will execute a Change Order to reflect the duration of the extended Software support and the applicable fees.

## **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 of North Carolina.
- 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 - including the Maintenance and Support Agreement (Exhibit D) or any Statement of Work executed by the Parties- and does not correct such breach within a reasonable time, 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. Repudiation or failure to accept the Software without cause constitutes a material breach of this Agreement.
- 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.
- 13.3. **SUPPORT REQUIRED.** Customer is required to continue purchasing support and maintenance Services from Motorola throughout the term of this Agreement, as a condition to the license of the Software under this Agreement. This Agreement shall automatically terminate if Customer ceases



paying the required fees for maintenance and support of the Software, unless Motorola terminates the Support Agreement without cause.

- 13.4 **EFFECT OF TERMINATION.** Upon termination of this Agreement, all rights granted to Customer will terminate and revert to Motorola and/or its licensors. Promptly upon termination of this Agreement for any reason or upon discontinuance or abandonment of Customer's possession or use of the Software, Customer must return or destroy, as requested by Motorola, all copies of the Software and Non-Motorola Software in Customer's possession, and all related Documentation, Confidential Information and other materials pertaining to the Software (including all copies thereof). However, the recipient of Confidential Information may retain one (1) archival copy of such Confidential Information (excluding the Software, Non-Motorola Software, and related Documentation), which it may use only in case of a dispute concerning this Agreement. Customer agrees to certify Customer's compliance with such obligations, and that Customer is no longer using the Software, upon Motorola's request. Customer will permit Motorola to repossess the Software and any products sold hereunder for which Customer has not fully paid the license fees or purchase price, as applicable. 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 as a liquidated sum and proceed against Customer in any lawful way for satisfaction of such sum.

## **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.** To the extent allowed by law, 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 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 disclose the Software or its related documentation to any competitor of Motorola; (iv) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (v) 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; (vi) 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 (vii) 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. The Software and all related documentation and materials provided by Motorola are licensed (not sold) to Customer. Motorola and the copyright owner of any Non- Motorola Software own and retain all of their respective Proprietary Rights in the Software and Non- Motorola Software respectively, 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. Motorola and its licensors specifically reserve all rights not expressly granted to Customer in this Agreement. Customer must keep the Software free and clear of all claims, liens, and encumbrances. 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 **PROPRIETARY MATERIALS.** Customer acknowledges that Motorola may use and/or provide Customer with access to 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, and derivatives thereof (collectively, "Proprietary Materials"). The Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials.
- 16.4 **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.
- 16.5 **DATA AND FEEDBACK.**
- 16.5.1 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.
- 16.5.2 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").

16.5.3 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 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.
- 17.10. 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.
- 17.11. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.6 (Motorola Software); Section 3.7 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection 10.9 (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.
- 17.12. 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.

**Town of Valdese**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**Motorola Solutions, Inc.**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

## **Exhibit A-1**

### **MOTOROLA SOFTWARE LICENSE AGREEMENT**

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola") and Town of Valdese, NC ("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 in consideration of 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. If Exhibit C lists one or more agencies of Customer as "Authorized Users," Shared Agencies, or a similar term, or otherwise identifies the agencies that the parties intend to

use the Software, then, notwithstanding any other terms of this Agreement, the parties acknowledge and agree that all rights and licenses granted under this Agreement for the use of the Software and related materials are granted solely to such Authorized Users, including Shared Agencies, and their personnel. As required by the Primary Agreement, Customer will require Authorized Users including Shared Agencies to commit in writing to the obligations in the Software License Agreement. Additional agencies may be added to Exhibit C as Authorized Users, or may be added as Shared Agencies pursuant to Section 3.8 of the Primary Agreement, by mutual written agreement of Customer and Motorola, subject to payment of the applicable license and support fees for the additional agencies.

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. If the Designated Products being acquired by Licensee include a Microsoft SQL Server or a Microsoft System Center Operations Manager, the Microsoft software for these Microsoft Products is sublicensed to Licensee from Motorola and is subject to additional Microsoft End-User License Agreement terms.
- 3.4 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 its employees, agents, and independent contractors and 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. Licensee is liable for any breach of this Agreement by any of its employees, agents, or independent contractors.

- 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. The license for Cityworks or Customer Service Request Software is for the use of the Software with the Designated System or for the specified number of Concurrent Users for which it was provided, the purpose for which it was designed and only for the application specific use covered by this Agreement, or the Primary Agreement. This license does not allow access to the Software through other Designated Systems except as specifically permitted. "Concurrent User" means the maximum number of concurrent connections to Software authorized by this Agreement or the Primary Agreement at any one instance in time. "Designated System" means the computer hardware and operating system configuration specified in the Primary Agreement for which the Software is licensed for use. Additional Designated System licenses are required for communication with additional instances of a database or additional databases.
- 4.5 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. **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.
- 13.4. **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 of North Carolina. 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.
- 13.5. **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.
- 13.6. **SURVIVAL.** Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.
- 13.7. **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.
- 13.8. **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 A-2**

**Microsoft End User License Agreements, if applicable**

### **Exhibit A-3** **Microsoft Terms, if applicable**

This Exhibit A-3 to the Computer Aided Dispatch ("CAD") and Records System and Services Agreement ("Primary Agreement") only concerns the Microsoft Products included with the CAD Solution provided by Motorola. Motorola and Customer agree that this Exhibit applies only to the Microsoft Products as fully described herein.

1. **SOFTWARE LICENSE.** As to any Microsoft Products being furnished, the Microsoft software for those Microsoft Products is sublicensed to Licensee from Motorola pursuant to the Customer's Motorola Software License Agreement and is subject to the additional Microsoft End-User License Agreement terms, Exhibit A-2.
2. **CUSTOMER USERS.** Notwithstanding any provisions herein to the contrary, the following provisions apply concerning the Microsoft Products. If Customer is acquiring from Motorola a Microsoft SQL Server and/or a Microsoft System Center Operations Manager, then Customer warrants 1) that the number of users that may access the System are correctly indicated in the Exhibits to this Agreement; 2) that Customer is not being licensed the SQL Server or Microsoft System Center Operations Manager under a license from Microsoft, but rather under a sublicense from Motorola; 3) that the copies of the referenced Microsoft Products it receives from Motorola do not entitle it to maintain on its computer systems any more copies of the Microsoft Products than it previously licensed from Motorola or Microsoft; 4) that Customer possesses and will maintain sufficient quantities of fully valid Microsoft licenses to support the maximum number of users and/or devices that may access or use the System under the provisions of the End-User License Agreement, 5) that Microsoft will be an intended third party beneficiary of the End-User License Agreement, with the right to enforce the warranties and any other provisions of the End-User License Agreement provisions and to verify compliance of the End User with the same, 6) that Customer shall not run on a mirrored database server for more than 30 days without obtaining a SQL license for that server, 7) that the Customer grants permission for the disclosure of End-User information by Motorola as required in Motorola's Monthly royalty reports and ordering information reports to Microsoft, 8) that Microsoft does not transfer any ownership rights in any Product, and 9) that Motorola is solely responsible for providing technical support for the Microsoft Products.
3. **LIMITATIONS.** The rights granted in this Agreement with respect to Microsoft Products are subject to the following limitations: 1) Customer has no copyright interest in the Microsoft Products; 2) Customer may not rent, lease, lend or provide hosting services with the Products; 3) Customer may not reverse engineer, decompile or disassemble any Product; 4) Customer may not remove, modify or obscure any copyrights, trademarks or other proprietary right notices contained in the Products; and 5) The Microsoft Products are not designed or intended for use in any situation where failure or fault of the product could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use"). Motorola's right to sublicense Microsoft Products excludes the right to use, or distribute the Microsoft Products for Customer's use in, or in conjunction with, High Risk Use, therefore, High Risk Use is strictly prohibited. High Risk use, by way of example, includes aircraft or other modes of human mass transportation, nuclear or chemical facilities, and Class III medical devices under the Federal Food, Drug and Cosmetic Act. Notwithstanding the foregoing, as long as PremierOne CAD is used in a manner for which it was designed and in accordance with the documentation provided, Motorola declares such use is not considered to be High Risk Use as defined by Microsoft.
4. **MICROSOFT PRODUCTS WARRANTY.** Notwithstanding any provisions herein to the contrary, the following provisions apply to the Microsoft Products:



- 4.1 Microsoft Products are not fault tolerant or free from errors, conflicts, interruptions or other imperfections. Performance may vary depending upon what hardware platform they are installed on, the interactions with other software applications and each product's configurations.
- 4.2. Microsoft Corporation is providing the Microsoft Products "as-is" with no warranty of any kind and disclaims all warranties, express and implied, to the maximum extent allowed by applicable law. Microsoft further disclaims any liability of Microsoft for any damages, whether direct, indirect incidental or consequential, as a result of the use or installation of the Products. Additionally, to the extent permitted under applicable law, Microsoft Corporation excludes for itself and its suppliers all warranties of any kind, including:
  - a. any warranties of title, non-infringement, merchantability and fitness for a particular purpose;
  - b. any implied warranty arising from course of dealing or usage of trade;
  - c. any common law duties relating to accuracy or lack of negligence with respect to the Microsoft Products, any Master Copy, and any Software Documentation; and
  - d. that the products will operate properly in connection with the System, the Motorola products or on any Customer system(s).

If applicable law gives Customer any implied warranties, guarantees or conditions despite the foregoing exclusion, those warranties will be limited to one year and Customer remedies will be limited to the maximum extent allowed by this Agreement.

5. **THIRD PARTY PROVIDED DOCUMENTATION.** Non-Motorola authored documentation will be provided in the format available from the vendor and in accordance with the vendors distribution policy.

## **Exhibit A-4**

### **ESRI Terms, if applicable**

This Exhibit A-4 to the Computer Aided Dispatch ("CAD") and Records System and Services Agreement ("Primary Agreement") only concerns the ESRI OEM Software included with the CAD Solution provided by Motorola. Motorola and Customer agree that this Exhibit applies only to the ESRI OEM Software as fully described herein.

1. ESRI OEM SOFTWARE. Notwithstanding any provisions herein to the contrary, the following provisions apply concerning the ESRI OEM Software.
  - 1.1 The use of ESRI OEM Software is restricted to executable code.
  - 1.2 The following are prohibited: (i) transfer of the OEM Software, except for a temporary transfer in the event of a computer malfunction; (ii) assignment, time-sharing, lend or lease, or rental of the OEM Software or use for commercial network services or interactive cable or remote processing services; and (iii) title to the OEM Software from passing to Customer or any other party.
  - 1.3 Also prohibited are the reverse engineering, disassembly, or decompilation of the OEM Software and the duplication of the OEM Software, except for a single archival copy; reasonable Customer backup copies are permitted.
  - 1.4 To the extent permitted by law, ESRI's liability is disclaimed for any damages, or loss of any kind, whether special, direct, indirect, incidental, or consequential, arising from the use of the OEM Software, including damages resulting from any ESRI provided Data (Data is not warranted) and damages resulting from use in High Risk Activities such as the operation of nuclear facilities, aircraft navigation or aircraft communications systems, air traffic control, life support, or weapon systems. ESRI specifically disclaims any express or implied warranty of fitness for High Risk Activities.
  - 1.5 Upon termination of the contract, Customer agrees to certify in writing to Motorola that it has discontinued use and has destroyed or will return to Motorola all copies of the OEM Software and documentation.
  - 1.6 Customer will fully comply with all relevant export laws and regulations of the United States to assure that the OEM Software, or any direct product thereof, is not exported, directly or indirectly, in violation of United States law.
  - 1.7 Customer shall not remove or obscure any copyright, trademark notice, or restrictive legend.
  - 1.8 In any sublicense to the United States Government, the OEM Software shall be provided with "Restricted Rights."
2. ESRI WARRANTY.
  - 2.1 As to ESRI OEM Software, during the term of this Agreement ESRI represents and warrants the Software will substantially perform in conformance with the Specifications and its Documentation, provided the Software is used as specified in the Documentation, and will provide Updates, Upgrades, timely system releases, error corrections, and such improvements outlined in the ESRI life cycle maintenance policy. The foregoing warranties do not apply to errors, defects, or nonconformities due to: a) misuse of the Software solely by the

Customer; b) unauthorized modification of the Software by Customer; or c) failure of Customer to use compatible hardware and software as set forth in the specifications.

- 2.2 If included under this Agreement, the Data has been obtained from sources believed to be reliable, but its accuracy and completeness is not guaranteed. The Data may contain some nonconformities, defects, errors or omissions. ESRI and Motorola make no warranty with respect to the Data. Without limiting the generality of the preceding sentence, ESRI and Motorola do not warrant the Data will meet the Customer's needs or expectations, the use of Data will be uninterrupted, or that all nonconformities can or will be corrected. ESRI and Motorola are not inviting reliance on the Data, and Customer should always verify actual Data, including, but not limited to, map, spatial, raster and tabular information.
- 2.3 EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, ESRI DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINTERFERENCE, SYSTEM INTEGRATION AND NON-INFRINGEMENT. ESRI DOES NOT WARRANT THAT THE DATA WILL MEET CUSTOMER'S NEEDS OR EXPECTATIONS, THE USE OF THE SAME WILL BE UNINTERRUPTED, OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED.
- 2.4 Customer's exclusive remedy and ESRI's entire liability for breach of the limited warranties set forth herein shall be limited, at ESRI's sole discretion, to (a) replacement of any defective media; (b) repair, correction, or a work-around for the Software subject to the ESRI Support Services Policy, (c) return of the license fees paid for the Software, Data, or Documentation that does not meet ESRI's limited warranty, provided that Customer uninstalls, removes, and destroys all copies of the Software, Data, or Documentation and executes and delivers evidence of such de-installation and destruction to ESRI.
3. THIRD PARTY PROVIDED DOCUMENTATION. Non-Motorola authored documentation will be provided in the format available from the vendor and in accordance with the vendor's distribution policy.

## **Exhibit B Payment Schedule**

**For the System purchase financed through Motorola, please refer to the payment schedule included in the Equipment Lease-Purchase Agreement**

If Customer has purchased additional Professional or Subscription services, payment will be in accordance with the applicable addenda.

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. Overdue invoices will bear simple interest at the maximum allowable rate by state law.

**For Maintenance and Support Plan and Subscription Based Services:  
Motorola will invoice Customer annually in advance of each year of the plan.**

## **Exhibit C**

### **Implementation and Technical Documents**

- C-1 "Pricing Summary and Equipment List," dated April 27, 2020
- C-2 "Statement of Work"
- C-3 "Project Schedule" (to be mutually developed)
- C-4 "Training Plan" (to be mutually developed)
- C-5 "Technical Product Descriptions"
- C-6 "Data Conversion Scope of Work"



### Exhibit C-1 Pricing Summary and Equipment List

This pricing includes the modules that we identified during the needs assessment and through our conversations that are important or needed for the Town of Valdese. Modified pricing can be made available should there be a need to add or remove modules from the proposed system. A summary of the purchase price for all modules identified in the proposal is as follows.

#### Valdese PD

##### Software and Services Summary

Category	Total List Price	Motorola Partner Discount	Years 2-5 Maintenance	Maintenance Discount	Project Total
<b>Software and Services</b>					
Hub Suite	\$ 16,291	\$ (4,821)	\$ 5,396	\$ (1,187)	\$ 15,679
CAD Suite	\$ -	\$ -	\$ -	\$ -	\$ -
RMS Suite	\$ 18,257	\$ (6,457)	\$ 9,516	\$ (2,093)	\$ 19,222
Analytics Suite	\$ 746	\$ -	\$ 3,016	\$ (663)	\$ 3,098
Mobile Suite	\$ 16,856	\$ (6,790)	\$ 7,779	\$ (1,711)	\$ 16,134
Evidence Suite	\$ 4,464	\$ (865)	\$ 968	\$ (213)	\$ 4,354
Jail Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Dashboard Suite	\$ 5,130	\$ -	\$ 3,120	\$ (686)	\$ 7,564
<b>Hardware &amp; Data Conversion</b>					\$ -
Server & Backup	Provided by County				\$ -
Data Conversion	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Grand Total</b>	<b>\$ 61,744</b>	<b>\$ (18,934)</b>	<b>\$ 29,794</b>	<b>\$ (6,555)</b>	<b>\$ 66,050</b>

#### Valdese FD

##### Software and Services Summary

Category	Total List Price	Motorola Partner Discount	Years 2-5 Maintenance	Maintenance Discount	Project Total
<b>Software and Services</b>					
Hub Suite	\$ -	\$ -	\$ -	\$ -	\$ -
CAD Suite	\$ -	\$ -	\$ -	\$ -	\$ -
RMS Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Analytics Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Mobile Suite	\$ 6,362	\$ (1,159)	\$ 3,416	\$ (752)	\$ 7,868
Evidence Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Jail Suite	\$ -	\$ -	\$ -	\$ -	\$ -
Dashboard Suite	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Hardware &amp; Data Conversion</b>					\$ -
Server & Backup	Provided by County				\$ -
Data Conversion	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Grand Total</b>	<b>\$ 6,362</b>	<b>\$ (1,159)</b>	<b>\$ 3,416</b>	<b>\$ (752)</b>	<b>\$ 7,868</b>

**Pricing Notes:**

- Pricing in this quote expires on December 20, 2020
- Years 1-5 maintenance is included in the purchase price as reflected
- Workstations, laptops, and handheld devices are not included in this pricing
- Pricing does not include NC Sales Tax

## Flex Modules

Spillman Flex System Core
<p>At the core of Flex's system is our Integrated Hub, a single-source database where information is referenced by all modules. Using a centralized database, all information is entered, stored, and then extracted in real time from one location. Flex's Integrated Hub allows all applications in the system to reference the same repository of information. This modular design eliminates complicated "internal" interfaces users from duplicating data entry, which saves time and ensures data accuracy.</p>
Core Modules
<p><b>Integrated Hub:</b></p> <ul style="list-style-type: none"> <li>• <b>Master Name, Vehicle and Property Tables</b> – Stores all system information, which can be accessed from one central repository</li> <li>• <b>Duplicate Prevention Tools</b> – Prevents users from duplicating data entry, ensuring accuracy</li> <li>• <b>Visual Involvements® (Link Analysis)</b> – Links an unlimited number of related items and records</li> <li>• <b>Message Center</b> – Supports sending and receiving of agency-wide email and instant messaging and displays scrolling BOLOs and other alerts along the bottom of the screen</li> <li>• <b>Reporting</b> – Includes more than 2,000 preformatted reports that support the tracking and maintenance of critical information</li> <li>• <b>Warrant Tracking</b> – Generates a detailed history of all attempts to serve warrants and tracks each warrant through its lifecycle, including the initial receipt, completion of service, and its return to court</li> <li>• <b>Case Management</b> – Tracks detailed status information for cases from beginning to end and leverages Involvements® to link information on all persons, property, and vehicles associated with a case</li> <li>• <b>Training Database</b> – Educates users without jeopardizing data on the live system and allows users log on to the live or training database directly from workstations</li> <li>• <b>Data Replication</b> – Data replication utility</li> <li>• <b>Secondary Database Support</b> – Support for legacy databases</li> </ul>
<p><b>Imaging &amp; File Attachments</b></p> <ul style="list-style-type: none"> <li>• Accommodates unlimited file types (i.e., images, sound clips, videos)</li> <li>• Incorporates media files directly into the records housed in the system</li> </ul>
<p><b>Crystal Reports</b></p> <ul style="list-style-type: none"> <li>• Creates ad hoc reports in third party systems such as Microsoft Excel and Crystal Reports based on ODBC compliance</li> </ul>
<p><b>Learning Management System (LMS)</b></p> <ul style="list-style-type: none"> <li>• Provides online training courses on Flex modules</li> <li>• Great way to train new users and to help seasoned users to brush up on best practices</li> </ul>
<p><b>Motorola VAULT</b></p> <ul style="list-style-type: none"> <li>• Provides cloud based storage for Digital Evidence Management</li> <li>• Links and organizes records, case file information, images, videos, and other related attached files to all records within the Flex database in a quick view and accessible format.</li> <li>• Judicial Sharing gives ability to provide access to specific records for judicial partners such as a District Attorney or State Solicitor's Office.</li> </ul>
Core Interfaces
<p><b>StateLink – State and National Queries (State Database/NCIC )</b></p> <ul style="list-style-type: none"> <li>• Accesses wanted persons information, warrants, stolen vehicles, missing persons, criminal histories, vehicle registrations, driver license information, and other critical data</li> </ul>
<p><b>Active Directory Integration</b></p> <ul style="list-style-type: none"> <li>• Integrates Flex system security with Windows Active Directory.</li> </ul>

### Computer-Aided Dispatch (CAD)

Flex's integrated CAD enables dispatch personnel to access mission-critical information and effectively manage calls for single agencies and multiple jurisdictions. Advanced features such as real-time call updates, unit responses, and automatic alerts for wanted persons and dangerous locations help ensure appropriate units are dispatched in the most efficient way possible – every feature of Flex's CAD system has been designed to provide users with the tools necessary for safe and efficient responses.

#### CAD Modules

##### **CAD**

- All system modules are fully integrated and dispatchers can easily access data from any table with a single login
- Ensures officer safety by displaying automatic visual alerts that provide up-to-date information on warrants, etc.

##### **CAD Mapping & AVL**

- Provides users with powerful access to location and call information based on full integration with the CAD system
- Allows dispatchers to quickly and easily dispatch units with drag-and-drop functionality
- Enables dispatchers to view all active calls and closest units
- Provides the information needed for dispatching personnel directly from the mapping location

##### **Rapid Notification**

- Allows users to configure based on call nature and the station to send emails or texts to smartphones, faxes, or a message to a network printer
- Includes messages with address, call nature, units responding, and some cad call comments

##### **Sentryx GIS (Geobase) – Address Verification**

- Interfaces directly with the Esri ArcGIS server
- Optimizes agency responses through accurate & verified geographic information

##### **Response Plans**

- Allows public safety organizations to define the agencies and units that will respond to a law, fire, or EMS call at a specified alarm level

##### **Premises and HazMat**

- Retrieves information, (i.e., floor plans, alarm locations, & contact information)  
Searches chemicals in the National Oceanic and Atmospheric Administration (NOAA) CAMEO Chemicals

##### **Radio Status Integration**

- Integrates Radio Controls from the Motorola MCC 7500 Consoles
- Ability to name, assign and organize Radio Talkgroups from CAD

##### **CAD Dashboard**

- Allows communication centers to review performance, enabling targeted resources, improved response times, and the best possible service
- Allows users to view the nature and frequency of calls, the number of calls occurred per day or per hour, and compare call frequency and response time by week, month, quarter, or year

##### **FLEX ESRI OEM License**

- 4-core license of ArcGIS Server Standard Enterprise
- Network Analyst extension for ArcGIS Server

## CAD Interfaces

### **E9-1-1 Interface**

- Populates ANI/ALI automatically into the Flex CAD system
- Allows dispatch centers to pinpoint cellular call locations

### **Emergency Reporting Interface (API – No Charge)**

- Emergency Reporting Uses the Flex API to pull data from Flex into Fireworks.
- There is no charge from Flex for this interface.
- Any updates or costs associated with interface are the responsibility of EPR.

### **ProQA Interface®**

- Allows agency personnel to transfer important law, fire, and medical call data between Flex's Computer-Aided Dispatch solutions and ProQA
- The ProQA Interface populates ProQA data into the appropriate CAD records.

### **Motorola UNS Interface**

- Agencies can view Global Positioning System (GPS)-equipped Motorola radios in Flex's mapping software.
- Allows dispatchers and other officers to locate each other, even if a responder has to leave the vehicle.



Records Management System (RMS)
<p>Flex's integrated system allows users to maximize the use of information throughout the entire records management process while maintaining data integrity and improving efficiency. Flex's Law Records Management System consolidates all law incident records into a single database and allows users to easily generate incident and case management reports. For criminal and non-criminal incidents alike, agencies have the ability to search on and track complaints, victims, offenders, suspects, witnesses, evidence, vandalism, arson, vehicles, and stolen and recovered property.</p>
RMS Modules
<p><b>RMS (Law Records)</b></p> <ul style="list-style-type: none"> <li>• Consolidates all law incident records into one database and provides easy-to-generate management reports</li> <li>• Tracks complaints, victims, offenders, suspects, witnesses, evidence, vandalism, arson, vehicles, or stolen property</li> </ul> <p><b>Offender Tracking</b></p> <ul style="list-style-type: none"> <li>• Enter, manage, and track critical sex offender data.</li> </ul> <p><b>Evidence Management</b></p> <ul style="list-style-type: none"> <li>• Maintains complete and accurate chain of custody for all evidence received</li> <li>• Records changes in location, status, and custodian of evidence items, providing a detailed history item receipt through its release or disposal</li> </ul> <p><b>Evidence Barcode and Audit (Includes barcode equipment bundle)</b></p> <ul style="list-style-type: none"> <li>• Allows for simplified data entry, precise labeling, and hand-held auditing of storage locations</li> <li>• Enables users to easily inventory and audit evidence using a handheld barcode reader</li> </ul> <p><b>Traffic Information</b></p> <ul style="list-style-type: none"> <li>• Delivers consistent, accurate data for shaping sound traffic safety procedures</li> <li>• Monitors activity on your roadways and generates quantifiable reports for traffic management</li> </ul> <p><b>Licenses and Permits</b></p> <ul style="list-style-type: none"> <li>• Stores certifications, (i.e., animal and bicycle licenses, weapon &amp; fire permits)</li> <li>• Tracks information such as expiration dates, fees, payments, and adjustments</li> </ul> <p><b>Civil Process</b></p> <ul style="list-style-type: none"> <li>• Allows agencies to track the receipt, service, and return of service for all types of civil processes managed by law enforcement</li> <li>• Enables personnel to print service worksheets, returns, and statements of process from a civil process record</li> </ul> <p><b>Personnel Management</b></p> <ul style="list-style-type: none"> <li>• Stores all information in and accessed from one central repository</li> <li>• Prevents redundant entry of information based on system-wide integration</li> </ul> <p><b>Equipment Management</b></p> <ul style="list-style-type: none"> <li>• Tracks the condition, location, history, and upkeep department equipment</li> <li>• Calculates operating costs and equipment value; tracks warranty, manufacturer, and vendor information</li> </ul>
RMS Interfaces
<p><b>NC IBR Reporting Interface</b></p> <ul style="list-style-type: none"> <li>• Enables agencies to easily compile detailed crime summary and activity information such as offenses, arrests, and law incidents for submitting IBR reports that meet state and federal standards</li> <li>• Automatically retrieves data from the Flex system for report generation, eliminating any manual or redundant efforts to create these reports</li> </ul>

Flex Mobile
<p>Flex's CAD, RMS, &amp; Mapping modules are fully integrated with Flex Mobile solution, which allows for access to critical data in real time and improves efficiencies for officers in the field. Because all modules are completely integrated, alerts, warnings, and historical information appear with all relevant records, allowing users to make informed, split-second decisions. Flex's Automated Field Reporting and single search capabilities allow users to instantly search local databases, as well as state and national databases with a single query.</p>
Mobile Modules
<p><b>Mobile Records</b></p> <ul style="list-style-type: none"> <li>• Provides field system data access without officers leaving the vehicle or requiring dispatcher assistance</li> <li>• Allows users to search names, vehicles, incidents, property, wanted persons, &amp; more than 20 other types of records</li> </ul> <p><b>Mobile Law and Field Interview Forms</b></p> <ul style="list-style-type: none"> <li>• Enables officers to quickly complete forms directly from the patrol vehicle</li> <li>• Stores Flex RMS form information, electronically routed for approval</li> </ul> <p><b>Mobile Arrest Forms</b></p> <ul style="list-style-type: none"> <li>• Create detailed arrest records while filing incidents in the field</li> <li>• Seamlessly transfer arrest data to the receiving corrections agency</li> <li>• Quickly attach multiple offender records without duplicating work</li> <li>• Capture accurate data for reports while the events are fresh</li> </ul> <p><b>Mobile Voiceless Dispatch</b></p> <ul style="list-style-type: none"> <li>• Enables personnel to quickly update status, as well as add/view call comments</li> <li>• Accesses radio logs and incident information without burdening dispatchers</li> </ul> <p><b>Mobile Mapping and AVL</b></p> <ul style="list-style-type: none"> <li>• Tracks the location of all fleet units in real-time through Global Positioning System (GPS) receivers</li> <li>• Allows users to view the location of nearby units to determine where the closest officer is for backup</li> </ul> <p><b>Mobile Premises and HazMat</b></p> <ul style="list-style-type: none"> <li>• Retrieves information, (i.e., floor plans, alarm locations, &amp; contact information)</li> <li>• Searches chemicals in the National Oceanic and Atmospheric Administration (NOAA) CAMEO Chemicals</li> </ul> <p><b>Mobile Quickest Route</b></p> <ul style="list-style-type: none"> <li>• Improves response times by dispatching the unit closest to a call</li> <li>• Calculates the total drive time to reach a call and displays the ideal route and driving directions</li> </ul> <p><b>Driver License Scanning Interface</b></p> <ul style="list-style-type: none"> <li>• Gives officers the ability to scan a driver license, automatically populate Mobile search screens with the driver's name, date of birth, address, physical description, and driver license identification number</li> <li>• Automatically queries the local database as well as state and National Crime Information Center (NCIC) databases</li> </ul> <p><b>Spillman Touch (Smartphone/Tablet)</b></p> <ul style="list-style-type: none"> <li>• Provides access dispatch information, and receive call assignments using a mobile device</li> <li>• Searches for name, vehicle, property, and incident records from a mobile device</li> </ul>

**Mobile Interfaces****Mobile State and National Queries (State Database/NCIC)**

- Allows users to search databases for name, vehicle, property, guns, and wanted person records and images
- Perform state and federal searches simultaneously with one query

**North Carolina eCitation Interface**

- Allows users to complete citations using a handheld device or browser based system and then automatically populates the Flex traffic tables to allow for easy reporting and analysis

**North Carolina eCrash Interface**

- Allows users to do accident reports in eCrash then populate the Flex accident table to allow for easy reporting and analysis.

## Crime Analysis

Flex's crime analysis tools allow agencies to maximize historical data by identifying crime trends, hotspots, and patterns from using information in the Flex database. This information affords the ability to monitor the health of organizations and make informed decisions about how to best utilize agency resources and personnel. The integration found in Flex's unique Single-Source Database delivers the use of current, accurate, and accessible data, which is essential for the proactive deployment of resources.

### Crime Analysis Modules

#### Pin Mapping

- Plots jurisdictional crime data gathered in the system on a geographic pin map
- Allows access to any piece of data, record, or a combination of fields from any point on the map
- Provides accurate and timely data to analyze incidents and crime trends
- Supports crime investigations with powerful searching capabilities that access critical information for effective decision-making, rapid deployment tactics, and prompt assessments

#### CompStat Dashboard

- Identifies crime trends for determining best use of agency resources
- Calculates statistics and presents information in an easy-to-analyze format without having to run multiple reports

#### Command Staff Productivity

- Provides administrators with easy visibility into each officer or deputy's performance and statistics
- Administrators can pull statistics regarding incidents such as accidents, arrests, citations, and warnings

#### InSight – Data Sharing

- Multi-system, multi-jurisdictional data sharing
- Allows users to run real-time queries of local agency records on the databases of participating agencies for names, associated images, vehicles, property information, and other records

#### Command Central Analytics Plus

- Quickly identify crime trends
- More easily track down leads
- Improve planning and collaboration

#### Motorola VAULT

- Provides cloud based storage for Digital Evidence Management
- Links and organizes records, case file information, images, videos, and other related attached files to all records within the Flex database in a quick view and accessible format.
- Judicial Sharing gives ability to provide access to specific records for judicial partners such as a District Attorney or State Solicitor's Office.
- Included is 2TB storage for Burke County Sheriff's Office and 1 TB for Morganton Department of Public Safety. This subscription storage can be increased or decreased by 250 GB increments.

#### Community Engagement

- One-stop Citizen Experience through a single, simple touchpoint for non-emergency public safety interaction
- Anonymous Tipping that include an easy online tip form and intuitive, integrated tip management
- Public Crime Mapping for fostering awareness using sanitized incident data for the public
- Online Police Reporting with simple and customizable we forms

- Public registration of residential and commercial security camera locations so law enforcement can more quickly find valuable evidence.

### **Jail Management System**

Flex's Corrections Management solutions provide agencies with powerful tools to efficiently gather a broad range of vital inmate data. The Jail Records module automates an agency's inmate processes from start to finish. Vital functions such as booking procedures, inmate tracking, risk and medical assessment, and reporting enable correctional facilities to manage data efficiently and securely. The complete integration found within the Flex system provides the ability to share critical data between corrections and all agency users.

## Jail Management System Modules

### Jail Management System

- Simplifies the booking processes and manages detailed jail log information
- Displays multiple offenses and inmates on a single entry

### Disciplinary Actions

- Track inmates who have been placed in disciplinary status
- Tracks the disciplinary hearing and status of the hearing
- Tracks charges filed for internal rule violations against an inmate
- Tracks infraction committed to warrant disciplinary action
- Tracks and enforces sanctions against an inmate as a result of the hearing and charges (i.e., commissary, visitation, recreation, telephone calls, work)

### Inmate Work Assignments

- Track Inmate Work Assignments - Who is assigned to work on kitchen crews, road crews, cleaning jail pods or other inmate jobs within the jail.
- Automatically credit work time to inmates who work jobs - The system can be set to automatically deduct work time from an Inmate's sentence based on the ratio set up in the job configuration
- Automatically pay inmates based on hours or days worked - Pay is credited to the inmates account and the rate is in the job configuration
- Print Crew Lists - Print off lists of inmates assigned to specific jobs
- Easily identify job vacancies created when releases occur

### Inmate Tracking (Inmate Barcode Scanning)

- Allows jail personnel to print wristbands, to be worn by each inmate, that the personnel can scan to enter certain information into CommandCentral Jail without manual data entry.

### Biometrics (Includes Biometric Hardware)

- Allows jail personnel to scan inmate fingerprints to correlate to the Flex database for increases verification and tracking of specific individuals.

## Jail Management System Interfaces

### LiveScan Fingerprinting Interface

- Transfers data from Flex to a LiveScan fingerprinting system

### Oasis Interface (API – No Charge)

- Currently no interface agreement. Oasis will need to agree and set up their side to pull from Flex API.
- Oasis Uses the Flex API to pull data from Flex into its commissary system.
- There is no charge from Flex for this interface.
- Any updates or costs associated with interface are the responsibility of Oasis.

### Paytel Inmate Interface (API – No Charge)

- Paytel Uses the Flex API to pull inmate data from Flex into its system.
- There is no charge from Flex for this interface.
- Any updates or costs associated with interface are the responsibility of Paytel.



**Exhibit C-2  
Statement of Work**



**MOTOROLA SOLUTIONS**

**Public Safety Software Implementation  
Statement of Work (“SOW”)**

Between

**Motorola Solutions, Inc.  
 (“Motorola”)**

And

**Town of Valdese, NC  
 (“Customer”)**

Prepared

**April 27, 2020**

By

**Motorola Solutions, Inc.**

*This information is the property of Motorola and is provided on a confidential and restricted basis. This information shall not be disclosed outside of Customer organization and shall not be duplicated, used, or disclosed in whole or in part for any reason other than to evaluate this SOW.*

## Introduction and Purpose

Motorola provides comprehensive public safety software for police departments, sheriff's offices, fire departments, communication centers and correctional facilities. Under the guidance and participation of Customer, Motorola will facilitate the delivery and implementation of its integrated software solutions, which includes all purchased products and services in the Purchase and License Agreement.

Together, the integrated software solutions are referred to as the "System."

Motorola is committed to building a lifelong partnership with Customer by providing professional project management assistance through implementation, account management, technical services, and both initial and ongoing training. Motorola will provide Customer with software tools and services to implement a system that provides for the storage, retrieval, retention, manipulation, and viewing of documents, or files pertaining to Customer operations.

This SOW guides the primary activities and responsibilities for the System's implementation. It documents project implementation requirements, identifies each major task within the implementation process, sets expectations for each party, and identifies the criteria by which Motorola and Customer will consider a task complete.

## Project Objectives

### Ongoing objectives of the Public Safety Software Implementation project:

- Provide a comprehensive public safety software solution to facilitate data management
- Provide the software and services necessary to enable interoperability and real-time data sharing
- Provide initial and ongoing system and application administration training to ensure proper setup and the efficient use of software modules
- Facilitate the implementation of data entry standards

### Specific SOW objectives:

- Complete the project implementation plan
- Configure, set up, and install the server
- Install and configure core Motorola software modules
- Install and configure the external interfaces
- Provide onsite system setup consultation and system and application administration training
- Provide comprehensive end user training and assistance with code table set up
- Provide Go-live assistance

## Change Management Procedures

In the event it is necessary to change this SOW or, if applicable, a Scope of Work document, the following procedure will be used:

- The party requesting the change will issue a Change Request document ("Change Request"). The Change Request will describe the nature of the change, the reason for the change, and the effect of the change, which may include changes to the work product. The Change Request will also include any changes in pricing.

- Either party may initiate a Change Request for any material changes to this SOW and any applicable Scope of Work. The requesting party will review the proposed change with the other party and the parties will negotiate reasonably and in good faith to agree upon the requested change and any changes to the fees or schedule that may result therefrom. Upon the parties' agreement, the appropriate authorized representatives of the parties will sign the Change Request, indicating acceptance of the changes by the parties.
- Upon execution of the Change Request, the Motorola and Customer Project Managers will incorporate the change into the SOW or Scope of Work.

## **Project Assumptions and General Responsibilities**

### **Project Assumptions**

- The Flex System will be implemented in a Linux or Windows environment.
- Customer network is available and appropriately configured.
- Hardware is available that meets or exceeds Motorola's current hardware recommendations, is patched per Motorola's recommendations, and is appropriately configured.
- A TCP/IP-capable network is available for Flex Mobile; specifically, a broadband wireless data network (3G or greater) or a similar high speed private network. At a minimum, wireless networks should accommodate average bi-directional data rates of 256 kbit/s (kilobits per second) between the mobile client and the Flex server.
- Customer obtains State user and terminal ORIs in a timely fashion.
  - State/NCIC (StateLink) interface may not be ready for end user training; a live connection is not necessary for training exercises.
- Third party vendors provide required information for interface configuration.
- This engagement will begin on a mutually acceptable date after Motorola is in receipt of a signed contract from Customer that covers the fees and expenses described therein.
- Customer will provide appropriate technical and management resources to participate in the implementation as identified in the project tasks and responsibilities.

**Customer Responsibilities**

- Maintain effective communications with the Motorola Project Manager
- Participate in onsite project status meetings
- Respond to issues and concerns as communicated by the Motorola Project Manager
- Provide Motorola with Customer-approved project change requests
- Coordinate required Customer tasks and responsibilities with the Motorola Project Manager
- Manage all third party vendors for which Customer contracts facilitate project activities
- Ensure Customer project team members have the knowledge and expertise to meet required project responsibilities
- Provide onsite and dedicated VPN remote access as required to facilitate installation and Motorola's continued system support
- Install Flex application client on all computers
- Install Mobile application client on mobile computers
- Provide physical training facilities and supplies (e.g., projector, screen, whiteboard or equivalent) as well as personal computers required for training end users
- Ensure management and end user personnel are scheduled and available for training

**Motorola Project Team Responsibilities**

- Function as the liaisons with Customer's designated project manager
- Provide Customer with a project management plan, including a cut-over plan for Go-live
- Supply system test plans, setup, administration and configuration documentation, student manuals (training plans), and end user Documentation
- Manage all aspects of the implementation, including project communications
- Participate in the project planning and system setup
- Coordinate and schedule the delivery of all products and services provided by Motorola
- Conduct onsite project status meetings at Customer facility and attend all major project events including project kickoff meeting, project team training, and Go-live activities
- Facilitate the submission and approval of Customer change requests
- Provide responses and recommend resolutions to Customer issues
- Facilitate the server configuration and core system installation, and coordinate external interface installation
- Manage all third party vendors contracted by Motorola

## Project Tasks and Responsibilities

This section outlines all project phases, individual tasks, and responsible parties required to meet the goals and objectives of this SOW. Motorola and Customer will perform their respective tasks through a combination of onsite collaboration, coordination via telephone, email communications, and other remote means, as appropriate.

Tasks may or may not be completed in the order in which they appear. Some tasks may be sequential while other tasks may be concurrent with other tasks.

Some tasks will involve 3rd party entities (government agencies, vendors, etc.) to successfully complete this project. Motorola will cooperate and use good faith efforts to work effectively with all 3rd party representatives from other vendors or government agencies as may be necessary to ensure successful Project completion.

### Project Planning and Pre-Installation

#### Task Description

Project Planning will consist of a series of tasks and activities to help prepare the Customer and Motorola for the implementation process:

- **Pre-Implementation Meeting**  
Motorola will conduct a Pre-Implementation Meeting (PIM), which includes a project review session and product demonstration. The Project review session will include a detailed discussion of the contract documents, project timelines, goals and objectives, and roles and responsibilities of both parties. The Project review session will be designed to ensure the project managers and key personnel on both sides are familiar with the contract documents and have the same understanding of the overall scope of the project and project approach.
- **Workflow and Forms Review Sessions/Project Team Planning Session**  
Motorola will schedule and conduct Workflow and Forms Review Sessions with each agency/department to identify paper forms and manual reports that can/will be eliminated by installing the new System, and the changes that will be required in forms that will remain in use after system go-live. This task will also include a detailed discussion/presentation and recommendations on how each agency will/should streamline work processes and adjust current staffing resources to match Software utilization.

#### Deliverables

Upon completion of Project Planning, Motorola and Customer will:

- Document results of the workflow and forms review for each agency. Motorola will provide recommendations on forms that can potentially be eliminated and/or consolidated for each agency. Motorola will provide recommendations for forms that should remain in use after go-live occurs.
- Identify and document estimated Customer resources and estimated time requirements for Customer-related tasks so the Customer is better prepared to assign the type of resources when necessary to do so and for what duration. This information will be based on Motorola's previous experience in installing similar systems. The goal is to help ensure the Customer is well aware in advance of

## Project Planning and Pre-Installation

tasks and resource requirements so as to avoid potential project delays during the implementation process.

### Prerequisites

- Signed Agreement

### Completion Criteria

This task will be considered complete following the Pre-Implementation Meeting, and completion of the Workflow and Forms Review Sessions.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Conduct pre-implementation meeting</li> <li>• Conduct product demonstrations</li> <li>• Conduct workflow and forms review</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Assist with workflow and forms analysis</li> <li>• Assist with project team planning sessions</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Trainer</li> <li>• Systems Engineer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Project team members (staff from agencies or departments)</li> </ul>



## Order Hardware

### Task Description

The purpose of this task is to order the hardware required for the Flex system. Customer or Motorola (as specified in the Agreement) will be responsible for procuring the server needed to meet Motorola's hardware specifications, as well as dedicating/procuring servers for the solution's GIS component, HipLink paging module and CompStat Dashboard module. Together, Motorola and Customer will review the purchase order to verify the purchased hardware meets system specifications. Hardware will then be shipped to Customer's location.

If Customer desires a disaster recovery solution, Customer (or a mutually agreed upon third party, as specified in the Agreement) will be responsible for procuring a second server and facilitating the setup of that solution. All costs associated with the setup and testing of the disaster recovery solution will be borne by Customer.

### Deliverables

- Hardware recommendations

### Prerequisites

- Pre-implementation conference call

### Completion Criteria

This task will be complete once the hardware has been ordered.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Verify hardware order</li> <li>• Order hardware (per Contract)</li> <li>• Provide minimum and recommended hardware requirements for all workstations</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Order hardware (per Contract)</li> <li>• Ensure hardware (workstation) upgrades, as needed</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Installation manager</li> <li>• Systems engineer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• IT personnel (as needed)</li> <li>• System administrator</li> </ul>

## Order Third Party Products

### Task Description

Motorola will order third party products as specified in the Agreement. Customer will be responsible for any third party requirements not listed in the Agreement.

### Deliverables

- Not applicable

### Prerequisites

- Signed agreement

### Completion Criteria

This task will be complete once Motorola and Customer have placed all orders for third party products.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Order third party products as specified in the Agreement</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Order third party products for which Customer is responsible</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Systems engineer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• System administrator</li> <li>• IT personnel (as needed)</li> </ul>

## Finalize Project Schedule

### Task Description

Prior to signing the Agreement, Motorola and Customer may have developed a preliminary project schedule. During this task, the project managers from both Motorola and Customer, as well as Customer personnel who make decisions regarding resource allocations or scheduling, will meet and review the project schedule. These individuals will make any necessary adjustments based on known changes in resource availability. Motorola's project manager will then update the schedule.

The project schedule will be further updated as necessary over the course of the project. All changes to the schedule will be mutually agreed upon and, if required, documented via the mutually agreed upon change order process. Any schedule changes that occur will be a part of the project status reports provided by Motorola's project manager.

### Deliverables

- Final project schedule

### Prerequisites

- Not applicable

### Completion Criteria

This task will be complete when the parties agree upon the final project schedule; approval shall not be unreasonably withheld or delayed.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Lead Customer through a review of the project schedule</li> <li>• Update the project schedule</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Ensure personnel who can make resource allocation and scheduling decisions attend Project Schedule review</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Training coordinator</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• System administrator</li> <li>• Department supervisors (as needed, for approving the schedule)</li> </ul>

## Develop Data Entry Standards

### Task Description

Customer is responsible for developing data entry standards and policies to ensure users enter data correctly and in conformity with quality assurance expectations. At the kickoff meeting, Motorola will provide and explain sample data entry standards as a starting point for Customer. Customer will need to revise the sample standards to meet its specific needs. Once standards have been established, Customer will be expected to formalize the policy as standard operating procedure for data entry tasks. Motorola will incorporate the data entry standards into end user training. Therefore, Customer must complete this task prior to end user training. Motorola is not responsible for project delays due to Customer not completing this task in a timely manner.

### Deliverables

- Motorola-supplied sample data entry standard
- Final, Customer-defined data entry standards

### Completion Criteria

This task will be complete after Customer develops formal data entry standards that Motorola can incorporate into end user training.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide sample data entry standards</li> <li>• Explain data entry standards</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Revise sample standards form to meet Customer's needs</li> <li>• Create formal policies and standard operating procedures to guide data entry tasks</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Lead trainer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project team</li> </ul>

## Conduct First Web Based Map Training

### Task Description

Customer must prepare its GIS data for the Flex geofile and then build the Flex geofile database. Prior to training, Customer will collect current map data for assessment. Motorola will send Customer a document to guide Customer in the collection of this data. A Motorola GIS trainer will assess the current map data and provide feedback on ways to improve the quality of the data for use in the Flex geofile.

During this time, Motorola's GIS trainer will also instruct Customer's personnel responsible for building the geofile on how to build and update the maps for use in the Flex applications. After training, Customer is responsible for building the geofile. Motorola will remotely provide additional assistance, as needed.

### Deliverables

- Map data collection guide
- GIS modification recommendations
- Remote assistance as needed

### Prerequisites

- Existing customer map files

### Completion Criteria

This task will be complete after Motorola concludes the onsite map build training.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide map data collection guide</li> <li>• Assess current map data</li> <li>• Provide feedback on ways to improve quality of map data</li> <li>• Provide map build training</li> <li>• Provide remote assistance during Customer's map build activities</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Collect current available map data</li> <li>• Attend map training</li> <li>• Build geofile per Motorola's specifications</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Trainer (GIS)</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• System Administrator</li> <li>• GIS Department</li> </ul>

## Install and Configure Hardware and Operating System

### Task Description

After Customer receives the server hardware, Motorola's systems engineer will install the server at Customer site, and install and configure the operating system. The systems engineer will also help Customer configure the GIS server to accommodate Esri® Network Analyst, which is necessary if Customer wants routing and closest unit dispatching capabilities.

### Deliverables

- Servers installed and configured

### Prerequisites

- Addresses for servers and VPN identified
- Server location, equipment, and supply of power provided

### Completion Criteria

This task will be complete when Motorola has installed and configured the Linux or Windows server and operating system, conducted initial tests of the equipment, corrected any material problems or deficiencies, and established connectivity to Motorola Flex headquarters.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Install Linux or Windows server and operating system at Customer site</li> <li>• Configure database storage space allocation</li> <li>• Guide Customer through network configuration</li> <li>• Conduct initial tests of the equipment and correct any problems or deficiencies</li> <li>• Establish connectivity to Motorola Flex headquarters</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Facilitate installation of Linux or Windows server</li> <li>• Set up disaster recovery solution</li> <li>• Configure network</li> <li>• Assist with establishing connectivity to Motorola Flex headquarters</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Systems engineer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• System administrator</li> <li>• IT department</li> </ul>



## Install Core Flex Application

### Task Description

After installing the servers and configuring the operating system and database storage, Motorola's systems engineer will install the core Flex application and the Motorola side of interfaces. The systems engineer will configure the database environments and create the initial administrative user accounts.

Motorola will provide Customer with Mobile and Flex client applications. Customer is responsible for installing the client application on the mobile and desktop computers.

### Deliverables

- Installation of Flex applications, as specified in the Agreement
- Installation of Flex components of external interfaces
- Installation of Flex Mobile client application

### Prerequisites

- Hardware installed

### Completion Criteria

This task will be complete when Motorola has installed the core Flex applications, created the training user accounts and administrative accounts, initiated the installation of external interfaces, and performed the tests required for end user training and Go-live.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Install core Flex applications</li> <li>• Configure databases (live and training)</li> <li>• Create administrative user accounts</li> <li>• Create training user accounts</li> <li>• Initiate installation of external interfaces</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Install Flex client application on PCs</li> <li>• Install Flex Mobile client application on mobile computers</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Systems engineer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• IT personnel</li> <li>• System administrator</li> </ul>

## Configure StateLink/NCIC, E9-1-1, LiveScan and Other External Interfaces

### Task Description

Motorola installs the NCIC and E9-1-1 interfaces with configuration parameters set to default values. While most external interfaces require only configuration prior to execution, these interfaces require additional technical and administrative steps for operability.

Motorola will install the State Link and Mobile StateLink NCIC interface. Customer, however, is responsible for obtaining a state connection and obtaining state user and terminal ORIs. Should Customer require assistance, Motorola can help with the process. Together, Motorola and Customer will enter the ORI and terminal information and test the connection.

Motorola will install the E9-1-1 interface. To configure this interface, Motorola will require a sample ANI/ALI data stream from Customer, as well as dispatch terminal IP addresses and a port for connectivity to the ANI/ALI box. After receiving this information and the required connectivity, Motorola will configure the E9-1-1 interface and, together with Customer, will test the connection to verify the correct data stream and format transfers to the CAD screens.

Motorola will also install and test all other external interfaces specified in the Agreement. The development process for other interfaces will include programming, testing, and demonstrating to Customer the successful completion of all included interfaces and software modifications, as set forth in the Agreement.

### Deliverables

- Installation, configuration, and testing of StateLink and Mobile State Link StateLink/NCIC, E9-1-1, and LiveScan interfaces

### Prerequisites

- Methods of connectivity defined
- Contact information for all third party vendors

### Completion Criteria

This task will be complete when Motorola and Customer have tested the StateLink and Mobile StateLink/NCIC, E9-1-1 interface, LiveScan interface, and other external interfaces included in the Agreement and they are installed and working correctly in all material respects.

Configure StateLink/NCIC, E9-1-1, LiveScan and Other External Interfaces	
Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>StateLink Interface <ul style="list-style-type: none"> <li>Install StateLink/NCIC interface</li> <li>Work with Customer to enter ORI and terminal information</li> <li>Test StateLink/NCIC interface</li> </ul> </li> <li>E9-1-1 Interface <ul style="list-style-type: none"> <li>Install interface</li> <li>Configure ANI/ALI connection to Flex</li> <li>Verify data stream/format to CAD screens</li> </ul> </li> <li>Other External Interfaces <ul style="list-style-type: none"> <li>Serve as prime contractor to develop interfaces</li> <li>Test and successfully demonstrate completion to Customer</li> <li>Update interface and system Documentation, as necessary</li> </ul> </li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>StateLink Interface <ul style="list-style-type: none"> <li>Obtain state connection</li> <li>Obtain state user and terminal ORIs</li> <li>Work with Motorola to enter ORI and terminal information</li> <li>Test StateLink and Mobile StateLink State/NCIC interface</li> </ul> </li> <li>E9-1-1 Interface <ul style="list-style-type: none"> <li>Provide ANI/ALI port for connection</li> <li>Provide dispatch computer IP addresses</li> <li>Verify data stream/format to CAD screens</li> </ul> </li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>Project manager</li> <li>Systems engineer</li> <li>Development (programmers)</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>IT department</li> <li>Any applicable third party vendors</li> <li>System administrator</li> </ul>

## Conduct Project Team Training

### Task Description

Motorola will conduct a three-day training course for Customer's project team. Part of this training includes an overview of the purchased application. During the overview, Motorola will demonstrate the functionality of the various modules.

### Deliverables

- Project team training

### Prerequisites

- Server installation complete
- Training room set up with server connectivity

### Completion Criteria

This task will be complete when the parties have concluded project team training.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Project team training (system overview)</li> <li>• Demonstrate Flex application</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide appropriately equipped training location</li> <li>• Ensure appropriate personnel attend project team training</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Trainer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project team</li> <li>• Trainer</li> </ul>

## Conduct System Administration Training

### Task Description

Motorola will conduct the following system administration training courses:

- Specialist system application administration (3 days)
- Module-specific administration training, as appropriate

System administration training includes training to set up, enter, and administer the operational and administrative code tables. Following training, Customer will be responsible for entering code tables. Customer must enter data before user training begins. Motorola will provide training on user/group setup, including granting system privileges.

Additionally, Customer should have a good draft of its data entry standards. During this training, Motorola will work with Customer to review and finalize the data entry standards. Following training, Customer will be responsible for formalizing data entry standards. This task must be complete before user training begins.

### Deliverables

- System administration training per the training plan

### Prerequisites

- Flex application installation
- Project team training
- Customer completion of data entry standards

### Completion Criteria

This task will be complete when Motorola has provided the system administration training per the training plan.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• System administrator training</li> <li>• Module administration training</li> <li>• Code table setup training</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide properly equipped location</li> <li>• Ensure personnel attend training</li> <li>• Finalize data entry standards</li> <li>• Enter code tables</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Trainer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager (as needed)</li> <li>• Project team</li> <li>• System administrator</li> <li>• IT personnel</li> <li>• Department managers (as needed for code tables decisions)</li> </ul>

## Conduct Follow Up Map Training and Final Map Setup Training

### Task Description

Motorola GIS trainers will conduct multiple (as needed) training sessions to review the geofile map build and direct the necessary GIS modifications. These trainers will identify areas where the maps could be improved and assist Customer with any issues or problems it is experiencing.

Prior to Go-live, Motorola will conduct a final review session to assess the condition of Customer map data and ensure it is ready for go live.

### Deliverables

- GIS professional services (consulting)
- Final map review

### Prerequisites

- Flex application installation
- System administration training
- Significant progress on Customer map build

### Completion Criteria

This task will be complete when the final map is prepared and ready for go live.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide map build assistance to Customer</li> <li>• Assist with final map review and go live preparation</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Map build and GIS modifications</li> <li>• Perform final map review</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Trainer (GIS)</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• GIS department</li> <li>• System administrator</li> </ul>



## Conduct End User Training

### Task Description

Motorola will conduct end user training per the mutually agreed upon training plan.

### Deliverables

- End user training

### Prerequisites

- Functional testing completed
- Interfaces installed and configured

### Completion Criteria

This task will be complete when Motorola has provided all end user training per the training plan.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide end user training per the training plan</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Provide training facilities and equipment</li> <li>• Ensure appropriate personnel attend each training class</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Trainers</li> </ul>	<ul style="list-style-type: none"> <li>• Required Staff</li> <li>• All employees (end users)</li> </ul>

## Cutover to Live Operation

### Task Description

Motorola trainers will be onsite to assist Customer with cutover to live operation (Go-live).

On the day of cutover to live operation, Motorola will facilitate a Go-live kickoff ensuring all tasks are completed and Customer personnel are prepared for pre and post-cutover roles.

After cutover, Motorola's trainers will assist Customer personnel with initial live database entry, providing guidance and training as needed. The trainers will troubleshoot live database problems that may arise and make minor configuration modifications as Customer makes initial database entries and enacts entire work processes in the live environment.

Motorola's project manager and trainers will hold meetings with Customer project team, as needed, to discuss concerns and issues that arise.

Customer's system administrators, project team, and other "supervisory users" shall be present to provide guidance to Customer personnel needing additional assistance. Customer personnel are free to ask questions. The system administrators, project team, and other supervisory users should report issues and concerns they encounter to Motorola's trainers and project manager, who will incorporate the issues and concerns into daily meetings and one-on-one training.

### Deliverables

- Trainers onsite for Go-live

### Prerequisites

- Completion of all previous tasks

### Completion Criteria

This task will be complete once live operation of the entire System has commenced and the other tasks described above been completed.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Facilitate Go-live kickoff meeting (first day of Go-live)</li> <li>• Assist with initial live database entry</li> <li>• Observe operations and troubleshoot live database problems</li> <li>• Make minor modifications as needed</li> <li>• Work one-on-one with individuals</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Ensure appropriate personnel attend Go-live kickoff meeting</li> <li>• Provide guidance to individuals who need extra assistance</li> <li>• Relay issues and concerns to Flex</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• Systems engineer</li> <li>• Trainers</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Project manager</li> <li>• All employees (end users)</li> </ul>

## Perform Site Audit and Analysis

### Task Description

Approximately a few weeks following cutover to live operation, a Motorola trainer will be onsite to observe how Customer personnel are using the System. The trainer will be available to answer any follow up questions and provide additional training to enhance user capabilities, showing the users alternative ways to use the System.

### Deliverables

- Onsite analysis and training for up to three days

### Prerequisites

- Go-live operations

### Completion Criteria

This task will be complete after the Motorola trainer has conducted the site audit and analysis.

Motorola	Customer
<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Answer follow up questions</li> <li>• Show users alternative ways to use the system</li> </ul>	<b>Responsibilities</b> <ul style="list-style-type: none"> <li>• Communicate questions or concerns</li> </ul>
<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Trainer</li> </ul>	<b>Required Staff</b> <ul style="list-style-type: none"> <li>• Applicable staff</li> </ul>

### Major Milestones

- Agreement signing
- Hardware delivery/Core installation
- Project team training/Administration training complete
- Interfaces
- End user training complete
- Go-live complete

**Exhibit C-3**  
**Project Schedule (To be mutually developed)**

**Exhibit C-4**  
**Training Plan (to be mutually developed)**

## **Exhibit C-5**

### **Technical Product Descriptions**

Technical product documents for the following interfaces are provided in the following pages:

- E9-1-1 Interface
- Emergency Reporting (NFIRS) Interface
- LiveScan Fingerprinting Interface
- Mobile State & National Queries
- Motorola ASTRO Radio Location Interface
- North Carolina eCitation – Interplat
- North Carolina eCrash – Interplat
- North Carolina IBR
- North Carolina StateLink Interface
- ProQA Interface



## **E9-1-1 Interface**

### **Technical Product Description**

#### **Summary**

Receive automatic number and location information (ANI/ALI) from a standard E911 system and transmit the information to your Flex CAD system. Used in conjunction with the CAD and CAD Mapping modules, the interface enables you to view real-time locations of both wireless and landline calls on a digital map. Automatic field entry inserts agency-specified information from incoming calls to minimize manual data entry. The E911 Interface ensures your agency meets federal Phase I and Phase II compliance standards.

#### **Feature List**

- Automatic Field Entry
- Visual Call Locations
- Mapping ALI Data
- Cellular Location Data

#### **Requirements**

##### **General**

- The Flex software must be loaded on a Motorola Solutions-approved hardware platform as outlined in current Motorola Solutions policies.
- Flex technicians must have access to the server where the Flex software is loaded.
- Installation is completed partially on site and partially over remote connection.
- The agency must provide E9-1-1 protocol documentation and ALI text format information.
- The agency must provide a static IP address and computer name for each Flex 9-1-1 dispatch station.
- The agency must provide the ANI/ALI station number for each Flex 9-1-1 dispatch station.

**Hardware**

Hardware	Model	Vendor/Company	Support	Notes
ANI/ALI				<ul style="list-style-type: none"> <li>• ANI/ALI equipment that is installed and functional</li> <li>• A Digi serial port server (Motorola Solutions will purchase the initial serial port server)</li> <li>• A power source for the serial port server that is within 15 feet of the ANI/ALI CAD port</li> <li>• The agency must provide a static IP address for the serial port server</li> </ul>
TCP/IP				A TCP/IP network connection to the Flex server that is within 15 feet of the ANI/ALI CAD port.

**Software**

Software	Version	Vendor/Company	Notes
Flex	Version 4.6 or higher	Motorola Solutions, Inc.	User documentation is included in the Flex CAD User's Guide. Administrator documentation is located in the Flex SAA Application Setup and Maintenance Manual.
CAD module		Motorola Solutions, Inc.	User documentation is included in the Flex CAD User's Guide. Administrator documentation is located in the Flex SAA Application Setup and Maintenance Manual.

## ERS Fire and EMS Records

### Technical Product Description

#### Summary

Flex's interface with Emergency Reporting System (ERS) allows you to efficiently complete reports and transfer information from Flex's Computer-Aided Dispatch module into the ERS fire and EMS reporting and records management system. ERS allows you to manage all your fire department's incident reporting, scheduling, training, hydrant maintenance, reports, and personnel requirements from any Internet browser.

#### Feature List

- CAD Integration
- Simplified Reporting
- Library
- NFIRS and NEMSIS v3.3.4 and v3.4.0 Compliant
- Daybook
- Data Security
- On-Scene Connectivity
- Workflow

#### Requirements

##### General

- The interface is currently a one-way interface from Flex to ERS
- This is a WAR file to be managed in the Tomcat Service Manager and deployed from the Application Manager

#### Hardware

Hardware	Model	Vendor/Company	Support	Notes
Requirements				Client PC specifications must match the minimum requirements for running Flex.

#### Software

Software	Version	Vendor/Company	Notes
Flex	Version 6.1 or higher	Motorola Solutions, Inc.	1107.1 or greater including the CAD, FIRE and EMS modules.
CtreeSQL Databse	Version v9.2 or higher		
Flex middletier			Flex middletier running in an instance of Apache Tomcat.

Ctxdump utility			The Ctxdump utility must be installed in \$INDBDIR/util, and must report a version number of at least 9.0.0.0 when invoked with the -Version argument.
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## LiveScan Fingerprinting Technical Product Description

### Summary

Transfer biological and arrest information from your Flex system to select Live Scan Fingerprint systems. This interface simplifies the submission of fingerprint information to state and federal agencies.

### Feature List

- One-Touch Data Transfer
- Customizable Reporting Features
- Data Accuracy

### Requirements

#### General

- The Flex software must be loaded on a Motorola Solutions approved hardware platform as outlined in current Motorola Solutions policies.
- Flex technicians must have direct modem access to the server where the Flex software is loaded.
- Installation will be done over the support modem.
- If your agency purchased installation services to set up multiple live-scan machines, each task listed in this document must be completed for each machine.
- The System Application Administrator (SAA) or designated assistant must be available to test the interface functionality and check the content of the data file.
- The agency is responsible for all network connectivity.
- If the live-scan vendor modifies any functionality or method of operation of their product and if these modifications require Motorola Solutions to recode any portion of the interface, additional fees for programming will apply.
- Once the live-scan interface has been installed and is operational, the agency is responsible for payment of any additional expenses required by the live-scan vendor.

**Hardware**

Hardware	Model	Vendor/Company	Support	Notes
Live-Scan Machine				<ul style="list-style-type: none"> <li>The live-scan machine must be operational and compatible with Flex specifications.</li> <li>If the live-scan machine is connected to a local network only, a local static IP address is needed for the live-scan server's network card.</li> <li>If the live-scan machine is connected to the state, a second network card or routers to the state machine and the Flex server are required.</li> </ul>
TCP/IP				The live-scan machine must have a TCP/IP connection to the server where the Flex software is loaded.

**Software**

Software	Version	Vendor/Company	Notes
Flex	Version 4.5 or higher	Motorola Solutions, Inc.	
NFS			If NFS Mounting is being used for the communication protocol, NFS server software is required on the Flex server and NFS client software is required on the live-scan server.
Law Records Management module		Motorola Solutions, Inc.	The Flex Law Records Management module or the Jail Management module is required.

## Mobile State & National Queries

### Technical Product Description

#### Summary

Use a state connection to search state and national databases for name, vehicle, property, guns, and wanted person records as well as available images. You can perform state and federal searches simultaneously with one query while using the local RMS query feature to search local database information. Returns are delivered audibly as well as with visual highlights, including any alerts on records containing warnings.

#### Feature List

- State and National Database Queries
- Transaction Recall
- CAD Integration
- Mobile Integration
- Multiple Response Destinations

#### Requirements

##### General

- All requirements in the Flex Mobile TPD must be met
- The State Link interface needs to have been purchased, loaded, and configured
- The Flex software must be loaded on a Motorola Solutions-approved hardware platform as outlined in current Motorola Solutions policies
- Flex technicians must have direct modem access to the server where the Flex software is loaded

#### Software

Software	Version	Vendor/Company	Notes
Flex	Version 4.5 or higher	Motorola Solutions, Inc.	
Mobile	Client	Motorola Solutions, Inc.	Flex Mobile client installed on PCs and laptops.
PI		Motorola Solutions, Inc.	If your state does not have an existing PI, you can have Motorola Solutions create one. (Fees apply. Obtain a price quote from Motorola Solutions for the custom work.) Motorola Solutions maintains a list of states that have a PI available.



## Motorola ASTRO Radio Location Integration

### Technical Product Description

#### Summary

Motorola ASTRO Radio Location Integration, previously known as Flex's Motorola UNS Interface (MUPS), enhances dispatch capabilities by allowing them to see the location of an officer's radio as well as the vehicle on Flex's Computer-Aided Dispatch (CAD) map. Dispatchers can help ensure officer safety with status alerts on integrated dispatch maps, and add new GPS devices to the Flex system without spending time on additional setup.

Motorola will need to assess the customer's radio system (compatibility and capacity) before the customer buys this interface.

#### Feature List

- Real-Time Personnel Locator
- Immediate Status Change Alerts
- New Device Integration

#### Requirements

##### General

- The Mobile software must be loaded on a Motorola Solutions-approved hardware platform, as outlined in current Motorola Solutions policies.
- Flex technicians must have direct access to the server on which Mobile software is installed.

#### Hardware

Hardware	Model	Vendor/Company	Support	Notes
Requirements				<p>Motorola UNS compatible devices</p> <p>To view a list of compatible Astro 25 Motorola devices, click the following link:  <a href="http://www.motorolasolutions.com/en_us/products/two-way-radios/project-25-radios.html">http://www.motorolasolutions.com/en_us/products/two-way-radios/project-25-radios.html</a></p>

#### Software

Software	Version	Vendor/Company	Notes
Flex	Version 6.1 or higher	Motorola Solutions, Inc.	
Mobile AVL module		Motorola Solutions, Inc.	Flex Mobile AVL module. AVL must be turned on in Mobile, and the AVL manager must be running.

UNS Server	Versions 3-4	Motorola	The server must be accessible with a Motorola Application ID.
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## North Carolina eCitations Interface

### Technical Product Description

#### Summary

The eCITATION system is a cooperative effort between the North Carolina Criminal Justice Information Network, the State Highway Patrol, and the Administrative Office of the Courts. The goal of the eCITATION system is to provide a seamless flow of citation information from the patrol cars to the courthouse and to the RMS systems in the state of North Carolina.

The eCITATION Records Management System component was developed to provide citation data on-demand to requesting law enforcement agencies (LEA's) for integration into their local records systems. The LEA's are responsible for integrating the XML data and coordinating the integration with their particular RMS vendor.

Fisher Interface Solutions (Fisher) is the Integration Partner for this interface. The flow of data is one way, coming from the eCITATION program, to a directory location within the agency's network. Fisher will then pickup and convert the XML files into the Flex format and put the files in another directory for Flex to pick up with the Flex TraCS Import Interface.

#### Requirements

##### General

- The format of the XML files converted by Fisher are DEx formats. Therefore, the XML files can be loaded in both Flex versions 4.6 and 6.x.

##### Hardware

Hardware	Model	Vendor/Company	Support	Notes
Requirements				<p>The NC eCitation Interface can be installed on a Windows Server or a Windows PC. The only requirement is that it run .NET Framework. It does not need to be a separate server from Flex if the agency is using a Windows server, it can be installed on the same server. Windows server 2003 forward or XP forward all use .NET by default. If out of compliance with .NET a Windows update generally will fix the issue.</p> <p><a href="http://msdn.microsoft.com/en-us/library/8z6watww(v=vs.100).aspx">http://msdn.microsoft.com/en-us/library/8z6watww(v=vs.100).aspx</a></p>

**Software**

<b>Software</b>	<b>Version</b>	<b>Vendor/Company</b>	<b>Notes</b>
Spillman Flex	Version 4.6 or higher	Motorola Solutions	Flex version 4.6 will need the TraCS Interface to import the XML files.
Spillman Flex	Version 6.x	Motorola Solutions	Flex version 6.x will need the CitationInterface.war or DataExchange.war to import the XML files.
XML Citation Interface			Flex XML Citation Interface – Purchased from a Flex Sales Representative.
NC eCitation Interface			NC eCITATION Interface – Purchased from a Flex Sales Representative; the license is obtained by Flex from Fisher, a Spillman Integration Partner.
eCitation RMS			eCITATION RMS for RMS Interface – Obtained through the state of North Carolina.

## **North Carolina Interplat eCrash Interface Technical Product Description**

To be provided.

## North Carolina IBR Technical Product Description

### Summary

The North Carolina Incident-Based Reporting module (NC-IBR module, also called NCIBASE) allows you to use Summit's Main database and NC-IBR database to compile detailed crime information for submission to the state. For each law incident reported, NC-IBR submits the three most serious offenses. For each arrest reported, NC-IBR submits the most serious offense. The NC-IBR module has a data auditing feature that lets you locate data errors or questionable data prior to submission. The compiled information meets the FBI standard for the National Incident-Based Reporting System (NIBRS).

### Requirements

#### General

- General requirements that may not fit under the categories below.
- May add information indicating that this interface is purchased \*as is\*. Additional modifications will need to be requested and may be custom work.
- R&D is responsible for this section.

#### Hardware

Hardware	Model	Vendor/Company	Support	Notes
Server	UNIX			A UNIX server that is approved by Motorola Solutions and is running the Summit software.
Peripheral Devices				Any peripheral devices required for creating submission files (such as hard disk drives and tape drives). These devices must be installed and working before the Flex Installation technician installs the NC-IBR software.

#### Software

Software	Version	Vendor/Company	Notes
Flex	Version 4.5 or higher	Motorola Solutions, Inc.	
Summit NC-IBR module	Version 4.5 or higher	Motorola Solutions, Inc.	
Summit Hub module	Version 4.5 or higher	Motorola Solutions, Inc.	
Summit Law Enforcement Records Management module	Version 4.5 or higher	Motorola Solutions, Inc.	

## North Carolina StateLink Technical Product Description

### Summary

StateLink for North Carolina. The North Carolina PI allows you to send transactions from the Flex software and from Mobile.

### Feature List

- State and National Database Queries
- CAD Integration
- Alerts on Potential Dangers
- Multiple Response Destinations
- Mobile Integration

### North Carolina transactions available from Mobile

State queries available from Mobile	
• Boat queries	• Vehicle queries
• Driver's License queries	• Wanted Person queries
• Stolen Gun	• Stolen Article queries

### North Carolina transactions available from Flex

Transaction type	Screen access	command	line	Screen name	Message sent	key(s)
Boat	QBOT			Query Boat	QBOT	
Driver	QDRV			Query Driver's License	QDRV	
Firearms	QG			Query Gun	QG	
Hazmat	MQ			Hazardous Material	MQ	
Miscellaneous	FREE			Query Pass Through		
Missing Persons	QM			Query Person	QM	
Property	QA			Query Article	QA	
Securities	QS			Query Security	QS	
Vehicle	QVEH			Query Vehicle	QVEH	
Wanted	CPQ			Query Corrections	CPQ	
	QW			Query Wanted Person	QW	



## Requirements

### Software

Software	Version	Vendor/Company	Notes
Flex	Version 4.5 or higher	Motorola Solutions, Inc.	
O/S	Windows	Microsoft	<ul style="list-style-type: none"> <li>• AIX</li> <li>• Linux</li> </ul>
Other Requirements			<ul style="list-style-type: none"> <li>• StateLink Version: 2.0</li> <li>• Executable: StateLinkNC.war (War)</li> <li>• Protocol: TCP/IP</li> <li>• Delivery Package: Installation package available</li> <li>• NCIC 2000 Standard: Yes</li> <li>• Displays Images in Returns: Yes</li> <li>• Voiced Responses: Yes</li> <li>• Highlighting: Yes</li> <li>• Import to Flex: Yes</li> <li>• Requesting Unit Auto Forward: No</li> <li>• Hit Alerts: No</li> </ul>

## ProQA Paramount Interface

### Technical Product Description

#### Summary

Priority Dispatch's ProQA software automates the process of determining an incident type for emergency calls and provides approved pre-arrival instructions. The series of questions used to determine scene status is called a "protocol." ProQA provides protocols for three public safety disciplines: Medical, Fire and Police. Based on the answers to the questions in the protocol, ProQA provides a determinant code that dispatch uses to send the appropriate response. The Flex ProQA Paramount Interface integrates ProQA with Computer Aided Dispatch (CAD) to streamline the process of gathering and disseminating information from the caller.

#### Feature List

- Bi-Directional Data Flow
- Streamlined Operation
- Fast Response

#### Requirements

##### Software

Software	Version	Vendor/Company	Notes
Flex	Version 6.1 or higher	Motorola Solutions, Inc.	
ProQA Paramount	Version 5.0	Motorola Solutions, Inc.	

## **Exhibit C-6**

### **Data Conversion Scope of Work**

#### **Scope of Work:**

This proposal covers the following records: CAD and LAW data is in **relational** database. Customer will provide Legacy Data in CSV, Excel, or Access database file formats if Legacy data is not in MS SQL or Oracle server.

- Total Number of CAD Calls for service are not available at this time. Full conversion of Calls for service data is to be used in targeted module.
- LAW records related to Case incident, Crash, property and related Name records will be converted in to Flex Law records.
- Jail Base Price will includes < = 10000 Active/Inactive inmates with following information related to Command Central Jail forms: Booking inmate, Arrest, Bond, Bond Payment, Name, NameAddr, Offense, SentenceHold, Housing. You Can Find images with "Yellow" Highlighted fields that Our Standard Conversion covers.
- Converted data will not be the in live Flex system, but reside in the secondary Flex database. Additional support cost needs to add to maintain secondary Flex database on top of conversion pricing. Legacy Image is in scope for this conversion.
- Any addresses that are part of the data conversion cannot be Geo Verified. We assume that the Legacy address was already Geo Verified in the previous system.
- Following a deliverable (Test iterations & Live Cut), Motorola expects the customer to review and report any issues within 10 business days.
- A Project schedule will be developed, and mutually agreed to during the initiation of the conversion project.
- System code, configuration, and maintenance tables will not be associated with conversion tasks.

#### **Customer Responsibilities:**

1. Provide Motorola with adequate documentation of the legacy database and field mapping information.
2. Cleanse data in the legacy database prior to data conversion; specifically, Duplicate Master records.
3. Participate in a Data Conversion Preparation Workshop.
4. Review and verify all converted data for accuracy within each iteration process.
5. Approve the data conversion requirements document prepared by Motorola Solutions.

#### **Motorola Solutions Responsibilities:**

1. Data mapping (create initial data mapping document)
2. Data Conversion Preparation Workshop (review, revise, accept data mapping document)
3. Data Conversion ETL (Extraction, Translate, Load) script Development
4. Data Migration (Two Test Load Iterations & Live Cut)

## **Summary**

Our Standard Conversion covers fields provided an equivalent field is located in the Customer's Legacy system. Some field mapping can be modified during Data Mapping/Preparation workshop with the Customer, provided can find additional field matches.

## EXHIBIT D

### Maintenance and Support Agreement

This Exhibit D, Flex Maintenance and Support Agreement ("Agreement"), is between Motorola Solutions, Inc., ("Motorola"), and Town of Valdese, NC ("Customer").

For good and valuable consideration, the parties agree as follows:

#### Section 1: Definitions

- 1.1 **"Coverage Hours"** means the hours between 5:00 a.m. and 6:00 p.m., Mountain Time, Monday through Friday, excluding regularly scheduled holidays of Motorola.
- 1.2 **"Documentation"** means all written or electronic user documentation for the Software provided by Motorola to Customer. Documentation does not include Motorola marketing materials.
- 1.3 **"Enhancement"** means any modification or addition that, when made or added to the Software, changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. Motorola may designate Enhancements as minor or major, depending on Motorola's assessment of their value and of the function added to the preexisting Software.
- 1.4 **"Error"** means any failure of the Software to conform in all material respects to its functional specifications as published from time to time by Motorola, subject to the exceptions set forth in Section 4.
- 1.5 **"Error Correction"** means either a software modification or addition that, when made or added to the Software, establishes material conformity of the Software to the functional specifications, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect on Customer of such nonconformity. Error Correction services are subject to the exceptions set forth in Section 4.
- 1.6 **"Primary Agreement"** means the agreement to which this exhibit is attached.
- 1.7 **"Releases"** means new versions of the Software, including all Error Corrections and Enhancements.
- 1.8 **"Response Time"** means six (6) or less Coverage Hours, from the time Customer first notifies Motorola of an Error until Motorola initiates work toward development of an Error Correction.
- 1.9 **"Software"** means the package of Motorola computer program(s), interfaces and/or data, in machine-readable form only, as well as related materials, including Documentation, initially or subsequently licensed by Customer. Software also includes all Utilities, modifications, new Releases and Enhancements. "Software" specifically excludes Third Party Software, except to the extent otherwise expressly stated in this Agreement.
- 1.10 **"System Application Administrator"** means an agent of Customer appointed by Customer, who has been certified on the Software by Motorola, pursuant to the procedures set forth in Section 6 hereof, and is able to communicate effectively with Motorola support personnel in the description and resolution of problems associated with the Software.
- 1.11 **"Support Term"** means the entire period during which Customer is receiving support services for the Software under the terms of this Support Agreement, beginning on the installation date of the Software. Support services are included during the Software's Warranty Period, as defined in Section 6.1 of Exhibit A, which is the "Initial Support Term." Thereafter, the Support Term shall automatically renew for successive periods of one year each, unless and until terminated pursuant to Section 8

hereof. In no event, however, shall the Support Term extend beyond the term of the Software License in Exhibit A

- 1.12 **“Third Party Software”** means software owned by third parties, whether (i) licensed by the third party to Motorola for distribution to Motorola’s customers with the Software, such as mapping software, database software, paging software or open source software, or (ii) separately acquired by Customer as necessary or appropriate for use in conjunction with the Software, such as word processors, spreadsheets, terminal emulators, etc.
- 1.13 **“Utilities”** means the software utilities and tools provided by Motorola as part of the Software, including Motorola’s XML Query, ODBC interface and implementation code, ctpperl, dbdump, and dbload, as well as any other software utilities provided by Motorola in connection with the Software.

## Section 2: Eligibility For Support

- 2.1 **Support Termination.** Motorola’s obligation to provide the support and maintenance services described in this Support Agreement with respect to the Software may be terminated pursuant to Section 8.2.2 or suspended, at Motorola’s discretion, if at any time during the term of this Support Agreement any of the following requirements are not met:
- 2.1.1 The Software License in Exhibit A must remain valid and in effect at all times;
  - 2.1.2 The Software must be operated on a hardware platform, operating system and version approved by Motorola; and
  - 2.1.3 Customer must be current on payment of maintenance and support fees.
- 2.2 **SAA Replacement.** Motorola may require Customer to appoint a new Motorola Application Administrator (“SAA”) in order to continue receiving support services or increase Customer’s support fees, if Motorola reasonably determines that the acting SAA does not have the training or experience necessary to communicate effectively with Motorola support personnel.

## Section 3: Scope of Services

During the Support Term, Motorola shall render the following services in support of the Software, during Coverage Hours:

- 3.1 **Support Center.** Motorola shall maintain a Support Services Control Center capable of receiving from the SAA reports of any software irregularities, and requests for assistance in use of the Software.
- 3.2 **Services Staff.** Motorola shall maintain a trained staff capable of rendering support services set forth in this Support Agreement.
- 3.3 **Error Correction.** Motorola shall be responsible for using all reasonable diligence in correcting verifiable and reproducible Errors when reported to Motorola in accordance with Motorola’s standard reporting procedures. Motorola shall, after verifying that such an Error is present, initiate work within the Response Time in a diligent manner toward development of an Error Correction. Following completion of the Error Correction, Motorola shall provide the Error Correction through a “temporary fix” consisting of sufficient programming and operating instructions to implement the Error Correction and Motorola shall include the Error Correction in all subsequent Releases of the Software. Motorola supports two (2) versions back from the most recent release version. However, Motorola may, but is not obligated to, provide Error Corrections for any version of the Software other than the most recent Release.
- 3.4 **Software Releases.** Motorola may, from time to time, issue new Releases of the Software to its Customers generally, containing Error Corrections, minor Enhancements, and, in certain instances,

if Motorola so elects, major Enhancements. Motorola reserves the right to require additional license fees for major Enhancements. Motorola shall provide Customer with one copy of each new Release, without additional charge. Motorola shall provide reasonable assistance to help Customer install and operate each new Release, provided that such assistance, if required to be provided at Customer's facility, shall be subject to the supplemental charges set forth in Motorola's current Fee Schedule.

- 3.5 **Enhancements.** Motorola shall consider and evaluate the development of Enhancements for the specific use of Customer and shall respond to Customer's requests for additional services pertaining to the Software (including, without limitation, data conversion and report-formatting assistance), provided that such assistance, if agreed to be provided, shall be subject to supplemental charges mutually agreed to in writing by Motorola and Customer.

#### **Section 4: Services Not Covered by this Support Agreement**

The services identified in this section are NOT covered by this Support Agreement. Motorola strongly recommends that Customer secure a separate support agreement with third party vendors for all non-Motorola products. Motorola may, in its discretion, provide such services to Customer upon request, for an additional fee as the parties may agree in writing.

- 4.1 **Third Party Products.** Motorola will not provide support for any third party products, including hardware, or support for hardware failure due to the use of any third party products. Motorola may in its discretion provide first-line support for Third Party Software distributed by Motorola; if not, Motorola will refer Customer to the vendor of such software for resolution of support issues.
- 4.2 **Customized Interfaces and Software.** Motorola's standard support does not include support for any custom interfaces or other customized Software developed by Motorola or any third party for Customer. Support and maintenance services for customized Software are subject to an additional support fee, if agreed in writing between the parties. Such support and maintenance services include bug fixes and minor modifications to the custom interface or software. They do NOT include major revisions or rewrites, such as those required to make a custom interface work with a new or upgraded version of the applicable third party software. Custom interfaces and support therefore are specific to the designated version of the applicable third party software or system. Any major changes to such third party software or system will require a new custom quote for Motorola to modify the custom interface to work with the new version of the third party software or system. Motorola's support fees may also differ for the new version of the custom interface.
- 4.3 **Network Failures.** Motorola will not provide support for any network failures or problems including, but not limited to, cabling, communication lines, routers, connectors, and network software.
- 4.4 **Data Recovery.** Motorola's standard support does not include restoration and/or recovery of data files and/or the operating system. Motorola will, upon request of Customer and subject to its then-current fees for such services, use reasonable efforts to assist Customer in recovering lost data.
- 4.5 **Unauthorized Use.** Motorola will not provide support where the problem arises out of any breach of warranty, damages to the Software or its database, data corruption, or support issues, security issues, or performance issues arising out of Customer's or a third party's use of the Utilities or any software not specifically licensed by Motorola to Customer for use in connection with the Software. Any assistance provided by Motorola in resolving such problems shall be charged to Customer on a time and materials basis. Additionally, any unauthorized use of the Utilities or other software in connection with the Software by Customer (or by a third party with Customer's knowledge) may result, at Motorola's sole option, in voidance of warranties, an increase in the annual maintenance and support fees under this Support Agreement, and/or loss of rights to upgrades under this Support Agreement.
- 4.6 **Database Modifications.** Motorola will not provide support for any damages to or problems with the Software or its database, data corruption, support issues, security issues, or performance issues



arising from Customer's utilization of the "write" feature of the ODBC interface to write to or modify the database in any way.

- 4.7 **Misuse or Damage.** Motorola will not provide support for Software problems caused by Customer misuse, alteration or damage to the Software or Customer's combining or merging the Software with any hardware or software not supplied by or identified as compatible by Motorola, customizing of programs, accident, neglect, power surge or failure, lightning, operating environment not in conformance with the manufacturer's specifications (for electric power, air quality, humidity or temperature), or Third Party Software or hardware malfunction.
- 4.8 **Operating System.** Motorola is not responsible for supporting, configuring, maintaining, or upgrading the operating system, including, but not limited to, backups, restores, fixes, and patches, or for providing assistance with problems caused by operating system installation, configuration, errors, maintenance or repair, or using incorrect versions of the operating system.
- 4.9 **Onsite Visits.** Onsite service visits to Customer's facility by Motorola are subject to additional charges, as set forth in Section 7.5.
- 4.10 **Printers.** Motorola is not responsible for supporting printers connected to the back of terminals/personal computers (commonly called pass-through printing) or network printers are not supported by Motorola.

## Section 5: Obligations of Customer

- 5.1 **Software Connectivity.** Customer must maintain and provide, at no cost to Motorola, a CJIS-approved broadband internet connection to the server used with the Software, 24 hours per day, 7 days per week, to facilitate remote support utilities enabling Motorola support personnel to connect to and provide assistance with the server used with the Software. Third party connectivity tools, such as client VPN software, which must be installed on Motorola equipment, cannot be required by Customer.
- 5.2 **Customer Representative During Onsite Visits.** Customer's SAA or another authorized representative of Customer must be present when any onsite support is provided. Customer agrees that if such representative is not present when the Motorola representative arrives onsite, the Motorola representative shall notify an appropriate representative of Customer, if feasible, that there is no Customer IT representative present. If Customer's IT representative does not arrive within a reasonable time, no work will be performed and Customer will be charged for Motorola's expenses relating to the visit. If Motorola's on-site support person determines that changes to Customer's system (hardware or software) are required or advisable, it will inform Customer's representative. If such representative is not authorized to make or approve changes to Customer's system, as applicable, Customer will promptly make available such a person.
- 5.3 **English Language.** All communications between Customer and Motorola must be in the English language.
- 5.4 **SAA Assignment.** Customer is responsible for providing one or more qualified Motorola Application Administrators as described in Section 6 hereof. At least one authorized representative, identified to Motorola by Customer in writing with contact information, must be available at all times; however, after-hours availability is required only when and if Customer is requesting after-hours support from Motorola.
- 5.5 **Security.** Customer is responsible for providing all network and server security.
- 5.6 **Error Information.** Customer must provide Motorola with information sufficient for Motorola to duplicate the circumstances under which an Error in the Software became apparent.

- 5.7 **CJIS Compliance.** Customer is responsible for its own adherence to the FBI Criminal Justice Information Services (CJIS) Security Policy, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (to the extent applicable) and any other applicable security and privacy laws and regulations. Motorola will reasonably cooperate with Customer in connection therewith.

## Section 6: SAA and Support Contact Requirements

- 6.1 **Certification.** Customer's designated SAA must be certified by Motorola within one year of the date of Customer's cutover to live operation of the Software ("Go-live"). The designated SAA must meet the following requirements in order to certify at the basic level:
- 6.1.1 Attend and participate in, and successfully pass the final written and practical examinations from the following courses within one hundred twenty (120) days of installation of the Software:
    - i. System Introduction – Inquiry,
    - ii. System Introduction – Data Entry & Modification,
    - iii. Basic System Administration, and
    - iv. General training applicable to the Software used by Customer.
  - 6.1.2 Pass the Basic SAA exam within one year after the agency's Go-live date.
- 6.2 **SAA Training Costs.** Customer will be responsible for the costs of such training, including any course fees, travel, and lodging expenses.
- 6.3 **SAA and Support Contact Information.** Contact information for Customer's SAA(s) and other authorized support contacts must be provided by Customer to Motorola's Technical Services department. Any changes to Customer's SAA and support contacts names and contact information must be promptly provided to Motorola's support department.
- 6.4 **Qualifications.** Each designated SAA and Customer support contact must be qualified to address, or have other support resources to address, without the aid of Motorola, all problems relating to hardware, software, or operating system not directly associated with the Software.

## Section 7: Fees and Charges

- 7.1 **Support Fees.** During the Initial Support Term, support services are included as part of the initial purchase price paid by Customer. Thereafter, Customer shall pay Motorola the applicable support fees or Motorola support invoice, and any other charges or fees described herein. Motorola reserves the right to change its support fee, effective upon no less than 90 days written notice to Customer prior to the end of the current annual period.
- 7.2 **Support Fee Invoices.** Motorola shall invoice Customer for annual Support Fees at the beginning of each contract year. In the event that additional billable work is performed, all billable charges and expenses will be invoiced to Customer at the beginning of the month following the month in which those charges and expenses accrued or were incurred. Customer shall pay the invoiced amounts immediately upon receipt of such invoices. Any amount not paid within thirty (30) days after the invoice date shall bear interest at the rate of eighteen (18) percent per year or the highest rate allowed by applicable law, whichever is less.
- 7.3 **Equipment Fees.** Customer shall be responsible for and agrees to pay the fees and charges incurred for procuring, installing, and maintaining all equipment, telephone lines, modems, communications interfaces, networks, and other products necessary to operate the Software.
- 7.4 **After-Hours Charges.** Customer agrees to pay additional charges according to the Motorola Fee Schedule for all work required by Customer and performed outside of Coverage Hours. These

charges are applicable for any work performed outside of the Coverage Hours, REGARDLESS OF THE CAUSE, even if the requested work was reported and/or initiated during normal Coverage Hours.

- 7.5 **Onsite Support** If Customer requests onsite support services, Customer shall reimburse Motorola for all labor, travel, and related expenses incurred by Motorola in providing such support services.
- 7.6 **Additional Fees.** Additional support fees may be required by Motorola if there is a significant increase in Customer's size with respect to use of the Software. An increase in size may arise either out of Customer's internal growth or out of a Host Agency/Shared Agency arrangement as described in Section 1 of Exhibit F, if applicable. Relevant factors include number of employees, number of dispatchers and/or number of jail beds. Payment of such additional Support Fees is due within thirty (30) days of the date of the invoice for such fees. Such fees will be prorated, based upon the date during the contract year the increase in Customer's size occurred. Additionally, Motorola may adjust support fees based on changes in (1) additional licenses or modules purchased by Customer, (2) Customer's hardware, (3) the Coverage Hours selected by Customer, or (4) Customer's violation of the restrictions set forth in Section 4.5 hereof.

- 7.6.1 **Inflation Adjustment.** 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).

## Section 8: Termination

- 8.1 **Automatic Termination.** This Support Agreement shall automatically terminate immediately upon termination of the Software License in Exhibit A for any reason.
- 8.2 **Termination by a Party.** Either party may terminate this Support Agreement as follows:
- 8.2.1 If either Motorola or Customer provides a written notice to the other party, at least 90 days prior to the end of the then-current Support Term, of its intent to terminate this Support Agreement at the end of such Support Term; or
- 8.2.2 Upon 30 days prior written notice, if the other party has materially breached any provision of this Support Agreement and the offending party has not cured such breach within the 30-day notice period.
- 8.3 **Final Invoicing upon Termination.** Following termination of this Support Agreement, Motorola shall immediately invoice Customer for all accrued fees, charges, and reimbursable expenses; and Customer shall pay the invoiced amount immediately upon receipt of such invoice.

## Section 9: General

- 9.1 **Incorporation of Additional Terms.** The terms of Section 3.5 (Motorola Software); Section 3.6, (Non-Motorola Software); Section 10.9 (Disclaimer of Other Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17 are hereby incorporated into this Agreement by reference.

**Exhibit E**  
**SYSTEM ACCEPTANCE CERTIFICATE**  
**Public Safety Applications**

**Customer Name:** Town of Valdese, NC

**Project Name:** \_\_\_\_\_

This System Acceptance Certificate memorializes the occurrence of System Acceptance. Motorola and Customer acknowledge that the system is accepted.

**Customer Representative**

Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Motorola Representative**

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**

Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Motorola Representative**

Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Exhibit F**  
**EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE**  
**CERTIFICATE**

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee (Customer) and Lessor.

**Equipment Lease Purchase Agreement No.:** \_\_\_\_\_

**Lease Schedule A No. :** \_\_\_\_\_

**EQUIPMENT INFORMATION**

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# _____. See Schedule A for a detailed Equipment List.

**LESSEE/CUSTOMER:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**Please complete this form and send a copy via US mail or email to:**

Motorola Solutions Credit Company LLC

Attn: Bill Stancik, Finance Manager | 500 W. Monroe, 44th Floor | Chicago, IL 60661

Email: bill.stancik@motorolasolutions.com | Telephone: (847) 538-4531

## Exhibit G

### SUBSCRIPTION SERVICES ADDENDUM

This Addendum to the Computer Aided Dispatch and Records System and Services Agreement or other previously executed and currently in force Agreement, as applicable ("Primary Agreement") provides additional or different terms and conditions to govern the sale of Subscription Services. The terms in this Addendum are integral to and incorporated into the Primary Agreement signed by the Parties.

The terms of the Addendum, including addendums, exhibits, and attachments combined with the terms of any applicable Incorporated Documents 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 Addendum and the terms and conditions of the applicable Incorporated Documents, the Incorporated Documents take precedence.

#### 1. DEFINITIONS

All capitalized terms not otherwise defined in this Addendum shall have the same meaning as defined in the Primary Agreement.

Any reference to the purchase or sale of software or other Intellectual Property shall mean the sale or purchase of a license or sublicense to use such software or Intellectual Property in accordance with this Addendum.

**"Administrator"** means Customer's designated system administrator who receives administrative logins for the Subscription Services and issues access rights to Customer's Users.

**"Anonymized"** means having been stripped of any personal or correlating information revealing original source or uniquely identifying a person or entity.

**"Confidential Information"** means any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as confidential at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure. Confidential Information does not include any information that: is or becomes publicly known through no wrongful act of the receiving Party; is already known to the receiving Party without restriction when it is disclosed; is or becomes, rightfully and without breach of this Agreement, in the receiving Party's possession without any obligation restricting disclosure; is independently developed by the receiving Party without breach of this Addendum; or is explicitly approved for release by written authorization of the disclosing Party.

**"Customer Data"** means Native Data provided by Customer to Motorola hereunder to be processed and used in connection with the Subscription Services. Customer Data does not include data provided by third parties and passed on to Motorola.

**"Documentation"** means the technical materials provided by Motorola to Customer in hard copy or electronic form describing the use and operation of the Solution and Software, including any technical manuals, but excluding any sales, advertising or marketing materials or proposals.

**"Effective Date"** means, as applicable, the date of the last signature to include this Addendum., unless access to the Subscription Service occurs later, in which case, the Effective Date will be the date when Customer first has access to the Subscription Services.

**"Feedback"** means comments or information, in oral or written form, given to Motorola by Customer, in connection with or relating to the Solution and Subscription Services.

**"Force Majeure"** which 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.

**“Licensed Product”** means 1) Software, whether hosted or installed at Customer's site, 2) Documentation; 3) associated user interfaces; 4) help resources; and 5) any related technology or other services made available by the Solution.

**“Native Data”** means data that is created solely by Customer or its agents.

**“Proprietary Rights”** means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, ideas and concepts, moral rights, processes, methodologies, tools, techniques, and other intellectual property rights.

**“Software”** means the Motorola owned or licensed off the shelf software programs delivered as part of the Licensed Products used to provide the Subscription Services, including all bug fixes, updates and upgrades.

**“Solution”** means collectively, the Software, servers and any other hardware or equipment operated by Motorola and used in conjunction with the Subscription Services.

**“Statement of Work”** If included, the Statement of Work (“SOW”) describes the Subscription Services, Deliverables (if any), Licensed Products and Solution that Motorola will provide to Customer under this Agreement, and the other work-related responsibilities that the parties owe to each other. The Statement of Work may contain a performance schedule.

**“Subscription Services”** means those subscription services to be provided by Motorola to Customer under this Agreement, the nature and scope of which are more fully described in the Documentation, proposal, SOW, or other Solution materials provided by Motorola, as applicable.

**“Users”** means Customer's authorized employees or other individuals authorized to utilize the Subscription Services on behalf of Customer and who will be provided access to the Subscription Services by virtue of a password or equivalent security mechanism implemented by Customer.

## 2. SCOPE

**2.1 Subscription Services.** Motorola will provide to Customer the Subscription Services and Deliverables (if any). As part of the Subscription Services, Motorola will allow Customer to use the Solution described in the Statement of Work, Documentation, proposal, or other Solution materials provided by Motorola (“Incorporated Document(s)”), as applicable. Some Subscription Services will also be subject to additional terms unique to that specific Subscription Service. Such additional terms will be set forth in an Addendum. In the event of a conflict between an Addendum and the body of the Agreement, the Addendum will govern resolution of the conflict. Motorola and Customer will perform their respective responsibilities as described in this Agreement and any applicable Incorporated Documents.

**2.2 Changes.** Customer may request changes to the Services. If Motorola agrees to a requested change, the change must be confirmed in writing and signed by authorized representatives of both parties. A reasonable price adjustment will be made if any change affects the time of performance or the cost to perform the Services.

**2.3 Non-solicitation.** During the term of this Addendum and for twelve (12) months thereafter, Customer will not actively solicit the employment of any Motorola personnel who is involved directly with providing any of the Services.



### 3. TERM

**3.1 Term.** Unless a different Term is set forth in an applicable Addendum or the Incorporated Documents, the Term of this Agreement begins on the Effective Date and continues for twelve (12) months. The Agreement renews automatically annually on the anniversary of the Effective Date, unless either Party notifies the other of its intention to not renew the Agreement (in whole or part) at least thirty (30) days before the anniversary date or until termination by either Party in accordance with the Termination section of this Agreement.

**3.2 Minimum Initial Term.** For certain Subscription Services, a minimum initial term greater than one year may be required ("Minimum Initial Term"). Following the Minimum Initial Term, this Agreement will automatically renew upon each anniversary of the Effective Date for a successive renewal term of the same duration as the Minimum Initial Term, unless either Party: 1) notifies the other of its intention to not renew the Agreement (in whole or part) at least thirty (30) days before the anniversary date; 2) requests an alternate term; or 3) terminates in accordance with the termination provision in the Agreement, including non-payment of fees for the renewal period by the anniversary date.

**3.3 Renewals.** The terms and conditions of the Agreement will govern any renewal periods.

**4. CUSTOMER OBLIGATIONS.** Customer will fulfill all of its obligations in this Agreement, including applicable addendums and Incorporated Documents in a timely and accurate manner. Failure to do so may prevent Motorola from performing its responsibilities.

**4.1 Access.** To enable Motorola to perform the Subscription Services, Customer will provide to Motorola reasonable access to relevant Customer information, personnel, systems, and office space when Motorola's employees are working on Customer's premises, and other general assistance. Further, if any equipment is installed or stored at Customer's location in order to provide the Subscription Services, Customer will provide, at no charge, a non-hazardous environment with adequate shelter, heat, light, power, security, and full and free access to the equipment.

**4.2 Customer Information.** If the Documentation, Statement of Work, proposal, or other related documents contain assumptions that affect the Subscription Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Subscription Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management and third party approvals or consents that are reasonably necessary for Motorola to perform the Subscription 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.

**4.3 Risk of Loss.** If any portion of the Solution resides on Customer premises or is under Customer's control in any way, Customer shall at all times exercise reasonable care in using and maintaining the Solution in accordance with Motorola's instructions for proper use and care. Risk of loss to any equipment in Customer's possession will reside with Customer until removed by Motorola or its agent or returned by Customer. Customer will be responsible for replacement costs of lost or damaged equipment, normal wear and tear excluded.

**4.4 Equipment Title.** Unless Customer is purchasing equipment pursuant to the terms in the Primary Agreement and unless stated differently in this Addendum or in the Incorporated Documents, title to any equipment provided to Customer in connection with the Subscription Services remains vested in Motorola at all times. Any sale of equipment pursuant to this Addendum will be governed by the terms and conditions set forth in the Primary Agreement.

**4.5 Enable Users.** Customer will properly enable its Users to use the Subscription Services, including providing instructions for use, labeling, required notices, and accommodation pursuant to applicable laws, rules, and regulations. Unless otherwise agreed in the Incorporated Documents, Customer will train its

Users on proper operation of the Solution and Licensed Products. Customer agrees to require Users to acknowledge and accept the limitations and conditions of use of the Licensed Products in this Agreement prior to allowing Users to access or use Subscription Services.

**4.6 Non-preclusion.** If, as a result of the Subscription Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a competitive opportunity 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.

## **5. Subscription Fees.**

**5.1 Recurring Fees.** Unless stated differently in an applicable addendum, Incorporated Documents or otherwise arranged in writing with Motorola, Services will be provided in exchange for annual pre-paid Subscription Fees. Motorola will submit an invoice for the first year of subscription fees on the Effective Date. On each anniversary of the Effective Date, Motorola will issue an invoice for the annual subscription fees for the following year.

**5.1.1 No Purchase Order Requirement.** For a Subscription Services Term exceeding one year, Customer affirms that a purchase order or notice to proceed is not required for Motorola to proceed with the entire scope of work described in the Incorporated Documents for subsequent years, including but not limited to multi-year subscription agreements.

**5.2 Start Up Fees.** Start up fees apply to certain Subscription Services. If the Subscription Service includes start up fees, Motorola will submit an invoice for the start up fees on the Effective Date.

**5.3 Fee Change.** Motorola reserves the right to change the subscription fees at the end of each Subscription Services Term. Except for any payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Motorola reserves the right to terminate Service for non-payment of fees.

**5.4 No Price Guarantee.** Notwithstanding any language to the contrary, the pricing and fees associated with this Agreement will not be subject to any most favored pricing commitment or other similar low price guarantees.

**5.5 Taxes.** The Subscription Fees and start up fees do 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 those taxes, it 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. Motorola will be solely responsible for reporting taxes on its income or net worth.

## **6. ACCEPTANCE; SCHEDULE; FORCE MAJEURE**

**6.1 Acceptance.** The Licensed Products will be deemed accepted upon the delivery of usernames and passwords or other validation mechanism to Customer. If usernames and passwords have been issued to Customer prior to the Effective Date, the Licensed Products will be deemed accepted on the Effective Date.

**6.2 Schedule.** All Subscription Services will be performed in accordance with the performance schedule included in the Statement of Work, or if there is no performance schedule, within a commercially reasonable time period.

**6.3 Force Majeure.** Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. Each Party will notify the other in writing if it becomes aware of any Force

Majeure that will significantly delay performance. The notifying Party will give the notice promptly (but in no event later than fifteen (15) days) after it discovers the Force Majeure.

## 7. LIMITED LICENSE

7.1 **Licensed Products.** Use of the Licensed Products by Customer and its Users is strictly limited to use in connection with the Solution or Subscription Services during the Term. Customer and Users will refrain from, and will require others to refrain from, doing any of the following with regard to the Software in the Solution: (i) directly or indirectly, by electronic or other means, copy, modify, or translate the Software; (ii) directly or indirectly, by electronic or other means, reproduce, reverse engineer, distribute, sell, publish, commercially exploit, rent, lease, sublicense, assign or otherwise transfer or make available the Licensed Products or any part thereof to any third party, or otherwise disseminate the Licensed Product in any manner; (iii) directly or indirectly, by electronic or other means, modify, decompile, or disassemble the Software or part thereof, or attempt to derive source code from the Software; or (iv) remove any proprietary notices, labels, or marks on the Software or any part of the Licensed Products. Motorola Solutions reserves all rights to the Software and other Licensed Products not expressly granted herein, including without limitation, all right, title and interest in any improvements or derivatives conceived of or made by Motorola that are based, either in whole or in part, on knowledge gained from Customer Data. Customer agrees to abide by the copyright laws of the United States and all other relevant jurisdictions, including without limitation, the copyright laws where Customer uses the Solution. Customer agrees to immediately cease using the Solution if it fails to comply with this paragraph or any other part of this Agreement. If Software is subject to a click wrap, end user license agreement or is otherwise packaged with or subject to a separate end user license, such license will apply to the use of Software and Licensed Product.

7.2 **Proprietary Rights.** Regardless of any contrary provision in the Agreement, Motorola or its third party providers own and retain all of their respective Proprietary Rights in the Software, Solution, and Licensed Product. Nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing Services to Customer remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. No custom development work is to be performed under this Agreement.

## 8. DATA AND FEEDBACK

8.1 **Solution Data.** To the extent permitted by law, Motorola, its vendors and licensors are the exclusive owners of all right, title, and interest, in and to the Solution Data, including all intellectual property rights therein. Motorola grants Customer a personal, royalty-free, non-exclusive license to: (i) access, view, use, copy, and store the Solution Data for its internal business purposes and, (ii) when specifically permitted by the applicable Statement of Work, publish Solution Data on its websites for viewing by the public.

8.2 **Customer Data.** To the extent permitted by law, Customer retains ownership of Customer Data. Customer grants Motorola and its subcontractors a personal, royalty-free, non-exclusive license to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data for the purpose of providing the Subscription Services to Customer, other Motorola Customers and end users, including without limitation, the right to use Customer Data for the purpose of developing new or enhanced solutions. In addition to the rights listed above, Customer grants Motorola a license to sell an Anonymized version of Customer Data for any purpose.

8.3 **Feedback.** Any Feedback given by Customer is entirely voluntary and, even if designated as confidential, will create no confidentiality obligation for Motorola. Motorola is 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 improvement to the Licensed Product or Subscription Service 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 Licensed Product or Subscription Service will vest solely in Motorola.

## 9 WARRANTY

9.1 **“AS IS”.** THE SOLUTION AND SUBSCRIPTION SERVICES ARE PROVIDED “AS IS”. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. 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.

9.2 **Availability and Accuracy.** Customer acknowledges that functionality of the Solution as well as availability and accuracy of Solution Data is dependent on many elements beyond Motorola’s control, including databases managed by Customer or third parties and Customer’s existing equipment, software, and Customer Data. Therefore, Motorola does not guarantee availability or accuracy of data, or any minimum level of coverage or connectivity. Interruption or interference with the Subscription Services or Solution may periodically occur. Customer agrees not to represent to any third party that Motorola has provided such guarantee.

9.3 **Equipment Sale.** Warranty for any equipment sold pursuant to this Addendum will be set forth in the Primary Agreement.

## 10. DISCLAIMERS

10.1 **Existing Equipment and Software.** If Customer’s existing equipment and software is critical to operation and use of the Subscription Services, Customer is solely responsible for supporting and maintaining Customer’s existing equipment and software. Connection to or interface with Customer’s existing equipment and software may be required to receive Subscription Services. Any failures or deficiencies of Customer’s existing equipment and software may impact the functionality of the Solution and the Subscription Services to be delivered. Any vulnerabilities or inefficiencies in Customer’s system may also impact the Solution and associated Subscription Services.

10.2 **Privacy.** Customer bears sole responsibility for compliance with any laws and regulations regarding tracking; location based services; gathering, storing, processing, transmitting, using or misusing; or otherwise handling personally identifiable information (“PII”), including information about Users of the Solution or citizens in the general public. Further, it is Customer’s sole responsibility to comply with any laws or regulations prescribing the measures to be taken in the event of breach of privacy or accidental disclosure of any PII. Enacting and enforcing any internal privacy policies for the protection of PII, including individual disclosure and consent mechanisms, limitations on use of the information, and commitments with respect to the storage, use, deletion and processing of PII in a manner that complies with applicable laws and regulations will be Customer’s sole responsibility. Motorola will not evaluate the sufficiency of such policies and disclaims any responsibility or liability for privacy practices implemented by Customer, or lack thereof. Customer acknowledges and agrees that Subscription Services and the Solution are not designed to ensure individual privacy. Customer will inform Users that the Solution may enable visibility to PII, as well as physical location of individuals. Further, if the Solution or Subscription Services are available to the general public pursuant to this Agreement, Customer will provide the appropriate privacy notification. Neither Motorola nor Customer can provide any assurance of individual privacy in connection with the Solution. Further, Customer is solely responsible for determining whether and how to use data gathered from social media sources for the purpose of criminal investigations or prosecution. Customer will hold Motorola harmless from any and all liability, expense, judgment, suit, or cause of action, which may accrue against Motorola for causes of action for damages related to tracking, location based services, breach of privacy, and the use or misuse of PII provided that Motorola gives Customer prompt, written notice of any such claim or suit. Motorola shall cooperate with Customer in its defense or settlement of such claim or suit.

**10.3 Social Media.** If Customer purchases Subscription Services that utilize social media, Customer acknowledges and agrees that such Subscription Services are not designed to ensure individual privacy. In such case, Customer will inform Users that the Solution and Subscription Services may enable visibility to PII, as well as physical location of individuals. Further, if the Solution or Subscription Services are available to the general public pursuant to this Agreement, Customer will provide the appropriate privacy notification. Neither Motorola nor Customer can provide any assurance of individual privacy in connection with the Solution or Subscription Services utilizing social media. Further, Customer is solely responsible for determining whether and how to use data gathered from social media sources for the purpose of criminal investigations or prosecution. Customer will hold Motorola harmless from any and all liability, expense, judgment, suit, or cause of action, which may accrue against Motorola for causes of action for damages related to tracking, location based services, breach of privacy, and the use or misuse of PII provided that Motorola gives Customer prompt, written notice of any such claim or suit. Motorola shall cooperate with Customer in its defense or settlement of such claim or suit.

**10.4 Misuse.** Motorola reserves the right to discontinue service at any time without notice to Users that misuse the Service, jeopardize the Licensed Product or public safety in any way.

## **11. LIMITATION OF LIABILITY**

**11.1 Liability Limit.** 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 Subscription Services 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, GOODWILL, 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 THE SUBSCRIPTION SERVICES BY MOTOROLA.** This limitation of liability provision survives the expiration or termination of this 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.

**11.2 Additional Disclaimers.** MOTOROLA DISCLAIMS ANY AND ALL LIABILITY FOR ANY AND ALL LOSS OR COSTS OF ANY KIND ASSOCIATED WITH 1) THE INTERRUPTION, INTERFERENCE OR FAILURE OF CONNECTIVITY, VULNERABILITIES OR SECURITY EVENTS, WHETHER OR NOT THEY ARE DISCOVERED BY MOTOROLA; 2) PERFORMANCE OF CUSTOMER'S EXISTING EQUIPMENT AND SOFTWARE OR ACCURACY OF CUSTOMER DATA; 3) IF ANY PORTION OF THE SOLUTION OR LICENSED PRODUCT RESIDES ON CUSTOMER'S PREMISES, DISRUPTIONS OF AND/OR DAMAGE TO CUSTOMER'S OR A THIRD PARTY'S INFORMATION SYSTEMS, EQUIPMENT, AND THE INFORMATION AND DATA, INCLUDING, BUT NOT LIMITED TO, DENIAL OF ACCESS TO A LEGITIMATE SYSTEM USER, AUTOMATIC SHUTDOWN 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) AVAILABILITY OR ACCURACY OF SOLUTION DATA; 5) INTERPRETATION, USE OR MISUSE IN ANY WAY OF SOLUTION DATA; 6) IMPLEMENTATION OF RECOMMENDATIONS PROVIDED IN CONNECTION WITH THE SUBSCRIPTION SERVICES; 7) TRACKING, AND LOCATION BASED SERVICES, BREACH OF PRIVACY, AND THE USE OR MISUSE OF PERSONALLY IDENTIFIABLE INFORMATION.

**11.3 Essential term.** The parties acknowledge that the prices have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

## **12 DEFAULT AND TERMINATION**

**12.1 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, 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.

**12.2 Failure To Cure.** If a defaulting Party fails to cure the default as provided above in Section 12.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of a 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 procures the Services through a third party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to procure the Services (but not additional or out of scope services) less the unpaid portion of the Contract Price. Customer agrees to mitigate damages and provide Motorola with detailed invoices substantiating the charges.

**12.3 No Refund.** If a subscription is terminated for any reason prior to the end of the Subscription Services Term or other subscription period set forth in the Incorporated Documents or otherwise agreed to in writing by the Parties, no refund or credit will be provided.

**12.4 Cancellation Fee.** If an Initial Minimum Term applies and Customer terminates prior to the end of the Initial Minimum Term, Customer will be required to pay a cancellation fee of up to fifty percent (50%) of the remaining balance of subscription fees for the Initial Minimum Term.

**12.5 Return of Discount.** If Customer is afforded a discount in exchange for a term commitment longer than one year, early termination will result in an early termination fee, representing a return of the discount off of list price.

**12.6 Return Confidential Information.** Upon termination or expiration of the Agreement, Customer will return or certify the destruction of all Confidential Information and Solution Data.

**12.7 Connection Terminated.** Certain Subscription Services require a connection to Customer systems to access Customer Data (e.g. predictive or analytic services). Upon termination, connection to relevant data sources will be disconnected and Motorola will no longer extract any Customer Data.

**12.8 Equipment Return.** Any equipment provided by Motorola for use with the Subscription Services, must be returned within thirty (30) days of the date of termination, at Customer's expense. If equipment is not returned within this time frame, Motorola reserves the right to invoice the Customer for the purchase price of the unreturned equipment.

**12.9 Five Year Term.** Motorola provides equipment for use in connection with certain Subscription Services. Upon expiration and non-renewal of a five (5) year subscription Term, Title to the equipment will automatically transfer to Customer upon the subscription expiration date.

## **13. DISPUTES**

**13.1. Settlement.** The parties will attempt to settle any dispute arising from this Agreement (except for a claim relating to intellectual property or breach of confidentiality) through consultation and a spirit of mutual

cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If cooperative efforts fail, the dispute will be mediated by a mediator chosen jointly by the parties within thirty (30) days after notice by one of the parties demanding non-binding mediation. The parties will not unreasonably withhold consent to the selection of a mediator, will share the cost of the mediation equally, may agree to postpone mediation until they have completed some specified but limited discovery about the dispute, and may replace mediation with some other form of non-binding alternative dispute resolution ("ADR").

**13.2 Litigation.** A Party may submit to a court of competent jurisdiction any claim relating to intellectual property, breach of confidentiality, or any dispute that cannot be resolved between the parties through negotiation or mediation within two (2) months after the date of the initial demand for non-binding mediation. Each Party consents to jurisdiction over it by that court. The use of ADR procedures will not be considered under the doctrine of laches, waiver, or estoppel to affect adversely the rights of either Party. Either Party may resort to the judicial proceedings described in this section before the expiration of the two-month ADR period if good faith efforts to resolve the dispute under these procedures have been unsuccessful; or interim relief from the court is necessary to prevent serious and irreparable injury to the Party.

## **14. SECURITY.**

**14.1 Industry Standard.** Motorola will maintain industry standard security measures to protect the Solution from intrusion, breach, or corruption. During the term of Agreement, if the Solution enables access to Criminal Justice Information ("CJI"), as defined by the Criminal Justice Information Services Security Policy ("CJIS"), Motorola will provide and comply with a CJIS Security Addendum. Any additional Security measure desired by Customer may be available for an additional fee.

**14.2 Background checks.** Motorola will require its personnel that access CJI to submit to a background check based on submission of FBI fingerprint cards.

**14.3 Customer Security Measures.** Customer is independently responsible for establishing and maintaining its own policies and procedures and for ensuring compliance with CJIS and other security requirements that are outside the scope of the Subscription Services provided. Customer must establish and ensure compliance with access control policies and procedures, including password security measures. Further, Customer must maintain industry standard security and protective data privacy measures. Motorola disclaims any responsibility or liability whatsoever for the security or preservation of Customer Data or Solution Data once accessed or viewed by Customer or its representatives. Motorola further disclaims any responsibility or liability whatsoever that relates to or arise from Customer's failure to maintain industry standard security and data privacy measures and controls, including but not limited to lost or stolen passwords. Motorola reserves the right to terminate the Service if Customer's failure to maintain or comply with industry standard security and control measures negatively impacts the Service, Solution, or Motorola's own security measures.

**14.4 Breach Response Plan.** Both parties will maintain and follow a breach response plan consistent with the standards of their respective industries.

## **15. CONFIDENTIAL INFORMATION AND PROPRIETARY RIGHTS**

### **15.1. CONFIDENTIAL INFORMATION.**

**15.1.1. Treatment of Confidential Information.** During the term of this Agreement, the parties may provide each other with Confidential Information. Licensed Products, and all Deliverables will be deemed to be Motorola's Confidential Information. Each Party will: maintain the confidentiality of the other Party's Confidential Information and not disclose it to any third party, except as authorized by the disclosing Party



in writing or as required by a court of competent jurisdiction; restrict disclosure of the Confidential Information to its employees who have a “need to know” and not copy or reproduce the Confidential Information; take necessary and appropriate precautions to guard the confidentiality of the Confidential Information, including informing its employees who handle the Confidential Information that it is confidential and is not to be disclosed to others, but those precautions will be at least the same degree of care that the receiving Party applies to its own confidential information and will not be less than reasonable care; and use the Confidential Information only in furtherance of the performance of this Agreement or pursuant to the license granted immediately below.

**15.1.2. Ownership of Confidential Information.** The disclosing Party owns and retains all of its Proprietary Rights in and to its Confidential Information, except the disclosing Party hereby grants to the receiving Party the limited right and license, on a non-exclusive, irrevocable, and royalty-free basis, to use the Confidential Information for any lawful, internal business purpose in the manner and to the extent permitted by this Agreement.

## **15.2. PRESERVATION OF PROPRIETARY RIGHTS.**

**15.2.1 Proprietary Solution.** Customer acknowledges that the Licensed Products and any associated Documentation, data, and methodologies used in providing Services are proprietary to Motorola or its third party licensors and contain valuable trade secrets. In accordance with this Agreement, Customer and its employees shall treat the Solution and all Proprietary Rights as Confidential Information and will maintain the strictest confidence.

**15.2.2. Ownership.** Each Party owns and retains all of its Proprietary Rights that exist on the Effective Date. Motorola owns and retains all Proprietary Rights that are developed, originated, or prepared in connection with providing the Deliverables or Services to Customer, and this Agreement does not grant to Customer any shared development rights. At Motorola’s request and expense, Customer will execute all papers and provide reasonable assistance to Motorola to enable Motorola to establish the Proprietary Rights. Unless otherwise explicitly stated herein, this Agreement does not restrict a Party concerning its own Proprietary Rights and is not a grant (either directly or by implication, estoppel, or otherwise) of a Party’s Proprietary Rights to the other Party.

**15.3 Remedies.** Because Licensed Products contain valuable trade secrets and proprietary information of Motorola, its vendors and licensors, Customer acknowledges and agrees that any actual or threatened breach of this Section will constitute immediate, irreparable harm to Motorola for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. Notwithstanding anything in this Agreement to the contrary, Motorola reserves the right to obtain injunctive relief and any other appropriate remedies from any court of competent jurisdiction in connection with any actual, alleged, or suspected breach of Section 3, infringement, misappropriation or violation of Motorola’s Property Rights, or the unauthorized use of Motorola’s Confidential Information. Any such action or proceeding may be brought in any court of competent jurisdiction. Except as otherwise expressly provided in this Agreement, the parties’ rights and remedies under this Agreement are cumulative.

## 16. GENERAL

**16.1 Future Regulatory Requirements.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Subscription Services and use of the Solution may change. Changes to existing Subscription Services or Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the Fees for services.

**16.2 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. Further, Customer will comply with all applicable export and import control laws and regulations in its use of the Licensed Products and Subscription Services. In particular, Customer will not export or re-export the Licensed Products without Motorola's prior written consent, and, if such consent is granted, without Customer first obtaining all required United States and foreign government licenses. Customer further agrees to comply with all applicable laws and regulations in providing the Customer Data to Motorola, and Customer warrants and represents to Motorola that Customer has all rights necessary to provide such Customer Data to Motorola for the uses as contemplated hereunder. Customer shall obtain at its expense all necessary licenses, permits and regulatory approvals required by any and all governmental authorities as may from time to time be required in connection with its activities related to this Agreement. To the extent permitted by applicable law, Customer will defend, indemnify, and hold harmless Motorola from and against any violation of such laws or regulations by Customer or any of its agents, officers, directors, or employees.

**16.3 Audit.** Motorola reserves the right to monitor and audit use of the Subscription Services. Customer will cooperate and will require Users to cooperate with such monitoring or audit.

**16.4 Assignability.** 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.

**16.5 Subcontracting.** Motorola may subcontract any portion of the Subscription Services without prior notice or consent of Customer.

**16.6 Waiver.** Failure or delay by either Party to exercise a right or power 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.

**16.7 Severability.** If a court of competent jurisdiction renders any part of this Agreement invalid or otherwise unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

**16.8 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.

**16.9 Headings.** 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.

**16.10 Governing Law.** This Agreement and the rights and duties of the parties will be governed by and interpreted in accordance with the laws of the State of North Carolina.

**16.11 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.

**16.12 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.

**16.13 Return of Equipment.** Upon termination of the contract for any reason, Customer shall return to Motorola all equipment delivered to Customer, if any.

**16.14. Survival Of Terms.** The following provisions survives the expiration or termination of this Agreement for any reason: if any payment obligations exist, Section 5 (Subscription Fees); Section 11 (Limitation of Liability); Section 12 (Default and Termination); Section 13 (Disputes); Section 15 (Confidential Information and Proprietary Rights); and all General provisions in Section 16.

**16.15. ENTIRE AGREEMENT.** This Addendum, the Primary Agreement, and any Incorporated Documents or related attachments constitute the entire agreement of the Parties regarding the subject matter of this Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. 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.

In witness whereof, the parties hereto have executed this Agreement as of the Effective Date.

**TOWN OF VALDESE**

**MOTOROLA SOLUTIONS, INC.**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**BILL TO ADDRESS:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**SHIP TO ADDRESS (If applicable):**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**FINAL DESTINATION (If applicable):**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

## Exhibit G

### Subscription Services Addendum

The following additional terms will apply to Subscription Services from Motorola's Digital Evidence Management Solution.

If any term in this Attachment conflicts with a term in the main body of the Agreement, this Attachment will govern.

**1. DATA STORAGE.** Motorola will determine, in its sole discretion, the location of the stored content for CommandCentral Vault, Analytics Plus, and Community Engagement Services. All data, replications, and backups will be stored at a location in the United States for Customers in the United States.

**2. DATA RETRIEVAL.** CommandCentral Services will leverage different types of storage to optimize the Subscription Services, as determined in Motorola's sole discretion. For multimedia data, such as videos, pictures, audio files, Motorola will, in its sole discretion, determine the type of storage medium used to store the content. The type of storage and medium selected by Motorola will determine the data retrieval speed. Access to content in archival storage may take up to 8 hours to be viewable.

**3. API SUPPORT.** Motorola will use commercially reasonable efforts to maintain the Application Programming Interface ("API") offered as part of the CommandCentral Services during the term of this Addendum. APIs will evolve and mature over time, requiring changes and updates. Previous versions of APIs will be supported for a minimum of a 6 month time period after new version is introduced. If support of the API is no longer a commercially reasonable option, Motorola will provide reasonable advance notification to Customer. If an API presents a security risk to the Subscription Services or the Solution, Motorola will discontinue an API without prior warning.

#### **4. SERVICE LEVEL TARGETS.**

Commercially reasonable efforts will be made to provide monthly availability of 99.9% with the exception of maintenance windows. There are many factors beyond Motorola's control that may impact Motorola's ability to achieve this goal, including but not limited to a Force Majeure.

Additionally, Motorola will strive to meet the response time goals set forth in the table below.

#### **RESPONSE TIME GOALS**

SEVERITY LEVEL	DEFINITION	RESPONSE TIME
1	<b>Total System Failure - occurs when the System is not functioning and there is no workaround; such as a Central Server is down or when the workflow of an entire agency is not functioning. This level is meant to represent a major issue that results in an unusable System, Subsystem, Product, or critical features. No work around or immediate solution is available.</b>	<b>Telephone conference within 1 Hour of initial voice notification</b>

2	<b>Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems. This level is meant to represent a moderate issue that limits a Customer's normal use of the System, Subsystem, Product or major non-critical features.</b>	<b>Telephone conference within 3 Business Hours of initial voice notification during normal business hours</b>
3	<b>Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround. This level is meant to represent a minor issue that does not preclude use of the System, Subsystem, Product, or critical features.</b>	<b>Telephone conference within 6 Business Hours of initial notification during normal business hours</b>
4	<b>Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow. This level is meant to represent very minor issues, such as cosmetic issues, documentation errors, general usage questions, and product or System Update requests.</b>	<b>Telephone conference within 2 Standard Business Days of initial notification</b>

## 5. MAINTENANCE

Scheduled maintenance of CommandCentral Solutions will be performed periodically. Motorola will make commercially reasonable efforts to notify customers a week in advance. Unscheduled and emergency maintenance may be required from time to time. Motorola will make commercially reasonable efforts to notify customers of unscheduled or emergency maintenance 24 hours in advance.

**6. DEVICES.** If Customer elects Motorola's service option for Devices, such service option will be governed by the additional terms and conditions set forth below in this Section.

6.1. For Devices to be eligible for the Device as a Service ("DaaS") offering the Devices must be on the then current firmware version. The Capture Mobile Camera feature requires the latest version of the Android or iOS operating system. Additionally, Customer's Wi-Fi network must comply with the requirements found below, Wi-Fi Network Requirements. If Customer's Wi-Fi network does not comply with these requirements Customer will be responsible for additional costs that may be incurred related to bring the Wi-Fi network into compliance.

6.2. Smart Interface Device Refresh: Customers who have chosen a 5-year Term for the DaaS offering will receive a new version of the Device 30 months from the start of the Term or as soon as a new version is available. The new version Device must be in the same family as the previously selected model. The refresh will only include the Device. Any carry holders, batteries or other accessories will not be refreshed. The Devices being refreshed must be returned to Motorola within 60 days of the refreshed devices being shipped. The customer will be invoiced for any devices not returned or returned damaged or nonfunctional. Subject to Motorola's receipt of all applicable fees for the 5-year service offering, on expiration of the 5-year term title to any covered Devices will pass to Customer.

6.3. If Customer elects a 5-year or greater Term for the DaaS offering, Motorola will provide the

equipment necessary to enable the DaaS. Accessories for the Devices will not be provided and must be purchased separately, if desired.

6.4. Content will be downloadable at any time through the administrative interface during the Term of the Agreement. During the Initial Term, Motorola may provide general assistance as Customer learns to download or store content. After the Initial Term, additional storage term or assistance with downloading of content may be available for an additional fee.

## 6.5 Wi-Fi Network Requirements

6.5.1 If any of the below items apply, additional deployment services fees may apply:

- Customer's internet is through county/city IT, strict firewall policies, not able to install software on PC's
- Customer requires multiple upload locations through different internet providers at each site
- Customer has slow internet (<20MBps or higher for 4k video upload)
- Customer doesn't have Wi-Fi
- Customer doesn't use Google Chrome or uses Google Chrome but has conflicting Chrome extensions
- Customer requires multiple upload locations
- Customer has multicast disabled on their wireless network
- Customer wants to utilize MAC address filtering

6.5.2 The following are not supported:

- Wi-Fi AP's do not support 802.11AC
- Customer AP does not support DNS-SD, and/or the Apple Bonjour suite



## Valdese Town Council Meeting

Monday, December 7, 2020

Capital Project Ordinance Amendment # 1-34

Subject: Lakeside Park Phase I

Description: To amend capital project ordinance Fund 34  
 The original CPO was approved at the November 4, 2019 meeting.  
 This amendment is to account for an additional \$100,000 private donation.

## Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the capital project ordinance for various capital projects funded from a variety of sources is hereby amended as follows.

## Section I:

Revenues available to the Town to complete the projects are hereby amended as follows:

Account	Description	Decrease/ Debit	Increase/ Credit
34.3970.003	Donations		100,000
Total		\$0	\$100,000

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
34.6200.760	Construction	100,000	
Total		\$100,000	\$0

## Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

## Valdese Town Council Meeting

Monday, December 7, 2020

Budget Amendment #

3

Subject:

Upgrades to Old Rock School

Description:

The Town was gifted \$25,000 by the Rostan Foundation to be used at Rock School for the following improvements:

- Remove and replace side door with ADA compliant features
- Automatic door lock system for all entry doors
- Upgrades to camera security system

## Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2020:

## Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3350.000	Donations		25,000
Total		\$0	\$25,000

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.6250.740	Capital Outlay	25,000	
Total		\$25,000	\$0

## Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

## Valdese Town Council Meeting

Monday, December 7, 2020

Budget Amendment #

4

Subject:

Culvert replacement on Pineburr Ave SW

Description:

Contract includes replacement of asphalt, shoring of the north and south side of Pineburr Ave. with stone, and general restoration to impacted work area.

## Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2020:

## Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
30.3990.000	Fund Balance Appropriated		51,345
Total		\$0	\$51,345

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
30.8120.740	Capital Outlay	51,345	
Total		\$51,345	\$0

## Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.