



City of Kirkland

Request for Proposals

800 MHz Radio Maintenance

Job #04-24-PW

Issue Date: Thursday, January 18, 2024
Due Date: Thursday, February 8, 2024 - 4:00 PM
(Pacific Time)

REQUEST FOR PROPOSALS

Notice is hereby given that proposals will be received by the City of Kirkland, Washington, for:

800 MHz Radio Maintenance Job # 04-24-PW

File with Purchasing Agent, Finance Department, 123 - 5th Ave, Kirkland WA, 98033

Proposals received later than **4:00 p.m. on February 8, 2024 will not** be considered.

A copy of this Request for Proposal (RFP) may be obtained from City's web site at <http://www.kirklandwa.gov/>. Click on the "Business" tab at the top of the page and then click on "Doing Business with the City" and look under the "Opportunities" tab.

The City of Kirkland reserves the right to reject any and all proposals, and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the City to pay any costs incurred by respondents in the preparation and submission of a proposal. Furthermore, the RFP does not obligate the City to accept or contract for any expressed or implied services.

A Service Provider response that indicates that any of the requested information in this RFP will only be provided if and when the Service Provider is selected as the apparently successful Service Provider is not acceptable, and, at the City's sole discretion, may disqualify the proposal from consideration.

The City requires that no person shall, on the grounds of race, religion, color, national origin, sex, age, marital status, political affiliation, sexual orientation, or the presence of any sensory, mental, or physical disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City further assures that every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs are federally funded or not.

In addition to nondiscrimination compliance requirements, the Service Provider(s) ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.

Dated this 18th day of January, 2024

Jay Gewin
Purchasing Agent
425-587-3123
City of Kirkland

Published in the Daily Journal of Commerce – January 18th and January 25th of 2024.

City Background Information

The City of Kirkland is located on the eastern shore of Lake Washington. It is a suburban city, surrounded by other suburban cities and pockets of unincorporated King County. The City is near several major transportation routes including Interstate 405, State Route 520, and Interstate 5. These routes connect the City economically and socially to the greater Seattle area.

At the time of incorporation in 1905, the City of Kirkland's population was approximately 530. The current population is 96,920, and Kirkland is the twelfth largest city in the State of Washington and the sixth largest in King County.

Since its incorporation, Kirkland has grown in geographic size to eighteen square miles - approximately twenty times its original size. This growth occurred primarily through the consolidation of the cities of Houghton and Kirkland in 1968, the annexations of Rose Hill and Juanita in 1988 and the annexation of North Juanita, Finn Hill, and Kingsgate areas in 2011.

Kirkland operates under a Council-Manager form of government. The City Council is the policy-making branch of Kirkland's government and consists of seven members elected at large to staggered, four-year terms. The Mayor is elected from within the Council. The City Council is supported by several advisory boards and commissions and the City Manager. The City Manager is appointed by the City Council and serves as the professional administrator of the organization, coordinating its day-to-day activities.

Purpose of Request

During 2023, the Public Safety Emergency Radio Network (PSERN) program was implemented within the City of Kirkland. PSERN prepared, programed, and deployed 105 mobile radios, 10 base stations, and 240 portable radios operating on the 800 MHz radio system.

To maintain compliance with the PSERN End User Agreement, the City is seeking to secure a provider of services to fulfill the scope of work. In addition, the City desires to include radios that are currently and expected to be put into service outside of the PSERN project. This additional number is estimated to be up to 30 mobile and up to 50 portable radios.

Scope of Work

The City of Kirkland requests proposals from qualified agencies for the purpose of furnishing a firm fixed price contract for the preventive maintenance, procurement, reprogramming, and repair of the City-Wide PSERN supported hardware and software equipment. The proposer shall provide to the City all qualified labor, materials, repair facilities, replacement parts, equipment, transportation and travel time necessary for performance of the contract work as described below:

a) Maintenance/Programming/Repair: Contract radio maintenance shall include all parts, labor and travel required to repair and maintain the City-Wide mobile and portable radios, base stations, and other related equipment, that have become inoperable through normal wear and use. The proposal shall include, but not be limited to, programming and updating all codeplugs for the mobile and portable radios and base stations. Maintenance shall also include at least one (1) annual preventative maintenance provided on premises at established schedules and a

report shall be submitted to the City on equipment condition, with any type of recommendations, if needed.

Maintenance contract shall cover all listed equipment, software, and any other related equipment. Repairs shall include the initiation of service requests with the manufacturer during the warranty and service agreement period as provided for by the PSERN Operator. Where applicable, loaner radios shall be provided for repairs over 30 days. Any equipment replaced or removed from the system for disposal is the property of the City of Kirkland and is not to leave the premises without written consent from the City.

The Contractor shall perform this service for a fixed annual fee, invoiced monthly that is covered by the maintenance contract.

b) Pre-Qualification Requirements: Proposers must meet the following pre-qualification criteria, in order, for a proposal to received consideration.

- 1) The proposer must be at least a Motorola Service Elite Specialist within the State of Washington. This certification identifies the proposer as being certified to work on all Motorola type radio systems and equipment.
- 2) The proposer must have a service shop located within 40 miles or a two (2) hour response time from the City and have Motorola trained and certified technicians and installers available 24/7 emergency service.
- 3) The proposer must provide the names of all certified technicians, along with their certifications.
- 4) The proposer be an eligible Radio Maintenance Shop approved by PSERN to receive the Master Advanced System Key or be able to obtain PSERN approval prior to the execution of a contract.

The service level desired is

- Annual service between May 1 and August 1.
- Repair service preferably completed within 2 weeks of receipt, but no longer than 30 days (with the exception of extended times due to procurement of parts)
- Reprogramming/reflashing preferably within 2 weeks of receipt, but no longer than 30 days.
- A designated primary and secondary point of contact for procurement of hardware
- Annual PM to occur on site in Kirkland preferred.

Services required for City departments that utilize radios are listed below:

Police –

1. Annual preventative maintenance on each radio (Mobile and Portable) – compliant with Motorola requirements. Preference would be to occur onsite at the Kirkland Justice Center in batches by the vendor.
2. Repair of damaged hardware and/or accessories
3. Reprogramming/reflashing (as needed)
4. Trouble shooting of signal/transmission quality issues
5. DAS Support – testing, equipment, repair, updates, etc.
6. Procurement of new/additional hardware and accessories with designated Motorola rep for the City

Fire –

1. Annual preventative maintenance on each radio (Mobile and Portable) – compliant with Motorola requirements. Preference would be to occur onsite at a central location (ideally Fire Station 22) in batches by the vendor. Base Units would need to be serviced at each location, if possible, or done in at least 2 batches at a specific location.
2. Repair of damaged hardware and/or accessories
3. Reprogramming/reflashing (as needed)
4. Trouble shooting of signal/transmission quality issues
5. DAS Support – testing, equipment, repair, updates, etc.
6. Procurement of new/additional hardware and accessories with designated Motorola rep for the City

Public Works –

1. Annual preventative maintenance on each radio (Mobile and Portable) – compliant with Motorola requirements. Preference would be to occur onsite at the Public Works Maintenance Center by the vendor prior to Oct 1 of each year.
2. Repair of damaged hardware and/or accessories
3. Reprogramming/reflashing (as needed)
4. Trouble shooting of signal/transmission quality issues
5. Procurement of new/additional hardware and accessories with designated Motorola rep for the City

Motorola's recommended APX Portable Maintenance Guide is included as Attachment B. We are looking into whether a similar guide exists for mobiles. The recommendation to annually align the radio's reference oscillator applies to mobiles and control stations/consolettes. The City is also required to be in compliance with Paragraph 5.3, and in particular the requirement in Paragraph 5.3.14 (i.e. software/firmware update) of the City's Service Level Agreement (SLA) included as Attachment C.

Motorola information (user guides, etc.) is available on their website at [APX Series P25 Two-Way Radios - Motorola Solutions](#). In general, you should select the particular model of radio and then look at the "RESOURCES" tab. For example, for APX6000 go to [Search | Motorola Solutions](#)

Term of Contract

The initial term of the agreement shall be for 3 years, with the option for a 2-year extension, up to 5 years maximum.

Submission Review Timeline

The schedule for review of submissions and final selection of the Consultant is as follows:

January 18, 2024	RFP Opens for submissions
January 30 - 5:00 PM	Questions are due in writing
February 5, 2024	Responses to questions posted to City website

February 8, 2024 – 4:00 PM	RFP Deadline for proposals to be submitted to the City
February 9, 2024 – February 29, 2024	Submission evaluation period, <i>may include interviews</i>
March 1, 2024	Selected submission notified
March 15, 2024	Kick off meeting

Contract Requirements and Fees

If your proposal is accepted, the following fees and requirements will be due upon award, prior to issuance of a contract:

1. Compliance with Law/City of Kirkland Business License

- Contractor must obtain and provide a copy of a City of Kirkland Business License and otherwise comply with Kirkland Municipal Code Chapter 7.02.
- The Contractor shall comply with all applicable State, Federal and City laws, ordinances, regulations, and codes.

2. Insurance

Contractor's insurance should be consistent with the requirements found in the sample agreement shown as Attachment A.

3. PSERN Certification

Vendor is required to either have PSERN certification or is required to obtain PSERN approval prior to execution of a contract with the City.

Selection Criteria

The City will make a selection based on the evaluation of the written proposals. The City may also conduct an interview process with scoring used to determine the selected proposer. The City may elect to interview some or all proposers. The City reserves the right to make a selection based only on the evaluation of the written proposals. Written proposals and interviews will be evaluated based on the following weighted criteria:

Statement of Interest/Understanding	10 pts
Company background and prior experience	10 pts
Experience and qualifications of assigned personnel	30 pts
Scope of work approach	20 pts
Cost schedule	30 pts
<i>Total</i>	<i>100 pts</i>

Selection Process

A selection committee will review all proposals, select finalist(s) and may conduct interviews prior to making the final selection of the consultant.

Prior to the commencement of work, the City and the selected consultant will meet either virtually or in person to settle contract details. A notice to the consultant of the City's award will constitute notice to proceed. The City is not responsible for any costs incurred by the consultant in the preparation of the proposal. Once submitted to the City, all proposals will become public information.

Proposal Submission Requirements

To be considered for selection, submit the following information:

Letter of Introduction

- Briefly describe the firm, and the name, address, e-mail, and phone number of the Project Manager as well as a summary of the understanding of the scope of services and overall approach to the scope of services.

Project Understanding and Approach

- Identify critical project elements and how your project team would handle those elements to achieve a successful end result.

Experience and Qualifications

- Identify key personnel that will be assigned to this project, their roles, unique skills, experiences, and qualifications for the work. One to two-page resumes are not required but will be accepted and not counted against the page limit.
- Indicate project availability for staff identified.

Cost and Proposed Project Schedule

- Provide a timeline for the project with key milestones identified.
- Include labor costs and staff billing rates.

References

- Provide two to three (2-3) examples of similar projects successfully completed by your team, with an emphasis on recent, related projects. Please include the names of staff members that worked on these projects.
- Provide at least three (3) client references for similar projects. Please include the names and phone numbers of client references that would be most knowledgeable of your firm's performance.

Proposal Submittal Instructions

Please note: The following general requirements are mandatory for all proposals. Proposals submitted after the deadline date and time or lacking one or more of the following requirements will not be accepted.

1. **Proposals must be received by no later than 4:00 p.m. on February 8, 2024 (Pacific Time).**
2. We encourage proposals to be submitted by email. Emailed proposals should include, "Radio Maintenance – Job # 04-24-PW" the subject line and be addressed to purchasing@kirklandwa.gov.
3. All proposals sent electronically must be in the form of a PDF or MS Word document and cannot exceed 20MB.
4. Maximum page count for proposals is 25 pages.
5. All proposals must include the legal name of the organization, firm, individual or partnership submitting the RFP. Include the address of the principal place of business, mailing address, phone numbers, emails, fax number (if one exists) and primary contact person.
6. To be evaluated, a proposal must address all requirements and instructions contained within.
7. Provide all references and materials required by the RFP instructions within.

Questions: Questions regarding the scope of work and request for proposals should be submitted in writing and should be addressed to Heather Kelly, Emergency Manager via e-mail at hkelly@kirklandwa.gov .

Questions regarding the RFP process should be directed to Jay Gewin, Purchasing Agent at purchasing@kirklandwa.gov

The deadline to submit questions is 5:00 PM PDT on January 30, 2024. Responses to questions will be posted on the [City's website](#) on February 5, 2024 at the latest.

Contract

The Consultant and the City will execute a General Services Agreement for the scope of work stated in this RFP, including all the requirements found in the sample agreement shown as Attachment A.

To enter into a General Services Agreement (contract) with the City of Kirkland, Consultant will need to provide a W9, proof of relevant insurance requirements on the contract, and obtain a Kirkland business license.

Invoicing

Payments will be made upon submission of invoice, not to exceed twice per month for the project duration.

Terms and Conditions

- A. The City reserves the right to reject any and all proposals, and to waive minor irregularities in any proposal.
- B. Proposers responding to this RFP must follow the procedures and requirements stated in the RFP document. Adherence to the procedures and requirements of this RFP will ensure a fair and objective analysis of your proposal. Failure to comply with or complete any part of this RFP may result in rejection of your proposal.
- C. The City reserves the right to request clarification of information submitted, and to request additional information on any proposal.
- D. The City reserves the right to award any contract to the next most qualified agency, if the successful agency does not execute a contract within 30 days of being notified of selection.
- E. Any proposal may be withdrawn up until the date and time set above for opening of the proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of one hundred and twenty (120) days to sell to the City the services described in the attached specifications, or until one or more of the proposals have been approved by the City administration, whichever occurs first.
- F. The contract resulting from acceptance of a proposal by the City shall be in a form supplied or approved by the City and shall reflect the specifications in this RFP. A copy of the City's standard Professional Services Agreement is available for review (see attachment A). The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this RFP and which is not approved by the City Attorney's office.
- G. The City shall not be responsible for any costs incurred by the agency in preparing, submitting or presenting its response to the RFP.
- H. Any material submitted by a proposer shall become the property of the City. Materials submitted after a contract is signed will be subject to the ownership provision of the executed contract.
- I. The City reserves the right not to award any portion of this RFP or the project in entirety if it finds that none of the proposals submitted meets the specific needs of the project. The City reserves the right to modify the scope of work and award portions of this RFP to the selected vendor. The City reserves the right to award this work to multiple vendors if the scope of work would be best completed by multiple vendors and their associated experience.

Cooperative Purchasing

Chapter 39.34 RCW allows cooperative purchasing between public agencies in the State of Washington. Public agencies which have filed an Intergovernmental Cooperative Purchasing Agreement with the City may purchase from City contracts, provided that the consultant agrees

to participate. The City does not accept any responsibility for contracts issued by other public agencies, however.

Public Disclosure

Once submitted to the City, proposals shall become the property of the City, and all proposals shall be deemed a public record as defined in "The Public Records Act," chapter 42 section 56 of the RCW. Any proposal containing language which copyrights the proposal, declares the entire proposal to be confidential, declares that the document is the exclusive property of the proposer, or is any way contrary to state public disclosure laws or this RFP, could be removed from consideration. The City will not accept the liability of determining what the proposer considers proprietary or not. Therefore, any information in the proposal that the proposer claims as proprietary and exempt from disclosure under the provisions of RCW 42.56.270 must be clearly designated as described in the "Proprietary Material Submitted" section above. It must also include the exemption(s) from disclosure upon which the proposer is making the claim, and the page it is found on must be identified. With the exception of lists of prospective proposers, the City will not disclose RFP proposals until a bid selection is made. At that time, all information about the competitive procurement will be available with the exception of: proprietary/confidential portion(s) of the proposal(s), until the proposer has an adequate opportunity to seek a court order preventing disclosure. The City will consider a proposer's request for exemption from disclosure; however, the City will make a decision predicated upon RCW 42.56.

DBE (Disadvantaged Business Enterprise) Participation

The City encourages DBE firms to submit qualifications and encourages all firms to team with DBE firms in their pursuit of this project.

Federal Debarment

The Bidder shall not currently be debarred or suspended by the Federal government. The Bidder shall not be listed as having an "active exclusion" on the U.S. government's "System for Award Management" database (www.sam.gov).



GENERAL SERVICES AGREEMENT 800 MHz Radio Maintenance GSA 06/30/2020

This Agreement is made between the City of Kirkland, Washington (hereinafter the "City") and _____ (hereinafter the "Contractor").

In consideration of the mutual benefits and conditions set forth below, the parties agree as follows:

I. SERVICES PROVIDED

- A. The Contractor agrees to provide all necessary labor to perform the following services for the City as included in Attachment ____ to this Agreement.
- B. The Contractor shall perform all services diligently and completely and in accordance with professional standards of conduct.

II. CONDITIONS/ARRANGEMENTS

- A. Contractor will supply all materials, equipment, and skills necessary to provide the services identified above.
- B. The Contractor is responsible for the payment of or procurement of all licenses, fees, taxes, bonds, insurance, and the like, which are or may be required of a self-employed entity performing a similar service.
- C. The services identified under this Agreement, and all duties incidental or necessary thereto, shall be conducted and performed diligently and competently and in accordance with professional standards of conduct and performance.

III. DURATION

Contractor agrees to perform the services under this Agreement for a period of _____ years, commencing upon acceptance of this Agreement, and with the anticipated start date of _____. The City reserves the right to, at City's option, extend the agreement for up to _____ additional years.

IV. PAYMENT

- A. The City of Kirkland shall pay Contractor for completed services rendered under this Agreement, the maximum amount of \$_____. The compensation set forth in this paragraph shall constitute the sole compensation of the Contractor for the services under this Agreement.
- B. Contractor shall submit an invoice to the Department for services rendered. The invoice must show invoice number, detailed description of work performed, total amount due, and a signature, address, and telephone number of the Contractor.

Payment will be made in the normal course of business following receipt of invoice.
(Net 45 days.)

V. INDEPENDENT CONTRACTOR

Contractor is and shall be at all times during the term of this Agreement an independent contractor and not an employee of the City. Contractor agrees that Contractor is solely responsible for the payment of taxes applicable to the services performed under this Agreement and agrees to comply with all federal, state, and local laws regarding the reporting of taxes, maintenance of insurance and records, and all other requirements and obligations imposed on Contractor as a result of Contractor's status as an independent contractor. The Contractor is responsible for providing the office space and clerical support necessary for the performance of services under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance or unemployment compensation programs or otherwise assuming the duties of an employer with respect to the Contractor, or any employee of Contractor.

VI. ASSIGNMENT

The Contractor shall not assign, transfer, convey, pledge, or otherwise dispose of this Agreement or any part of this Agreement without written prior consent to the City.

VII. NONDISCRIMINATION

Contractor shall, in employment made possible or resulting from this Agreement, ensure that there shall be no unlawful discrimination against any employee or applicant for employment in violation of RCW 49.60.180, as currently written or hereafter amended, or other applicable law prohibiting discrimination, unless based upon a bona fide occupational qualification as provided in RCW 49.60.180 or as otherwise permitted by other applicable law. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement in violation of RCW 49.60.215 or other applicable law prohibiting discrimination.

VIII. TERMINATION OF AGREEMENT

The City or the Contractor may terminate or suspend this Agreement at any time, with or without cause, by giving ten (10) days' notice to the other in writing. In the event of termination, all finished or unfinished reports or other material prepared by the Contractor pursuant to this Agreement shall be provided to the City. In the event of termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory services rendered prior to the effective date of termination.

IX. HOLD HARMLESS AND INDEMNIFICATION

To the greatest extent allowed by law the Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

X. LIABILITY INSURANCE COVERAGE

Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the Agreement and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein, including insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. A failure to obtain and maintain such insurance or to file required certificates and endorsements shall be a material breach of this Agreement.

Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Contractor shall obtain insurance of the types and coverage as described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop-gap liability, and personal injury and advertising injury, and liability assumed under an insured agreement. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. Contractor's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
2. The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.

F. Public Entity Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella Liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

1. **Subcontractors' Insurance.** The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of

coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

G. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of Agreement, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

XI. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable State, Federal, and City laws, ordinances, regulations, and codes. Contractor must obtain a City of Kirkland business license or otherwise comply with Kirkland Municipal Code Chapter 7.02.

XII. NOTICES/FORMAL COMMUNICATIONS

Written notices, requests, or grievances to the City shall be made to:

_____, Attention: _____
Kirkland City Hall, 123 Fifth Avenue, Kirkland, Washington 98033.

XIII. GENERAL ADMINISTRATION AND MANAGEMENT

The _____ for the City shall review and approve the Contractor's invoices to the City under this Agreement, shall have primary responsibility for overseeing and approving services to be performed by the Contractor, and shall coordinate all communications with the Contractor from the City.

XIV. ENTIRE AGREEMENT/MODIFICATION

This Agreement, together with all attachments or addenda, represents the entire and completely integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreement, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties hereto.

XV. NON-ENDORSEMENT

As a result of the selection of a consultant to supply services to the City, the consultant agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

XVI. NON-COLLUSION

By signature below, the Consultant acknowledges that the person, firm, association, co-partnership or corporation herein named, has not either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in the preparation or submission of a proposal to the City for consideration in the award of a contract on the specifications contained in this Agreement.

XVII. WAIVER

Waiver by the City of any breach of any term or condition of this Agreement shall not be construed as a waiver of any other breach.

XVIII. ASSIGNMENT AND SUBCONTRACT

The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

XIX. DEBARMENT

Recipient certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds.

Agreed to and executed this _____ day of _____, 20_____.

CONTRACTOR:

CITY OF KIRKLAND:

(signature)

Julie Underwood, Deputy City Manager

Print Name _____

Date: _____

Address _____

City, Zip _____

Phone(s) _____

SS#/Tax ID# of Payee:

Title: RECOMMENDED GENERAL APX PORTABLE MAINTENANCE

Product Affected: APX Portable Radio

SUMMARY

This “*Best Practices Guide*” describes the general procedures to clean and maintain an APX portable radio.

- Align the reference oscillator on the radio at least **once per year**.
- Vacuum test the radio at least **once per year**.
- Clean the radio with 0.5% soap solution **ONLY**. **NO** cleaners or solvents. Use a soft bristle brush.
- Place the radio under a faucet for cleaning and rinsing. **IMPORTANT:** Use care not to get water in the chassis cavity containing the radio's battery contacts.
- Remove all accessories (battery, antenna, RSM's and accessory side connector cover).
 - Clean and rinse the accessory the same as the radio. **IMPORTANT:** Use care not to get water in the RSM's accessory connector.
 - Dry thoroughly before reattaching to the radio.
- Dry the radio thoroughly with a lint free cloth or shop vacuum.
- Clean the radio when:
 - Exposure to high debris environments resulting in build-up of dirt or debris that can hinder the function of the radio (speaker grille, displays, control top levers, knobs, ports, side buttons, etc.).
 - Exposure to fluids, especially salt water (or other corrosive liquids).
- **IMPORTANT: Use only decontamination agents listed below** according to the manufacturer's directions.

ANNUAL MAINTENANCE

In order to avoid operating outside the limits set by the FCC, Motorola Solutions, Inc. recommends that you align the radio's reference oscillator every time the radio is disassembled, or once per year, whichever comes first. Checking this parameter when the product is placed in service is especially important if the product has been in storage for a significant period of time (six months or more).

Elastomer technology materials used for seals in rugged portable radios can age with time and environmental exposure. Therefore, Motorola recommends that rugged radios be checked once a year as a preventive measure in order to assure the watertight integrity of the radio. Radio submersibility should be checked annually by qualified service technicians.

GENERAL CARE

Do not pound, drop, or throw the radio unnecessarily. Never carry the radio by the antenna.

Avoid subjecting the radio to corrosives, solvents or chemicals.

Do not disassemble the radio. This could damage radio seals and result in leak paths into the radio. Any radio maintenance should be performed only by a qualified radio technician.

Keep the accessory side connector cover in place until ready to use the connector. Replace the cover immediately once the accessory has been disconnected.

If the radio has been submerged in water as part of normal operations, shake the radio briskly so that any water trapped inside the speaker grill and microphone port can be removed.

Check that the external surfaces of the radio are clean and that all external controls and switches are functional.

The radio has a vent port that allows for pressure equalization in the radio. Ensure that no oily substances come in contact with this vent. Never poke this vent with any objects, such as needles, tweezers, or screwdrivers. This could create leak paths into the radio and the radio's submersibility will be lost.

Motorola Solutions also recommends wearing the radio in a carry case or inside the turnout coat (fire departments) to better protect the radio from prolonged exposure to dirt, debris, heat and/or impacts.

GENERAL CLEANING

Motorola Solutions, Inc. recommends routinely cleaning the external surfaces of APX portable radio following the procedures defined below. This will help to remove any buildup of dirt, soot or chemical residuals that might accumulate on the radio as a result of the customer's typical operations.

External surfaces include the housing assembly, the control top surface, including antenna mounting area, the speaker grille, the battery case and the battery interface area. All accessories should be removed prior to cleaning. This includes the battery, antenna, remote speaker microphone and/or the accessory side connector cover. Replace once all parts are thoroughly cleaned and dried.

Important: The effects of certain chemicals and their vapors can have harmful effects on certain plastics and the metal platings. **DO NOT use solvents, sprays or wipes to clean your radio, except as noted below.**

For general cleaning, Motorola Solutions recommends mixing one tablespoon of mild dishwashing detergent to one gallon of water (0.5% solution) to clean the external surfaces of the radio. The solution should be applied sparingly with a stiff, non-metallic, short bristled brush, making sure excess detergent does not get entrapped near the connectors, controls or crevices. Do not submerge the radio in the detergent solution. Place the radio under a faucet for rinsing. The radio should then be dried thoroughly with a soft, lint free cloth.

Note: The radio may also be wiped down with over-the-counter **isopropyl alcohol** (rubbing alcohol) with a **70% to 95% isopropyl alcohol solution (alcohol and water)**. When cleaning with isopropyl alcohol, the alcohol should never be applied directly to the radio. It should be applied to a rag first, then the radio can be wiped down by the rag. Avoid rubbing labels or adhesive areas with the alcohol-soaked rag.

Reference: Below is a link to a “best practice” video for the general cleaning of APX portable radios.
<https://www.youtube.com/watch?v=OWS8P99b-O0&t=6s>

Important: If the radio battery contact area has been exposed to water, thoroughly dry and clean the radio battery contacts before attaching a battery to the radio.

HIGH DEBRIS ENVIRONMENTS

For high debris environments, additional cleaning steps may be needed to maintain optimal radio performance. Excessive debris in the speaker grill or microphone area may cause poor or degraded audio quality. Excessive debris in or around the functions buttons or control knobs, may cause inconsistent operation or controls.

In high debris environments, the speaker grill may trap dirt and debris, resulting in degraded audio quality and clarity. Motorola recommends attaching a crevice nozzle to a vacuum cleaner, and vacuuming the speaker grill. Avoid covering all the grill openings at once with the nozzle. Perform a “Talk/Listen” test to confirm audio performance has returned to normal. If audio issues persist, radio should be sent in for servicing.

In high debris environments, the control top may trap dirt and debris, resulting in reduced tactile feel in the buttons, switches and knobs. Motorola recommends attaching a crevice nozzle to a vacuum cleaner, and vacuuming all the radio surfaces, especially the control top, to remove dirt and debris from crevices. Perform a “button check” to confirm optimal tactile performance.

For submersible radios (“R”, “I” or “XE” designators): An alternate debris cleaning method is to turn the radio upside down and place the top of the radio into a container of water or under a faucet. The antenna may be removed to clear the antenna port area. With only the control top submerged, shake the radio vigorously to loosen dirt and debris. Vacuum again to remove dirt, debris and water.

EXPOSURE TO LIQUIDS

If the radio has been exposed to chemicals or salt water / salt spray (or other corrosive environments), remove all accessories and thoroughly rinse the radio or wipe down the accessories with fresh water as soon as possible. Then dry completely by a vacuum or a lint free cloth.

If the radio battery contact area has been submerged in water, dry and clean the radio battery contacts before attaching a battery to the radio. Otherwise, the water could short circuit the radio.

If an accessory or the accessory side connector cover is attached to the radio, check the interface after exposure to liquids to ensure no liquid has penetrated the seal. Liquids left at this interface could degrade the performance of the accessories. Reattach once all parts are thoroughly dried.

RADIO DECONTAMINATION

If there is a risk that the radio and attached accessories may have been exposed to harmful **pathogens** or **carcinogens**, the following cleaners have been approved for use on APX series portable radios. For maximum efficacy, it is recommended that the contaminated radio first receive a “*general cleaning*” as detailed above. Then:

Pathogen Decontamination: Apply “**Zep DZ-7**” or “**Beaver Silver Bullet**” per the manufacturer's instructions.



“Zep DZ-7”
(for pathogens)



“Beaver Silver Bullet”
(for pathogens)

Note: The radio may also be wiped down with over-the-counter isopropyl alcohol (rubbing alcohol) with a **70% to 95% isopropyl alcohol solution (alcohol and water)**. When cleaning with isopropyl alcohol, the alcohol should never be applied directly to the radio. It should be applied to a rag first, then the radio can be wiped down by the rag. Avoid rubbing labels or adhesive areas with the alcohol-soaked rag.

RADIO DECONTAMINATION (cont.)

Carcinogen Decontamination: Apply either **“Hygenall FieldWipes”**, **“EnspireFire Decontamination Wipes”** or **“Responder Wipes”** per the manufacturer’s instructions (see images below).



“Hygenall FieldWipes”
(for carcinogens)



“EnspireFire Decon Wipes”
(for carcinogens)



“Responder Wipes”
(for carcinogens)

Note: Motorola Solutions is unable to, and did not, determine whether any particular cleaning product is effective in removing specific foreign substances from the radio. However, the above cleaners and processes have been approved for use by Motorola Solutions, Inc. related to their less degrading effect on the physical radio.

Important: Please consult the manufacturer’s documentation for specifics on cleaning product efficacy.

ATTACHMENT C

RADIO END USER SERVICE LEVEL AGREEMENT

This agreement between agency radio users and King County is intended to ensure that expectations and requirements for equipment management and participation in the radio network are clear, and that agency radio users meet necessary maintenance and network participation standards that will support the successful functioning of the Puget Sound Emergency Radio network, avoiding unnecessary costs and disruptions for the many network participants. This agreement is in accordance with the Puget Sound Emergency Radio Network Implementation Period Interlocal Agreement of 2015.

City of Kirkland ("End User Agency") and King County ("County") (individually, a "Party" and collectively, the "Parties") enter this Radio End User Service Level Agreement ("Agreement") on this 10th day of December, 20 19. In consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1 Words and terms shall be given their ordinary and usual meanings except as provided in this section or in parentheticals following the definition of a particular term.

- 1.1.1 **Accessory** means all materials, special tools and any other items necessary to secure, install, operate and maintain Subscriber Equipment including: device cradles; mounting and installation hardware; power, Ethernet and any other wiring or cables and connectors; strain-relief materials; wire ties; cable labels; pre-assembled wiring harnesses of prescribed length for each vehicle type; fuses and circuit breakers; seals; adhesives; screws, bolts, washers, nuts and grommets; special tools; power supply and power conditioning devices; antennas; microphones; speakers; chargers; and holsters that are purchased by the PSERN Project for the End User Agency. [this is opposed to an accessory (lower case) that is something not provided by PSERN and which is an optional addition purchased at the expense of the End User Agency]
- 1.1.2 **Advanced System Key** means hardware attached to a computer to enable critical parameters to be programmed in subscriber equipment.
- 1.1.3 **Confidential Information** means any information in written, graphic, verbal, or machine-recognizable form that is: (a) related to the PSERN System; (b) provided to the End User Agency by the Contractor, the Service Provider, or the Service Provider's contractor; and (c) marked or identified as "confidential," "proprietary," "trade secret" or similar designation.
- 1.1.4 **Contract (or Vendor Contract)** means the County's contract with Motorola Solutions, Inc., King County Contract Number 5729347.
- 1.1.5 **Control Station** means all Equipment and Software provided under the Contract that is required to meet the Contract requirements for control stations.
- 1.1.6 **Contractor** means Motorola Solutions, Inc. the company hired by King County to provide services for the construction, operation, maintenance or other support of PSERN.

- 1.1.7 **Emergency** means an unforeseen circumstance that causes or may reasonably be expected to cause a decrease or loss in network clarity, capacity, coverage, reliability, security, features, or functions.
- 1.1.8 **End User Agency** in the singular means the entity that is a party to this Agreement with the County. In the plural, **End User Agencies** means all entities that are parties to agreements with the County with terms substantially similar to terms in this Agreement.
- 1.1.9 **Equipment** means all components of the radio system infrastructure including the land mobile radio equipment and software, DC power equipment and software, site video and alarming equipment and software, backhaul equipment and software, and console system equipment and software owned by the County or PSERN Operator and used by the End User Agency pursuant to this Agreement. The term does not include Subscriber Radios. [NOTE: When the lower case word, "equipment," is used in this Agreement, that use is not intended to be the defined use of the term "Equipment."]
- 1.1.10 **Field Servicer (Servicer)** means a PSERN Operator employee, contractor, or subcontractor whose job duties include traveling to sites to repair site electronics that cannot be repaired remotely.
- 1.1.11 **Full System Acceptance (FSA)** means the determination issued to the Contractor upon satisfactorily completing the final system acceptance phase milestone.
- 1.1.12 **Government Approvals** means all necessary federal, state and local licenses, permits, and approvals for the improvements needed for the construction, Equipment installation, and operation of PSERN.
- 1.1.13 **Implementation Period** means the period of time defined as such in the Implementation Period ILA.
- 1.1.14 **Implementation Period ILA** means the Puget Sound Emergency Radio Network Implementation Period Interlocal Cooperation Agreement.
- 1.1.15 **Joint Board** means the PSERN Project governing board formed under the Implementation Period ILA.
- 1.1.16 **KCERCS** means the County-wide Emergency land mobile radio system established under the King County Emergency Radio Communication System Interlocal Agreement.
- 1.1.17 **Master Advanced System Key** means a device used to create and configure an Advanced System Key.
- 1.1.18 **Mobile Radio** means all Equipment and Software provided under the Contract that is required to meet the Contract requirements for the mobile radios.

- 1.1.19 **Monitoring** means real-time fault checking on a continuous basis using tools for remote checking and event characterization.
- 1.1.20 **Monthly Fee** (or Fee) means the monthly charge paid by the End User Agency to the Service Provider after FSA for the Service Provider's operation and maintenance of PSERN and for the End User Agency's use of PSERN.
- 1.1.21 **Mutual Aid Radios** means an end user radio from a foreign system ID which may include a Mobile, Portable or Control Station radio which has been authorized and programmed to operate on the PSERN System in only a mutual aid capacity.
- 1.1.22 **Operations Period** means the period of time as defined as such in the Operations Period ILA.
- 1.1.23 **Operations Period ILA** means the Puget Sound Emergency Radio Network Operations Period Interlocal Cooperation Agreement as executed and amended.
- 1.1.24 **Part 90** means Part 90 of Title 47 of the Code of Federal Regulations (CFR).
- 1.1.25 **Portable Radio** means all Equipment and Software provided under the Contract that is required to meet the Contract specifications for the portable radios.
- 1.1.26 **Premises** means the areas near and in the End User Agency's location: the area used for staging and construction; the area Equipment will be installed and occupy inside the End User Agency's location; the area between the right-of-way and Equipment the Service Provider will use for access to the Equipment; and the area between the right-of-way and Equipment to be used for the installation and maintenance of utilities, if any.
- 1.1.27 **PSERN Board** means initially the Joint Board formed under the Implementation Period ILA, and later the board of directors for the PSERN Operator when it is formed and assumes the ownership, operations, and governance of PSERN.
- 1.1.28 **PSERN Project** means all authorized activities relating to the planning, analysis, design, development, acquisition, site development, installation, testing, training, and operation of the PSERN until FSA, starting-up a new Service Provider, transferring the PSERN to same, and any decommissioning, contract close-out and other project completion activities.
- 1.1.29 **PSERN Operator** means the agency that will be established by the parties to the Implementation Period ILA under chapter 39.34 RCW to take over PSERN's ownership, operation, and governance after FSA.
- 1.1.30 **Radio Shop** means a facility that is authorized by Contractor to perform installation, maintenance, programming and repair work on Subscriber Radios.

- 1.1.31 **Rate Stabilization Allocation** means those funds in the PSERN Project budget totaling \$2,619,406 earmarked to offset rate increases for End User Agencies and to be distributed via a formula determined by the PSERN Board.
- 1.1.32 **Resolution Time** means the period measured between the earlier of the time when the Service Provider learns of a problem or receives the repair request and the time the Service Provider deems that it has fixed the problem and notified the End User Agency of the resolution.
- 1.1.33 **Response Time** means the period measured between the earlier of the time when the Service Provider learns of a problem or receives a repair request for a problem, and the time the Service Provider has begun actively working on the service request.
- 1.1.34 **Service Provider (or Operator)** means the County during the Implementation Period and up until the transfer of ownership, operation, and governance of PSERN to the PSERN Operator. After the transfer, Service Provider means the PSERN Operator who is responsible for the day-to-day operation and maintenance of PSERN. Service Provider also includes the Service Provider's employees, agents, consultants, contractors, subcontractors, permittees, successors and assigns.
- 1.1.35 **Subscriber Radios** means paying End User Agency radios whose home system is PSERN and includes Mobile (vehicular), Portable (handheld), Control Station or consolette radios which have been authorized and programmed to operate on the System and are owned by the End User Agencies.
- 1.1.36 **Update** means revisions as required for the continued operation and maintenance of the Equipment software including error corrections, bug fixes, work-arounds, patches, anti-virus definitions, intrusion detection sensor signatures, changes in third party software or changes to software and Equipment required to accommodate such third party software changes and any other fixes and changes not constituting an Upgrade.
- 1.1.37 **Upgrade** means migrating to a new platform or adding features through changes to equipment and/or software.
- 1.1.38 **User** means an employee, agent, or volunteer of an organization authorized to use PSERN.
- 1.1.39 **Warranty Period** means the period beginning when the Equipment is made operational by the Contractor and extending for two (2) years after Full System Acceptance, as defined in the Contract.
- 1.1.40 **Template** means a master codeplug for a specific set of radios that is used to create an Equipment codeplug with the specific radio information required for the configuration of a Portable, Mobile or Control Station Radio. The Template includes ergonomic settings, PSERN radio system information, and Mutual Aid Radio systems information that is programmed into the radio to allow operations on PSERN, KCERCS or other radio systems.

2. INITIAL EQUIPMENT REPLACEMENT

- 2.1 By and through the Contractor, the County will replace the End User Agency's existing radios with Subscriber Radios in the numbers and of the types specified in Exhibit 1.
- 2.2 Subscriber Radios will be standardized with features, functions and Accessories chosen to make them suitable for use by End User Agencies. The End User Agencies may purchase additional Subscriber Radios, features, and accessories. The method and timing of payment for additional equipment will be established by the Joint Board.
- 2.3 Subscriber Radios will be issued according to the policies of the Joint Board as listed below, and as amended by the Joint Board:

Only For KCERCS Customers:

- 2.3.1 The PSERN Project will replace governmental agency and hospital agency active radios that were activated, into KCERCS zone controllers as active radios and assigned IDs 120 days prior to the first End User Agency's Subscriber Radio planned deployment and/or installation dates;
- 2.3.2 Non-hospital private agencies that are on the KCERCS will have their radios replaced on a 1 for 1 basis according to the agency inventory records as of April 25, 2019;
- 2.3.3 All End User Agency must turn an existing working radio in to the PSERN Project for each Subscriber Radio provided by the Project to the End User Agency;
- 2.3.4 End User Agency may keep old radios not needed for Subscriber Radio exchange to use on PSERN if they are approved by the Service Provider as meeting minimum PSERN software configurations and manufacturers specifications; and
- 2.3.5 End User Agency will pay Monthly Fees for each of its Subscriber Radios unless exempted otherwise by the policies of the Service Provider.

For all other agencies:

- 2.3.6 Agencies wanting to be on PSERN but not already on KCERCS may be issued Subscriber Radios pursuant to policies and terms and conditions adopted by the PSERN Board, but only if they commit to remaining as an End User Agency for a minimum of 10 years.
- 2.4 By and through the Contractor, the County initially will configure, program, install and or deploy the Subscriber Radios using the previous template and perform like for like programming. After the initial templates are created and programmed, the PSERN Operator will be responsible for archiving and centrally storing templates as well as infrastructure configuration changes within the templates. The Radio Shops will be responsible for End User Agency configuration settings only. The Master Advanced System Key shall be maintained by the PSERN Operator. The PSERN Operator shall establish policies to determine which Subscriber Radio maintenance shops will be eligible to receive a system key.

- 2.5 The PSERN Operator will maintain a list of radios approved for use on the PSERN system. The End User Agency agrees to use only approved radios on PSERN and to not program or cause radios to be programmed in a way that they would operate in the P 25 Phase 1 mode of operation while operating on PSERN.
- 2.6 The County will own the Equipment provided by the PSERN Project. After the new PSERN Operator is formed, ownership of this Equipment shall be transferred to the PSERN Operator at no cost to the End User Agency or to the PSERN Operator.
- 2.7 Ownership of County-purchased Subscriber Radios will be transferred to the End User Agency within the same fiscal year that the Subscriber Radios are put into service provided that the Subscriber Radios are put into service at least ninety (90) days prior to the end of the fiscal year. If the Subscriber Radios are put into service less than ninety (90) days prior to the end of the fiscal year, then ownership will be transferred within ninety (90) days from the date they are put into service.
- 2.8 The Train-the-Trainer model will be used to train End User Agency staff to use the Subscriber Radios. Each End User Agency shall designate staff to be trained, and supply that (those) name(s) to the Service Provider. The trainers will receive detailed training on use of the Subscriber Radios from the Contractor.

3 TRANSITION PLAN

- 3.1 The Service Provider and End User Agency will work with the Contractor to develop a mutually agreeable written transition plan. The transition plan will be approved by the PSERN Joint Board.
- 3.2 The transition plan will include:
 - 3.2.1 A list of equipment that the End User Agency shall receive as part of the PSERN Project;
 - 3.2.2 An installation plan for all vehicles receiving equipment;
 - 3.2.3 A plan describing how End User Agencies will migrate from analog to digital operations;
and
 - 3.2.4 A plan describing the training plan for each End User Agency.

4 INSTALLATION AND TESTING

- 4.1 If the End User Agency has any special requirements pertaining to the disposition of its existing radios it shall notify the Service Provider as soon as practicable, but no less than within five (5) business days of receiving notification of installation and transition.
- 4.2 The Service Provider shall secure all Government Approvals required for the installation and operation of the Subscriber Radios.

- 4.3 All Subscriber Radios will be programmed and tested prior to deployment and/or installation by the Contractor to determine if they are operating in accordance with manufacturer's specifications.
- 4.4 The Service Provider will coordinate with the End User Agency regarding the installation schedule as far in advance as possible, but no less than at least fifteen (15) business days in advance.

5 OPERATIONS

5.1 In implementing and managing PSERN, the Service Provider shall:

- 5.1.1 Be responsible for, or during the Warranty Period ensure the Contractor is responsible for, the repair of defective Equipment, and for programming and installing Equipment purchased and installed during the Implementation Period;
- 5.1.2 Monitor PSERN for proper operations in accordance with the standards specified herein and monitor for any failure symptoms;
- 5.1.3 Maintain, operate, repair, Update, Upgrade and test PSERN in accordance with the Equipment manufacturer's recommendations for routine maintenance;
- 5.1.4 Provide the End User Agency with a phone number and email address to report system problems. The phone number shall be reachable and Monitored 24 hour X 7 day X 365 days per year;
- 5.1.5 Respond to network and Equipment problems in accordance with Response and Resolution Tables contained in **Exhibit 2**;
- 5.1.6 Purchase the Contractor's Radio Service Advantage (RSA) product offering which will provide 7 years of support for Subscriber Radios after the conclusion of the two-year warranty period. During the 7 years of RSA support, End User Agencies will be able to receive repairs to Subscriber radios without incurring Contractor's depot level repair costs. However, any Subscriber Radio needing repair or replacement due to the intentional or negligent act of the End User Agency, its agents, employees, or invitees, will be repaired or replaced by the Radio Shop at the Radio End User Agency's cost. Such cost is in addition to the Monthly Fee. Disputes regarding the responsibility for repair or replacement cost will be resolved pursuant to Section 23;
- 5.1.7 Have factory-trained subject matter experts (Duty Technician(s)) on staff who specialize in the diagnosis, troubleshooting and resolution of network performance and Equipment problems;
- 5.1.8 Have a Duty Technician to act as liaison between itself and the Contractor;
- 5.1.9 Resolve Equipment warranty claims with the Contractor;
- 5.1.10 Manage talkgroup site access profiles;

- 5.1.11 Give the End User Agency at least thirty (30) days' notice before undertaking scheduled activities that will interrupt or reduce service capacity by twenty-five percent (25%) or more;
- 5.1.12 Centrally manage the distribution and archiving of regional encryption keys;
- 5.1.13 Centrally manage the creation of new talkgroups (however, per Section 5.3, End User Agencies will own their own existing talkgroups);
- 5.1.14 Centrally archive templates for radio programming of End User Agency radios;
- 5.1.15 Centrally manage the use of integrated voice and data applications such as over-the-air rekeying, over the air programming, outdoor location (GPS information) and radio management;
- 5.1.16 Ensure public safety agencies have priority of service on the PSERN system; and
- 5.1.17 Maintain the PSERN system to the following standards as specified in the Contract and as implemented by the Contractor prior to FSA:
 - 5.1.17.1 Delivered Audio Quality 3.4;
 - 5.1.17.2 97% reliability;
 - 5.1.17.3 97% portable on-street coverage in the Primary Bounded Area;
 - 5.1.17.4 95% portable on-street coverage in the Highway Buffer Covered Areas;
 - 5.1.17.5 Grade of Service of 1.0;
 - 5.1.17.6 99.999% availability of backhaul;
 - 5.1.17.7 at least 17db added signal above the baseline PSERN design within the designated in-building coverage areas (downtown Seattle, downtown Bellevue, and north central Renton; and
 - 5.1.17.8 Provide 97% portable on-street coverage in the in-building coverage areas. The Contractor shall provide a System that achieves 97% SAR (service area reliability).
- 5.2 Following execution of the Operations Period ILA and formation of the PSERN Operator, the PSERN Operator shall:
 - 5.2.1 Develop and adopt a maintenance & operations plan that includes:
 - 5.2.1.1 Talkgroup prioritization levels and site authorizations;
 - 5.2.1.2 Authorized template configuration changes by Radio Shops;

- 5.2.1.3 System maintenance standards;
- 5.2.1.4 Technician/System manager administrative rights;
- 5.2.1.5 Training requirements for technical staff;
- 5.2.1.6 Distribution, management, and archiving of regional and End User Agency encryption keys;
- 5.2.1.7 System key management and distribution;
- 5.2.1.8 OTAP/OTAR roles and responsibilities;
- 5.2.1.9 Issue resolution reporting procedures including system status, repairs made, impacted area, etc.;
- 5.2.1.10 Continuity of operations procedures;
- 5.2.1.11 Procedures for End User agencies to add radios to their inventory at their own cost;
- 5.2.1.12 Talkgroup sharing agreement requirements; and
- 5.2.1.13 Conventional channel sharing agreements.
- 5.2.2. Adopt policies governing the replacement, removal, and addition of Equipment under its control;
- 5.2.3. Adopt policies related to the access of PSERN for mutual aid and/or interoperability purposes;
- 5.2.4. Adopt policies defining the approved Equipment and Subscriber Radios authorized for use in PSERN;
- 5.2.5. Adopt policies defining mandatory configuration settings that must be set into each authorized Subscriber Radio;
- 5.2.6. Adopt and implement information assurance controls, policies, procedures and processes;
- 5.2.7. Adopt policies governing the change management program;
- 5.2.8. Work in partnership with the End User Agencies to develop and regularly report on performance and operating metrics indicating system performance as well as the PSERN Operator's ability to meet the End User Agencies service requirements; and
- 5.2.9. Upon request by End User Agencies, provide reports of system usage and equipment inventories.

5.3 In using the Equipment and PSERN, the End User Agency agrees to:

- 5.3.1 Be responsible for replacement at its cost of any Subscriber Radios that are stolen, damaged, lost or which are determined by the End User Agency to be beyond their expected life if not covered by the radio repair procedures as described in Section 5.4 ;
- 5.3.2 Use only radio codeplugs that have been configured by the PSERN Operator;
- 5.3.3 Create and distribute End User Agency encryption keys;
- 5.3.4 Own and control their own talkgroups;
- 5.3.5 Ensure all trunked radios are capable of being configured for P25 Phase II operation;
- 5.3.6 Prevent unauthorized and untrained personnel from accessing Subscriber Radios;
- 5.3.7 Promptly report Equipment and network problems to the Service Provider and indicate the impact of the problem on the End User Agency (e.g., if a channel is garbled, features are not working correctly, or if coverage conditions in a known area have changed);
- 5.3.8 Comply with all applicable information assurance controls, policies, procedures, and processes developed and implemented by the PSERN Operator;
- 5.3.9 Maintain an accurate system for tracking all Subscriber Radio purchased by the PSERN Project or acquired by the End User Agency and immediately notify the System Provider if the End User Agency knows or suspects that a Subscriber Radio has been lost, stolen, or damaged so that the System Provider can take any necessary actions which may include disabling the Subscriber Radio;
- 5.3.10 Not permanently transfer, dispose of, or allow an entity or individual outside the User Agency to use Subscriber Radios without the PSERN Board's prior written approval for a period of 7 years after Full System Acceptance (Any radios disposed of under this sub-section shall be deprogrammed by a Radio Shop prior to disposal);
- 5.3.11 Assist the Service Provider in responding to any correspondence, complaint, information request, or claim it receives that pertains to End User Agency operations;
- 5.3.12 Use a Radio Shop of its choice to perform all installation, maintenance, programming and repair work on Subscriber radios;
- 5.3.13 Perform, or have performed, preventative maintenance of its Subscriber Radios in accordance with manufacturer's recommendations and schedules;
- 5.3.14 Perform, or have performed, periodic Updates of subscriber operating system as determined by the Service Provider;

5.3.15 Allow Service Provider the right to inspect applicable Equipment which the End User Agency controls access to in order to verify operations of the Equipment are within the manufacturer's specifications and Federal Communications Commission rules; and

5.3.16 Not modify Subscriber Radio hardware or software operating characteristics, such as modifying the transmit power levels of mobile radios or replacing the antennas with higher gain antennas on mobile or portable radios without the approval of the PSERN Operator.

5.4 Radio Repair Procedures:

5.4.1 After initial Contractor installation and up to and during the Warranty Period, the End User agency will use a Radio Shop of its choice to perform all installation, maintenance, programming, and repair work on Subscriber Radios and ensure that during the two year warranty period the Radio Shop will:

5.4.1.1 Initiate a service request with Contractor by requesting a Return Merchandise Authorization (RMA); and

5.4.1.2 The Radio shop shall remove failed units from the vehicles and reinstall new units and ship the units to Contractor.

5.4.2 Contractor will:

5.4.2.1 Provide the Radio Shop with an RMA, provide a new Subscriber Radio replacement unit with the latest firmware release, and reimburse the Radio Shop and End User Agency for their costs (including troubleshooting time, owner travel time, removal and installation of the radio, reprogramming, and inventory actions).

5.4.3 Upon completion of the warranty period:

5.4.3.1 The Radio Shop will initiate a service request via Motorola Online (MOL) and reference the Contract Number (#5729347) for repair;

5.4.3.2 Contractor is responsible for inbound and outbound shipping and tracking of each shipment; and

5.4.3.3 End User Agency may have to pay fees for the removal/installation of Mobile Radios or Control Stations per any applicable Radio Shop service agreements and rates.

5.5 The Change management program to be adopted pursuant to Section 5.2 shall be mutually agreed to by the Parties and shall include:

- 5.5.1 Request for change (RFC) documentation;
- 5.5.2 Classification of the RFC quantifying the risk/impact and the category;
 - 5.5.2.1 Risk/Impact may be: low, medium, high; and
 - 5.5.2.2 Category may be: standard or Emergency.
- 5.5.3 Assessment and Authorization of the RFC;
- 5.5.4 Communication with dispatch centers of the RFC's implications;
- 5.5.5 Implementation of the change;
- 5.5.6 Assessment of the quality of the implementation; and
- 5.5.7 Closure of the RFC record.

6. RESPONSE AND RESOLUTION TIMES TO INFRASTRUCTURE IMPAIRMENTS

- 6.1 During the Warranty Period when a User reports or the Monitoring equipment detects a problem and reports it to the Service Provider, a trained technologist will acknowledge and attempt to remotely diagnose the problem. Appropriate responses could include continuously Monitoring the event for further development, attempting remote remediation, or dispatching a Field Servicer (Servicer) for onsite remediation.
- 6.2. The table in Exhibit 2 lists Response Times for three levels of severity and the correlating Resolution Time for each.
- 6.3. The Service Provider shall repair or replace a defective piece of Equipment at no cost above the Monthly Fee.
- 6.4. The Service Provider will keep or have access to sufficient spare parts and pieces of Equipment so that defective, broken, or wrongly programmed Equipment can be promptly replaced or repaired.

7. EQUIPMENT UPDATES AND UPGRADES

- 7.1 Equipment Updates
 - 7.1.1 During the Warranty Period, the Contractor shall provide and install Equipment Updates. Thereafter, the Contractor shall provide Updates that shall be installed by the Service Provider. The cost of Updates shall be included in the Monthly Fee.
 - 7.1.2 Regular Updates shall include:

- 7.1.2.1 Contractor's most current software enhancement release Update which includes defect corrections, bug fixes, patches, and service packs.
 - 7.1.2.2 Patch releases, service packs and other non-security-related Updates released by Contractor, its subcontractors if applicable, and other providers of Equipment operating and application software including Microsoft, Red Hat Linux, Sun Solaris, and other third parties.
 - 7.1.2.3 Contractor's regular security-related Updates, referred to by Contractor as "Security Update Service" (SUS) that include operating system patches and service packs, anti-virus engines and definitions, intrusion detection systems and signatures, and firewall setting and other security-related Updates.
- 7.1.3 Updates to software necessary as a result of a failure will be provided based on the severity level of the failure as follows:
- 7.1.3.1 For failures that affect PSERN service, traffic/capacity, operations, material functions, maintenance capabilities or system administration, the Service Provider shall commence corrective action immediately and exercise its best efforts to work with the Contractor to develop, test, and install a fix in the shortest time possible.
 - 7.1.3.2 For failures that do not affect PSERN service, traffic/capacity, operations, material functions, maintenance capabilities or system administration, the Service Provider shall work with the Contractor to develop, test, and install the fix as part of an Update to be otherwise provided in this Section.
- 7.1.4 Prior to installation of an Update, the Service Provider shall confirm that the Update has been successfully tested to ensure the Update is compatible and that it will not degrade, interfere with, or otherwise compromise PSERN's functionality. Updates may be loaded remotely or locally as determined by the Service Provider.
- 7.1.5 The Service Provider will routinely install Updates, but may defer or decline to install an Update or roll back one or more Updates if the Service Provider in its sole discretion determines that the Update would be detrimental to PSERN's functionality.
- 7.1.6 The Service Provider will notify End User Agencies in accordance with the change management program as detailed in Section 5.5 in advance of routine Updates and will provide applicable release notes with each Update. In the case of Updates installed under Section 7.1.3, notice will be provided to the Users with as much lead time as practicable.

7.2 Equipment Upgrades

- 7.2.1 During the Warranty Period, the Contractor shall provide and install Equipment Upgrades. Thereafter, the Contractor will provide Upgrades that will be installed by the Service Provider. The cost of Upgrades shall be included in the Monthly Fee.
- 7.2.2 The most recent available Upgrades of the Equipment software and hardware shall be provided at the following points in time: (1) no more than ninety (90) days prior to the start of the FSA testing period; (2) no more than ninety (90) days prior to the end of the Warranty Period; (3) after the Warranty Period, every other year beginning with 2023 subject to availability from the Contractor. The Service Provider may defer or suspend an Upgrade if it determines in its sole discretion that the Upgrade would be detrimental to PSERN's functionality.
- 7.2.3 Each Upgrade will include the latest versions of Contractor software and the latest versions of third party software certified for the system and shall include all Updates available at the time of the Upgrade if not already installed under Section 7.1.
- 7.2.4 Prior to installation of an Upgrade, the Service Provider shall confirm that the Upgrade has been successfully tested to ensure the Upgrade is compatible and that it will not degrade, interfere with, or otherwise compromise PSERN's functionality. Upgrades may be loaded remotely or locally as determined by the Service Provider.
- 7.2.5 If an Upgrade requires additional or different Equipment, the Service Provider (by and through the Contractor during the Warranty Period) shall provide and install the necessary Equipment. The cost of the software and Equipment required for the Upgrade, if any, shall be included in the Monthly Fee.
- 7.2.6 The Service Provider will notify End User Agencies in accordance with the change management program as detailed in Section 5.5

8 MONTHLY FEE AND PAYMENT

- 8.1 The End User Agency agrees to pay the PSERN Operator a Monthly Fee for the End User Agency's use of PSERN and the PSERN Operator's operation and maintenance of the Equipment and network. The Monthly Fee shall be calculated using a formula determined by the PSERN Board.
- 8.2 The Monthly Fee will be assessed beginning immediately after FSA for each End User Agency radio with an active ID in the radio system core. In the first month, the Monthly Fee shall be assessed on a prorated basis based on the number of days the radio is in service and will apply to Subscriber Radios used in the field, dispatch center back up radios and recording radios. The PSERN Operator shall provide an invoice to the End User Agency. The first payment will be due on the first day of the first full month after FSA, and shall equal the amount due for that month and any pro-rated amount for the first month of service

- 8.3 Monthly Fee payments will be due on the first day of each month, except that at the End User Agency's sole option it may make annual advance payments in lieu of monthly installments. Payments made will be applied first to charges that are in arrears and then to the payment due for that coming month.
- 8.4 The first payments after FSA may be reduced based on the PSERN Board's disbursement of the Rate Stabilization Allocation for those End User Agencies that will see a rate increase as a result of PSERN operations.
- 8.5 The PSERN Operator shall provide the End User Agency with the address for payment of Fees not less than sixty (60) days prior to the date the first payment is due. All payments shall be accompanied by a reference to this Agreement, or an invoice number.
- 8.6 If the End User Agency does not pay its Fee or pays only a part of the Fee more than twice in any single calendar year, the PSERN Operator may charge the End User Agency a reasonable late or special handling charge.
- 8.7 The PSERN Operator's acceptance of any payment or partial payment after the date it is due shall not be deemed a waiver regarding the End User Agency's obligations to make future payments on time. And no partial payment shall act as an accord and satisfaction unless approved by the PSERN Board.
- 8.8 OTHER FEES: The Service Provider may maintain and publish fees for services in support of End User Agency's operations unrelated to the PSERN Equipment. Such fees may include activation and deactivation fees and time and materials rates for non-PSERN equipment servicing. End User Agencies may use these ad hoc services, if offered, which may consist of:
- 8.8.1 Time and materials fees in support of UHF systems and equipment, VHF systems and equipment, non-PSERN Microwave equipment and fiber optic networking
 - 8.8.2 Consultation service fees for communication equipment or systems
 - 8.8.3 Consultation service fees for in-building coverage equipment such as bi-directional amplifiers or distributed antenna systems

9. TERM

- 9.1 This Agreement shall take effect when executed by authorized representatives of the Parties, and shall remain in effect unless one of the following events occurs:
- 9.1.1 The Parties execute a superseding agreement;
 - 9.1.2 The End User Agency withdraws from the Agreement as provided in Section 16.1; or
 - 9.1.3 The PSERN Board terminates the Agreement as provided in Section 16.2.

10. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS, AGREEMENTS, POLICIES, PROCEDURES, AND PERMITS

The Parties acknowledge: 1) that they are required to comply with various laws, regulations, agreements, policies, procedures, and permits, including those contained in 47 CFR §90, those developed by the PSERN Board and the Service Provider, and those contained in the Implementation Period ILA and the Operations Period ILA, if the End User Agency is a party to those agreements; and 2) that the County is subject to the Vendor Contract's terms and conditions in the performance of this Agreement. The Parties agree to comply with the applicable laws, regulations, agreements, policies, procedures, and permits.

11. REPRESENTATIONS AND WARRANTIES

11.1 The End User Agency represents, warrants, and agrees that:

11.1.1 It will work cooperatively, fully, and promptly with the Service Provider;

11.1.2 It has the full right, power, and authority to enter into this Agreement; and

11.1.3 It does not know any reason why its execution and performance of this Agreement would violate any laws, covenants, or the provisions of any mortgage, lease or other binding agreement.

11.2 The Service Provider represents, warrants, and agrees that:

11.2.1 It will work cooperatively, fully, and promptly with the End User Agency;

11.2.2 It has the full right, power and authority to enter into this Agreement;

11.2.3 It does not know any reason why its execution and performance of this Agreement would violate any laws, covenants or the provisions of any mortgage, lease or other binding agreement.

12. NOT USED

13 INDEPENDENT CONTRACTORS AND NO THIRD PARTY BENEFICIARIES

13.1 Each Party is an independent contractor with respect to this Agreement. No joint venture or partnership is formed as a result of this Agreement.

13.2 This Agreement is solely for the benefit of the Parties, and gives no right or remedy to any other person or entity.

14 ASSIGNMENTS

14.1 By Service Provider

The County may assign this Agreement and all of the County's rights, duties, and obligations set forth herein, to the PSERN Operator without the End User Agency's approval. However, such assignment shall require approval by the PSERN Board.

14.2 By the End User Agency:

The End User Agency may not assign any of its rights, duties, or obligations set forth in this Agreement except as approved in writing by the PSERN Board and the Service Provider.

15 RECORDS

Each Party shall keep records as required by state law. To the extent permitted by law, all records, accounts and documents relating to matters covered by this Agreement shall be subject to inspection, copying, review or audit by the Washington State Auditor or any Party. Upon reasonable notice, during normal working hours, each Party shall provide auditors from the Washington State Auditor or the other Party with access to its facilities for copying said records at their expense. If a Party receives a request for records under the Washington State Public Records Act for records that meet the definition of Confidential Information, and if the Party determines such record is or may be subject to disclosure, the Party's sole obligation to protect the confidentiality shall be to notify the entity or individual claiming confidentiality of the request and the date that such Confidential Information will be released. Such individual or entity, shall have the option of obtaining a court order to enjoin disclosure pursuant to RCW 42.56.540.

16. ENDING SERVICE

- 16.1 End User Agency may apply for withdrawal from this Agreement with at least one year's written notice of its intent to withdraw. Such applications shall be handled in accordance with the PSERN Board's rules.
- 16.2 After giving the End User Agency a reasonable period of time to cure, the PSERN Board may terminate this Agreement for the End User Agency's repeated violations of the Agreement terms. The PSERN Board may immediately terminate this Agreement where an action or inaction of the End User Agency significantly diminishes or threatens to significantly diminish the operations of PSERN or results in the loss of or threatened loss of PSERN's spectrum licenses. Termination actions shall be handled in accordance with the PSERN Board's rules.

17. INDEMNIFICATION

Each Party shall save harmless the other Party, its officers, officials, employees and agents while acting within the scope of their employment as such, from any and all suits, costs, claims, actions, losses, penalties, judgments, and/or awards of damages, of whatsoever kind arising out of, or in connection with, or incident to the services associated with this Agreement caused by or resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own contractors, subcontractors, their employees

and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents.

18. INSURANCE

18.1 King County Insurance

The County maintains a self-insurance program for the protection and handling of its liabilities including injuries to persons and damage to property. The End User Agency acknowledges, agrees and understands that the County is self-funded for all of its liability exposures for this Agreement.

18.2 The PSERN Operator

Upon the transfer of PSERN to the PSERN Operator, the PSERN Operator shall either maintain a fully funded self-insurance program in accordance with applicable law or acquire and maintain commercial general liability insurance in the amount of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) general aggregate, based on ISO Form CG 00 01 or equivalent.

18.3 Contractors and Subcontractors Insurance

The County and PSERN Operator shall require their contractors and subcontractors to maintain general liability insurance for all activities related to installation and servicing of the equipment at the Centers.

18.4 End User Agency's Insurance

The End User Agency agrees to maintain a self-insurance program or to procure and maintain the following minimum insurance coverage areas and limits, or comparable program(s) of self-insurance, responsive to its liability and property exposures under this Agreement:

18.4.1 General Liability: Insurance Services "occurrence" form CG 00 01 (current edition), or its substantive equivalent. Commercial General Liability coverage shall be no less than ONE MILLION DOLLARS (\$1,000,000) per combined single limit per occurrence, and TWO MILLION DOLLARS (\$2,000,000) in the aggregate for bodily injury and property damage.

18.4.2 Workers' Compensation/Stop Gap/Employers Liability: Statutory Workers Compensation coverage and Stop Gap Liability for a limit no less than ONE MILLION DOLLARS (\$1,000,000) per occurrence.

19. NOTICES

Written notice for purposes of Sections 16, 18 and 23 must be either delivered by courier or sent by certified mail, return receipt requested, to the address listed below. Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon signature on the return receipt. A Party may change the address for notices from time to time by providing the other

Party(ies) the replacement name and contact information. Notice shall not be effective unless and until the other Party(ies) has (have) received this information.

To the End User Agency:

City Hall c/o Heather Kelly
123 5th Ave
Kirkland, WA 98033-6189

To the County or PSERN Operator:

Hai Phung, Project Manager
King County Department of Information Technology
401 5th Avenue
Seattle, WA 98104

20. AMENDMENT

This Agreement may be amended only upon mutual written agreement of the Parties and approval of the PSERN Board.

21. FORCE MAJEURE

Acts of nature, acts of civil or military authorities, acts of war, terrorism, fire, accidents, shutdowns for purpose of Emergency repairs, strikes and other labor disruptions, and other industrial, civil or public disturbances that are not reasonably within the control of a Party causing the Party's inability to perform an obligation under this Agreement are "Force Majeure Events." If any Party is rendered unable, wholly or in part, by a Force Majeure Event, to perform or comply with any obligation or condition of this Agreement, such obligation or condition shall be suspended for the time and to the extent reasonably necessary to allow for performance and compliance and restoration of normal operations.

22. CONFLICT WITH OTHER AGREEMENTS

If any provision of this Agreement conflicts with a provision of the Implementation Period ILA, the Operations Period ILA, or the lease between the End User Agency and King County (or Service Provider as applicable), if any, such that the provisions cannot be harmonized, then the provisions of the applicable ILA or lease shall control over this Agreement.

23. DISPUTE RESOLUTION

If a dispute arises out of or relates to this Agreement, the Parties shall endeavor to resolve the dispute through direct negotiations between them. If the Parties are unable to resolve the dispute within sixty (60) days of its occurrence, either Party may refer the dispute to the PSERN Board for resolution and shall provide the other Party with notice of such referral. If the dispute is not resolved by the PSERN Board within sixty (60) days of referral to it, either Party may refer the dispute to the executive officers of the Parties. If the dispute is not resolved by the executives within 60 days of referral, either Party may refer the dispute to non-binding mediation. The parties to the dispute shall share the costs of mediation equally. Referral of the

dispute to the PSERN Board, the executives, and mediation shall be a condition precedent to a Party's pursuit of other available legal remedies.

24 CHOICE OF LAW AND VENUE

This Agreement and any rights, remedies, and/or obligations provided for in this Agreement shall be governed, construed, and enforced in accordance with the substantive and procedural laws of the State of Washington. The Parties agree that the King County Superior Court, Washington shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

25 NO WAIVER

No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Waiver of any default of this Agreement shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach. Waiver of such default or breach shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval of the Parties.

26 EXECUTION AND COUNTERPARTS

This Agreement may be executed in counterparts, any one of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

27 SURVIVAL PROVISIONS

The following provisions shall survive and remain applicable to each of the Parties notwithstanding any termination or expiration of this Agreement and notwithstanding a Party's withdrawal from this Agreement.

Section 15 Records

Section 17 Indemnification

Section 19 Notices

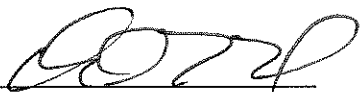
Section 24 Choice of Law and Venue

28 SEVERABILITY

The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions.

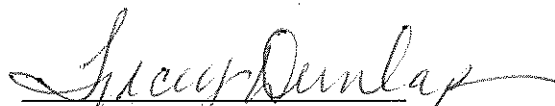
IN WITNESS WHEREOF, authorized representatives of the Parties have signed their names in the space provided below.

King County



David Mendel, Director, King County
Emergency Radio Communications

City of Kirkland



Tracey Dunlap, Deputy City Manager

Exhibit 1

List of equipment for End User Agency

The quantities of equipment listed here will be based on the preliminary radio inventory. The parties agree that prior to radio replacement final inventory numbers will be mutually agreed to, subject to the replacement policies adopted by the PSERN Joint Board.

Kirkland City

Portable	Radio Location Capable	Encryption with Over The Air Re-keying	Portable Radio quantity with microphone 2 batteries, case	Individual Charger	6 Pocket Charger
Other Gov't	No	No	16	16	0
Police	Yes	Yes	136	136	0
Fire/EMS	Yes	Yes	95	95	0

Mobile	Radio Location Capable	Encryption with Over The Air Re-keying	Dash mount radio	Trunk mount radio	Dual head radio	Quad head radio	Motorcycle radio
Other Gov't	No	No	0	0	0	0	0
Police/Fire/EMS	Yes	Yes	99	0	0	0	0

Base	Radio Location Capable	Encryption with Over The Air Re-keying	Consolette radio	Desktop radio
Other Gov't	No	No	0	0
Police/Fire/EMS	Yes	Yes	0	10

Total Radios 356

**All radios come with 700/800 MHz Trunked/Conventional P25 & Smartzone Trunking,
Over the Air Programming, Radio Authentication, Integrated Voice and Data, Advanced
System Key**

Exhibit 2
Response and Resolution Tables

Severity Level	En-Route Response Time	Restoration and Replacement Times	Examples
Severity 1	Field Servicer shall be en-route within thirty (30) minutes after Contractor or Service Provider detects or is notified of the failure, whichever occurs first.	<p>Within four (4) hours of detection or report of failure, whichever occurs first, restore full functionality to land mobile radio equipment and software, microwave system equipment and software and MPLS equipment and software and if equipment is malfunctioning, install FRU.</p> <p>Concerning equipment and software not listed above, Service Provider's goal is to resolve all Severity 1 failures within two hours of arrival. However, it is possible that some resolutions could require additional time and effort due to multiple item failure, antenna system failure, etc. In any event, Service Provider is committed to failure resolution as rapidly as possible, utilizing all available resources to resolve the failure as soon as possible.</p>	<p>Failure of any system control equipment element. (e.g. equipment at a master site or prime site).</p> <p>Any failure which results in the loss of wide area operation of one or more simulcast radio sub-system.</p> <p>Failure of operation of 25% or more of the operator stations in a dispatch center.</p> <p>This level represents the most critical issues affecting significant portions of the System and its users.</p>

Severity 2	Field Servicer shall be en-route within thirty (30) minutes after Contractor or Service Provider detects or is notified of the failure, whichever occurs first.	<p>Within twenty-four (24) hours of detection or report of failure, whichever occurs first, restore full functionality to land mobile radio equipment and software microwave system equipment and software and MPLS equipment and software and if equipment is malfunctioning, install FRU.</p> <p>Concerning equipment and software not listed above Service Provider's goal is to resolve all Severity 2 failures within twelve hours of arrival. However, it is possible that some resolutions could require additional time and effort due to multiple item failure, antenna system failure, etc. In any event, Service Provider is committed to failure resolution as rapidly as possible, utilizing all available resources to resolve the failure as soon as possible.</p>	<p>Loss of 20% or more voice talk-path capacity at a site.</p> <p>Failure of operation of any individual site that comprises a part of a simulcast subsystem or multicast site.</p> <p>Any Backhaul failure which causes either a loss of traffic through a path or loss of node redundancy.</p> <p>Network Management System (NMS) failure</p> <p>dispatch center failure impacting operations.</p> <p>Loss of connectivity of any dispatch or RF site to the core network.</p> <p>Environmental alarms, such as DC plant and backup power.</p> <p>This level represents major issues that results in an impaired or unusable sub-system, or loss of critical features from the End User Agency's perspective.</p>
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Severity 3	Field Servicer shall be en-route as soon as possible after Contractor or Service Provider detects or is notified of the failure, whichever occurs first.	<p>Within twenty-four (24) hours of detection or report of failure, whichever occurs first, restore full functionality to land mobile radio equipment, microwave system equipment and software and MPLS equipment and software and, if equipment is malfunctioning, install new equipment.</p> <p>Concerning equipment and software not listed above, Service Provider's goal is to resolve all Severity 3 failures within twenty-four hours of arrival. However, it is possible that some resolutions could require additional time and effort due to multiple item failure, antenna system failure, etc. In any event, Service Provider is committed to failure resolution as rapidly as possible, utilizing all available resources to resolve the failure as soon as possible.</p>	<p>Loss of less than 20% of voice talk-path capacity at any site.</p> <p>Any Backhaul failure or alarm which does not result in loss of traffic or redundancy.</p> <p>No more than 1 console out-of-service at any dispatch location.</p> <p>Loss of any NMS workstation.</p> <p>This level represents moderate issues that limit End User Agency's normal use of the system, sub-system, product, or major non-critical features from an End User Agency's perspective.</p>
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