

RESOLUTION NO. 16-368

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED THREE-YEAR MUNICIPAL EQUIPMENT LEASE-PURCHASE AGREEMENT 24020 BETWEEN THE CITY AND MOTOROLA SOLUTIONS, INC. AS A SOLE SOURCE PROVIDER, PURSUANT TO CITY CODE 2-797 (1)(b), FOR MOTOROLA HANDHELD RADIOS AND RELATED EQUIPMENT, AS DESCRIBED IN THE ATTACHED LEASE PURCHASE AGREEMENT 24020, IN ACCORDANCE WITH CITY CODE SECTION 2-844 FOR BRAND NAME PURCHASES FOR THE KEY WEST POLICE AND KEY WEST FIRE DEPARTMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTS UPON CONSENT OF THE CITY ATTORNEY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Monroe County Emergency Communications recently evaluated radio communication equipment and selected Motorola as the preferred manufacturer for equipment that is operable on the Project P25 system. Motorola radio equipment is available through the sole source dealer, Motorola Solutions; and

WHEREAS, the lease-purchase of Motorola equipment pursuant to the brand name specifications provisions of Key West Code of Ordinances section 2-844 is permitted; and

WHEREAS, Key West Code of Ordinances section 2-797(1) permits the purchase of goods and services without competition on a sole source basis under certain specified conditions; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Municipal Equipment Lease Purchase Agreement 24020 is hereby approved, in accordance with City Code Section 2-844, for the Key West Police Department and the Key West Fire Department, from Motorola Credit Solutions, LLC as a sole source provider pursuant to City Code of Ordinances section 2-797(1).

Section 2: That the City Manager is authorized to execute necessary documents upon consent of the City Attorney.

Section 3: That funds may be budgeted in the City of Key West Capital Improvement Project for Fiscal Year 2018-2019, and FY 2019-2020, as necessary.

Section 4: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held
this 6th day of December, 2016.

Authenticated by the Presiding Officer and Clerk of the
Commission on 7th day of December, 2016.

Filed with the Clerk on December 7, 2016.

Mayor Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



EXECUTIVE SUMMARY

DATE: November 22, 2016

TO: Jim Scholl, City Manager

CC: Greg Veliz, Assistant City Manager

FROM: Donald Lee, Police Chief

Michael Davila, Fire Chief

Mark Z. Finigan, Finance Director

SUBJECT: Executive Summary – Lease of Handheld Motorola Radios

ACTION

Pursuant to City Ordinance Section 2-797(1) – *Sole Source Procurement*, the Police and Fire Departments respectfully request the City Commission authorize the City Manager to enter into Municipal Equipment Lease Purchase Agreement 24020 with Motorola Solutions for the acquisition of critical frontline next generation handheld radio equipment for both the City of Key West Police Department and the Key West Fire Department.

PROJECT

The City of Key West Capital Improvement Plan contemplates the allocation of funds in the FY 18-19 Capital Improvement budget to replace existing handheld Motorola radios in accordance with our strategic plan. Motorola recently announced that they will no longer provide service for the XTS line of radios as of December 31, 2018. The XTS line has reached its "end of life" and will be replaced with the APX line. Radio communication is essential to safe and effective Police, Fire and EMS operations.

Our current radio fleet is comprised mainly of the Motorola XTS5000 handheld. We have been using these units since the inception of the Monroe County 800MHz system in 2001. They are no longer produced and approaching their end of life date in December 2018, at which time they will have limited support by the manufacturer, due to lack of available replacement parts. The new technology platform is the APX series radios, which have major advancements in audio quality and reliability. The APX series radio supports the newer mandated P25 standard being implemented

across the nation. Due to the age of the older XTS series radios, we need to change to the new APX series so we can continue support our police, firefighter and EMS personnel with the most dependable first responder equipment in the marketplace.

The Monroe County Emergency Communications recently went through an evaluation of radio communication equipment and found the Project 25 (P25) system as the superior radio communication system currently available in the marketplace. The County of Monroe has chosen Motorola as the preferred manufacturer of radios that can operate on the P25 system. The Motorola radio equipment is required to be purchased directly from the sole source dealer, Motorola Solutions.

FINANCIAL IMPACT:

Municipal Equipment Lease Purchase Agreement 24020 is highlighted by the following finance features:

1. Motorola Solutions has offered a three (3) year term lease with two payments required. Lease commencement date will be December 1, 2016.
2. Payment 1 in an amount of \$436,399.84 will be due December 1, 2018, no accrued interest applied.
3. Payment 2 in an amount of \$436,399.84 will be due December 1, 2019 with a 2.95 percent interest payment of \$12,504.91 calculated on the balance due for the period December 1, 2018 through December 1, 2019.
4. Prepayment on \$860,294.77 can be made prior to December 1, 2018 without penalty and accrued interest.
5. Prepayment of Payment 2 in an amount \$436,399.84 can be made prior to December 1, 2019 without penalty, however accrued interest calculated at 2.95 percent will be applied up through the day of prepayment.
6. The lease contains a non-appropriation provision. If for some reason the City is unable to appropriate through its annual budget process the necessary funds for Payment 1 or Payment 2, the only obligation the City has is to return the equipment to the lessor.
7. The new APX units come with a five-year service protection plan.

Rising costs for production are expected to continue. A delay in acquisition of the APX units will increase the future cost for replacement of handheld radios used by Police, Fire and EMS personnel. Repair and maintenance costs can be expected to increase for the existing units. \$918,110 was projected in the City of Key West Capital Improvement Project for Fiscal Year 2018-19 for the purchase of these radios. The finance terms extended to the City offer flexibility to acquire the radios today and not pay in full until FY 18-19 or if necessary spread the full payment over two years for only \$12,504.91 in carrying costs. Annual maintenance costs on the current units that will be avoided by entering into this lease, as well as the near certainty of a higher equipment costs in 2018, provide the City operational and financial advantages which clearly support the acquisition sooner than later.

ADVANTAGES:

Purchasing the Motorola radio equipment now will accomplish the following:

1. Provides the latest technology in radio equipment now, with no delays.
2. Incorporates important police, firefighter and public safety features.
3. Avoids the potential delays in delivery due to expected high volume of equipment orders as equipment is considered "end of life".
4. Avoids potential equipment cost increases that will arise.
5. Offer the City favorable financing terms via execution of the Municipal Equipment Lease Purchase Agreement 24020.

DISADVANTAGES:

- No apparent disadvantages present themselves.

RECOMMENDATION:

The Key West Police and Fire Departments strongly recommend the purchase under the Motorola Solutions Municipal Equipment Lease Purchase Agreement for a three-year term and two year delayed payment to fully pay for all APX radio equipment provided to both the City of Key West Police Department and the Key West Fire Department.

EQUIPMENT LEASE-PURCHASE AGREEMENT

LESSEE:

CITY OF KEY WEST
3132 Flagler Street
Key West FL 33040

Lease Number: 24020

LESSOR:

Motorola Solutions, Inc.
500 West Monroe
Chicago IL 60661

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

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

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

Lessee's obligation to make Lease Payments and to pay any other amounts payable under this Lease constitutes a current obligation payable only to the extent permitted by law and exclusively from legally available funds and shall not be construed to be an indebtedness within the meaning of any applicable constitutional or statutory limitation or requirement. Lessee has not pledged and will not pledge its full faith and credit or its taxing power to pay any Lease Payments or any other amounts under this Lease. Neither Lessor nor any Assignee (described below) may compel the levy of any ad valorem taxes by Lessee to pay Lease Payments or any other amounts under this Lease.

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

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

the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate.

4. REPRESENTATIONS AND WARRANTIES. Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the "*Contract*") covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee ("*Assignee*"). LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS." LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

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

5. NON-APPROPRIATION OF FUNDS. Notwithstanding anything contained in this Lease to the contrary, in the event the funds appropriated by Lessee's governing body or otherwise available by any means whatsoever in any fiscal period of Lessee for Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessor may request by written notice that Lessee promptly deliver the Equipment to Lessor or its Assignee. In the event that Lessee agrees to deliver the Equipment to Lessor, Lessee hereby agrees to transfer title to and deliver possession of the Equipment in accordance with Section 17.1 of this Lease. In the event that Lessee does not return the Equipment to Lessor, Lessor may proceed by appropriate court action or actions, either at law or in equity, to recover damages.

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

Lessee represents, covenants and warrants that (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all public bidding requirements where necessary and by due notification presented this Lease for approval and adoption as a valid obligation on its part, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be subject to the limitations set forth in Sections 2 and 5 hereof.

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

7. TITLE TO EQUIPMENT. During the Lease Term, title to the Equipment will vest in Lessee and Lessor will have no security interest therein. Notwithstanding the obligations of Lessee to pay the Lease Payments, this Lease shall not result in the creation of any lien, charge, security interest or other encumbrance upon the Equipment and Lessor shall have no right to involuntarily dispossess Lessee of the use and enjoyment of or title to the Equipment.

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

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

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

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

12. RISK OF LOSS: DAMAGE; DESTRUCTION. Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor

unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair (an "Event of Loss"), Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of: (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Lease Term as set forth in Schedule B.

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

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

14. INDEMNIFICATION. Intentionally omitted.

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

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

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

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

17. REMEDIES. Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the Fiscal Year in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) request by written notice that Lessee promptly deliver the Equipment to Lessor or its Assignee; and (iii) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. If Lessor terminates this Lease and receives possession of the Equipment, Lessor may sell or lease the Equipment or sublease it for the account of Lessee. If the proceeds of such sale, lease or sublease are not sufficient to pay the balance of any Lease Payments or other amounts owed by Lessee under the Lease, Lessor may pursue such other remedies as are available at law or in equity to collect the balance of such Lease Payments or other amounts from Lessee's legally available funds. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

17.1. RETURN OF THE EQUIPMENT. In the event that Lessee determines to return the Equipment to Lessor or its Assignee pursuant to Section 5 or 17 hereof, Lessee agrees to transfer title to and deliver possession of the Equipment in the condition hereafter required by preparing and appropriately protecting the Equipment for shipment and, at Lessor's option, (i) surrendering the Equipment to Lessor at the Equipment Location specified in Schedule A hereto, or (ii) loading the Equipment on board such carrier as Lessor shall specify and shipping the same, freight collect, to Lessor at the place designated by Lessor. In the event of any such delivery of the Equipment to Lessor, Lessee shall execute and deliver such documents as may reasonably be required to transfer title to and possession of the Equipment to Lessor, free and clear of all liens to which the Equipment has become subject.

Upon such delivery of the Equipment to Lessor, if the Equipment is damaged or otherwise made less suitable for the purposes for which it was manufactured than when delivered to Lessee (reasonable wear and tear excepted), Lessee agrees, at its option, to: (a) repair or restore such Equipment to the same condition in which it was received by Lessee (reasonable wear and tear excepted) and, at its expense, promptly return such Equipment to Lessor (or to a location identified in a written notice to Lessee) or (b) pay to Lessor the actual cost of such repair, restoration and return.

There is no intent to create under any provision of this Lease a right in Lessor to involuntarily dispossess Lessee of the legal title to or the use of the Equipment. Lessor hereby irrevocably waives any right to specific performance of any covenant of Lessee to transfer legal title to and return possession of the Equipment.

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

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

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

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

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

23. ENTIRE AGREEMENT; WAIVER. This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Bank Qualified Statement, Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of this Lease, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof. To the extent permitted by applicable law, Lessee and Lessor hereby waive any provision of law that prohibits or renders unenforceable any provision of this Lease in any respect.

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

24. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the December day of ~~October~~, 2016

LESSEE:
CITY OF KEY WEST

By: _____

Title: _____

LESSOR:
MOTOROLA SOLUTIONS, INC.

By: _____

Title: Authorized Signatory

CERTIFICATE OF INCUMBENCY

I, _____ do hereby certify that I am the duly elected or
(Printed Name of Secretary/Clerk)

appointed and acting Secretary or Clerk of **CITY OF KEY WEST**, an entity duly organized and existing under the laws of the **State of Florida** that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number 24020 between **CITY OF KEY WEST** and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds \$1,000,000, attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of **CITY OF KEY WEST** hereto this _____ day of October, 2016.

By: _____ SEAL
(Signature of Secretary/Clerk)

OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement # 24020 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee and (iii) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms.; This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.

Attorney for CITY OF KEY WEST

*Not Applicable
Per Motorola Solutions*

**SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT**

Schedule A 24020
Lease Number:

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **24020** ("Lease"), between Lessor and CITY OF KEY WEST, Lessee.

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

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

Initial Term: 36 Months

Commencement Date: December1, 2016

First Payment Due Date: December1, 2018

2 annual payments of \$436,399.84 as outlined in the attached Schedule B, plus Sales/Use Tax of \$0.00, payable on the Lease Payment Dates set forth in Schedule B.

Equipment	Model number	Description	Quantity
APX6000	H98UCF9PW6AN	Model 2.5 700/800MHz portable	135
APX6000XE	H98UCF9PW6AN	XE Model 2.5 700/800MHz portable	55
APX6500	M25URS9PW1AN	APX6500 7/800MHz Mobile	5
NNTN7392A	NNTN7392A	IMPRESS Battery Data Reader	3
NNTN7586A	NNTN7586A	APX dual charger without display	145
NNTN7686A	NNTN7686A	Impres MUC adapter (pk of 6 Inserts)	8
NNTN7687A	NNTN7687A	Impres MUC adapter single	5
NNTN8575A	NNTN8575A	IMPRESS XE RSM Green	55
PMLN5657B	PMLN5657B	APX6000 swivel case	8
PMLN5875A	PMLN5875A	APX6000XE swivel case	55
PMMN4062A	PMMN4062A	ASSY, Microphone RSM	127
PMMN4065A	PMMN4065A	ASSY, Microphone RSM	8
PMNN4486A	PMNN4486A	IMPRES2 Batt LIION R IP67 3400T	213
RLN6434A	RLN6434A	APX Travel charger	17
RLN6486A	RLN6486A	Fireman's Radio Strap	63
RLN6554A	RLN6554A	APX Wireless RSM	8
WPLN4120BR	WPLN4120BR	IMPRES Multi Unit charger	2

City of Key West (Schedule B)

Compound Period: Annual
 Nominal Annual Rate: 0.000% (first two years)
 Nominal Annual Rate: 2.950% (remaining term)

CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
1 Loan	12/1/2016	\$ 860,294.77	1		
2 Payment	12/1/2018	\$ 436,399.84	2	Annual	12/1/2019

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

Date	Payment	Interest	Principal	Balance
Loan 12/1/2016				\$860,294.77
1 12/1/2018	\$436,399.84	\$ -	\$436,399.84	\$423,894.93
2 12/1/2019	\$436,399.84	\$ 12,504.91	\$423,894.93	\$ -
Grand Totals	\$872,799.68	\$ 12,504.91	\$860,294.77	

ORIGINAL ISSUE DISCOUNT:

Lessee acknowledges that the amount financed by Lessor is \$811,698.20 and that such amount is the issue price for this Lease Payment Schedule for federal income tax purposes. The difference between the principal amount of this Lease Payment Schedule and the issue price is original issue discount as defined in Section 1288 of the Code. The yield for this Lease Payment Schedule for federal income tax purposes is 2.95%. Such issue price and yield will be stated in the applicable Form 8038-G.

INITIAL INSURANCE REQUIREMENT: \$860,294.77

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

EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number 24020 to that Equipment Lease Purchase Agreement number 24020 will be maintained by CITY OF KEY WEST as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

Name of insurance provider

Address of insurance provider

City, State and Zip Code

Phone number of local insurance provider

E-mail address

In accordance with the Equipment Lease Purchase Agreement Number 24020 , City of Key West hereby certifies that following coverage are or will be in full force and effect:

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

Certificate shall include the following:

Description: All Equipment listed on Schedule A number 24020 to that Equipment Lease Purchase Agreement number 24020. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 24020 and list any deductibles

Certificate Holder:

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

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

STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS

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

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

EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

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

Equipment Lease Purchase Agreement No.: 24020

Lease Schedule A No. : 24020

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A#24020. See Schedule A for a detailed Equipment List.

LESSEE:

CITY OF KEY WEST

By: _____

Date: _____