

## **Addendum for Orders with the City of Littleton Under Contract DIR-CPO-5433**

This Addendum is entered into by and between the City of Littleton (the “City”) with its principal place of business at 2255 W Berry Avenue, Littleton, Colorado 80120 and Motorola Solutions, Inc. (“Motorola”), with its principal place of business at 500 West Monroe Street Chicago, IL 60661. Motorola and the City are referred to as a “Party” or collectively the “Parties.”

The Parties hereby agree to the following provisions that apply to all orders with the City under DIR-CPO-5433 including all order forms, terms and conditions, exhibits, addendums, attachments, annexes and other similar documents applicable to orders under the Contract (in totality, the “Agreement”). The Parties agree that this Addendum will take precedence over all other documents with respect to products and services ordered by the City except to the extent prohibited by DIR-CPO-5433. Specifically, this Addendum takes precedence over conflicting provisions in any Motorola quote or product/service-specific addenda.

### **COLORADO OPEN RECORDS ACT:**

Motorola acknowledges that the City is subject to the Colorado Open Records Act (C.R.S. §§ 24-72- 201, et seq.) (CORA). Motorola further acknowledges that information may also be subject to other applicable federal and state laws and regulations and that the City shall treat information exchanged under covered orders in accordance with applicable law, notwithstanding any potentially conflicting requirements in the Agreement. Motorola and the City agree that the Contract, Order Forms (including pricing) and this Addendum are public documents under C.R.S. § 24-72-202(6)(a)(1). To the extent there is a conflict between the Contract or any orders and CORA, CORA will control.

### **GOVERNING LAW:**

Disputes between Motorola and the City under the Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under the Agreement or for the enforcement thereof shall be in the appropriate court for Arapahoe County, Colorado.

### **FISCAL CONSIDERATIONS:**

**TABOR.** The Parties understand and acknowledge that the City is subject to Article X, § 20 of the Colorado Constitution (“TABOR”). The Parties do not intend to violate the terms and requirements of TABOR by the execution of the Agreement. It is understood and agreed that the Agreement does not create a multi -fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in the Agreement to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for Contract ID \_\_\_\_\_

that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City, and other applicable law. Upon the failure to appropriate such funds, the Agreement shall be terminated. Notwithstanding any provision to the contrary herein, if the City has accepted delivery of any products or services performed through the date of termination, the City is obligated to pay for the products received or services rendered.

**Indemnification.** Notwithstanding any language in the Agreement to the contrary, the City will not indemnify or hold harmless Motorola or any entity under or relating to the Agreement.

**Prior Authorization.** Motorola will not incur any costs or cause the City to incur fees under the Agreement in excess of the Agreement price without prior authorization in writing from the City.

**TAXES:**

The City of Littleton is not subject to taxation. Motorola shall not invoice the City for any state, federal or local taxes whatsoever. Upon written notification by the City, the Motorola shall reimburse the City in a timely manner for any taxes erroneously paid by the City.

**INSURANCE:**

**Required Insurance.** Motorola shall obtain and shall continuously maintain during the term of this Agreement insurance of the kind and in the amounts specified (“Required Insurance”). City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Motorola’s breach of Agreement or of any of City’s rights or remedies under the Agreement.

A. Workers’ Compensation and Employers’ Liability insurance with limits as required by law and \$1,000,000 per accident, disease, and disease policy limit.

B. Commercial General Liability insurance with limits of one million dollars (\$1,000,000.00) per occurrence and of two million dollars (\$2,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of Motorola. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an “occurrence” basis as opposed to a “claims made” basis. The policy shall include City of Littleton as additional insured.

C. Technology Errors and Omissions insurance with a limit of one million dollars (\$1,000,000.00) per claim and two million dollars (\$2,000,000.00) annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. The Required Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Best’s Key Rating Guide. All Required Insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Motorola for two (2) years after project completion.

**Additional Requirements for Insurance.** In addition to specific requirements imposed on insurance by this Section and its subsections, insurance shall conform to the following:

A. The Commercial General Liability policy shall be primary insurance, and any insurance carried by City, its officers, or its employees shall be excess and not contributory insurance to that provided by Motorola; provided, however, that City shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services provided by Motorola. Motorola shall not be an insured party for any City-obtained insurance policy or coverage.

B. Motorola shall be solely responsible for any deductible or SIR losses.

D. Motorola shall have the Commercial General Liability and Workers Compensation policies endorsed to provide the City with a thirty (30) days prior notice of cancellation .

**Failure to Obtain or Maintain Insurance.** Motorola’s failure to obtain and continuously maintain policies of insurance in accordance with this Section and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of Motorola arising from performance or non-performance of this Agreement. Failure on the part of Motorola to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and limits shall constitute a material breach of this Agreement upon which City may immediately terminate this Agreement.

**Insurance Certificates.** Prior to commencement of any Services under this Agreement, Motorola shall submit to City certificates of insurance for all Required Insurance. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section and its subsections shall be indicated on each certificate of insurance. .

**Sub-consultants or Subcontractors.** Motorola shall confirm and document that all sub-consultants and subcontractors (including independent contractors, suppliers, or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by Motorola and appropriate to their respective primary business risks considering the nature and scope of services provided

**APPROVED AS TO FORM**

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

Reid B. Betzing

Contract ID \_\_\_\_\_

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**CITY OF LITTLETON, COLORADO**

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

Kyle Schlachter

City Attorney

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

Mayor

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

**ATTEST**

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

Colleen Norton

City Clerk

**MOTOROLA**

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

{---Vendor Signer---}

{---Title of Vendors Signer---}

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