

AMENDMENT NO. 3

FEB 16 2024

CONTRACT TITLE: Motorola Two-Way Radios

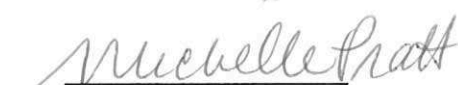
<u>CONTRACTOR</u>	<u>SUPPLIER ID</u>	<u>CONTRACT NO.</u>
Mobile Communications America, Inc. 135 North Church Street, Suite 310 Spartanburg, SC 29306	1000050637	4400011913

By mutual agreement, Contract 4400011913 is amended to adopt a new Maintenance Agreement, attached, between Fairfax County Public Schools and Mobile Communications America.

All other prices, terms and conditions remain unchanged.

ACCEPTANCE:

BY: _____	_____
Signature	COO Title
_____	_____
Frank Vanderbilt Printed Name	1/30/2024 Date



 Michelle R. Pratt
 Director

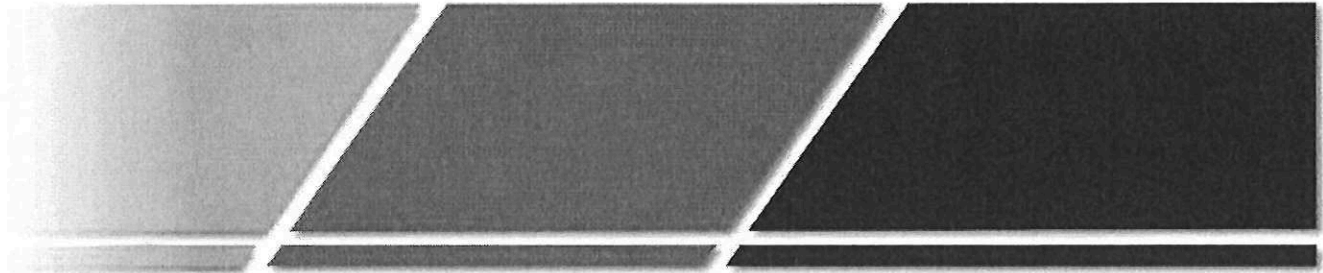
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DISTRIBUTION:

Contractor – Roger Cassell - rogercassell@callmc.com
 FCPS – Transportation – James Jenkins - jdjenkins@fcps.edu
 FCPS – Procurement – Jeremy Stern – jmstern@fcps.edu

FD
2/20/24

MCA



Fairfax County Public Schools

Maintenance Agreement

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SLA Overview – Maintenance Agreement

“Premier” Infrastructure SLA = 24-7 X 365 System response and support for all three sites

TOTAL COST FOR THREE (3) YEARS	\$501,589.57
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Services included in “Premier” Infrastructure service agreement:

- 24-7 X 365 System response and support for all three sites
- 4 hours on site response
- Enhanced Remote monitoring.
- Remote diagnostics
- System notifications via email
- Repeater spares
- Rectifier spares
- Preventive Maintenance for infrastructure equipment 2 X a year

Infrastructure response, preventive maintenance and repair for the following equipment is included in the service agreement:

- (10)Leonardo Selex Repeaters (800MHz 110W Radio Base Station) * 3 sites
- TX and RX Filtering equipment
- PRONet Dispatch Consoles
- Power systems – response ONLY, No repair or PM

Excluded from service agreement:

- IP network infrastructure hardware such as the routers provided by Cox cable nor the Aruba/HP 2530 switches.
- Maintenance and replacement of these items is the responsibility of the customer and Cox Cable.
- Site Antennas and coaxial line
- All County mobile and portable subscriber unit’s depot repairs
- All subscriber repairs will be the responsibility of the County to triage and process Motorola depot repairs.
- All work performed on vehicles and mobile radios after system acceptance will be billed at a T&M rate of \$125/hour

** Note: Please see attached Maintenance Agreement on the following pages.

SLA – Equipment Maintenance Service Agreement



COMMUNICATIONS EQUIPMENT MAINTENANCE SERVICE AGREEMENT

This Service Level Agreement (this "Agreement") is entered into by and between Mobile Communications America, Inc. a Delaware corporation ("MCA") and the entity listed below as Customer (referred to herein as, "Customer") as of the effective date listed below.

Effective

Date:

Customer: Fairfax County School Board, the Virginia public body that operates Fairfax County Public Schools

Customer

Address: 8101 Lorton Road, Lorton, VA 22079.

WHEREAS, the undersigned (collectively, the "Parties" and each, individually, a "Party") desire to enter into this Agreement to set forth the terms and conditions for the services to be provided by MCA as it applies to maintenance service, parts and labor for the equipment and/or systems as described in Attachment A and under Contract No. 44000011913 between Customer and MCA. Beginning on the effective date of this Agreement, MCA agrees to provide maintenance service to keep covered equipment in good working order.

Summary of Services:

3-Year Total Price:	<u>\$501,589.57</u>	(State/Local taxes NOT included)
Billing Frequency:	<u>Annual Payments of \$167,196.53</u>	

By signing this Agreement, Customer agrees to accept maintenance service for the listed equipment, per Attachment A, according to the specified terms and conditions of the Agreement. Customer also agrees to provide full, free and safe access to the equipment and/or systems covered by this Agreement. Services provided hereunder do not assure uninterrupted operation of the Equipment or service and MCA is not responsible to Customer for failure to render covered service due to causes beyond its control. This Agreement is valid only if signed by an authorized representative or officer of MCA and Customer.

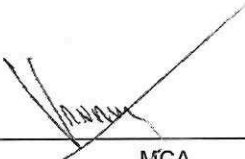
ENTIRE AGREEMENT: This Agreement, together with the SOWs and any Attachments, including Contract No. 44000011913, attached thereto, from time to time, sets forth the entire agreement and understanding between the Parties and supersedes all prior negotiations, agreements and understandings with respect to the subject matter of this Agreement. No representations, statements, or inducements, oral or written, not contained herein shall bind either Party. This Agreement may only be amended by a written amendment duly executed

between the Parties. The Customer acknowledges that the Customer has read this entire Agreement, understands it, and agrees to be bound by its terms and conditions. Once the agreement is accepted, services may be added or adjusted but may not be reduced below the initial payment terms agreement upon when executed in accordance with Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

Signature: Michelle Pratt

Name(print) & Title: Michelle Pratt, Director
Customer

Date: 2/16/24

Signature: 

Name(print) & Title: Frank Vanderbilt, COO
MCA

Date: 1/30/2024

Terms And Conditions

TERM AND ACCEPTANCE: THIS AGREEMENT SHALL BECOME BINDING UPON THE PARTIES WHEN ACKNOWLEDGED IN WRITING BY THE AUTHORIZED REPRESENTATIVE OF THE CUSTOMER AND MCA. It is agreed that service shall be provided only upon the terms included in this Agreement.

GENERAL PROVISIONS: MCA agrees to provide services for the Customer for the Equipment. Services provided hereunder do not assure uninterrupted operation of the Equipment or service and MCA is not responsible to Customer for failure to render covered service due to causes beyond its control.

NORMAL WORKING HOURS: Normal working hours shall be from 8:00 AM to 5:00 PM, Monday through Friday, except holidays.

SERVICE: MCA will perform such repairs as may be required to restore Equipment to their normal operating level, provided that such repairs are necessitated by the failure of the Equipment due to normal usage. Non-fixed Equipment shall be serviced at an MCA shop during normal working hours. For emergency service or other service performed at Customer's request outside of normal working hours, for equipment not covered under this Agreement or for Equipment whose failure was due to causes not considered to be "normal usage," Customer will be billed for the service at the then current MCA rates for each occurrence as further detailed in Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

ENHANCED SERVICE OPTION: If Customer has elected to purchase the Enhanced Service Option, emergency service is included at no additional charge per occurrence, provided that all other terms of this Agreement are satisfied. Emergency service is provided 24 hours per day, seven days per week. Customers not electing the Enhanced Service Option shall pay an additional charge for emergency service rendered at current MCA rates for each occurrence.

REPLACEMENT PARTS: MCA will replace parts and components of the Equipment on an exchange basis when failure is due to the normal and proper use of the Equipment. Parts or equipment exchanged back to MCA during maintenance service become the property of MCA as further detailed in Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

PREVENTIVE MAINTENANCE: MCA will inspect the Equipment and make such repairs, adjustments, and replacements of parts and components as may be necessary to maintain the Equipment in normal operating condition provided that such services and maintenance are necessitated by normal usage of the Equipment. Inspections and preventive maintenance service will be provided by MCA during normal working hours at the locations specified. All preventive maintenance inspections will be scheduled for mutual convenience and may be performed during remedial service.

PAYMENT. Payment shall be due and payable thirty (30) days from the date of invoice and in accordance with Section 51 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913. Payment may not be withheld on account of any claim by Buyer against MCA. If Buyer disputes any portion of a MCA invoice, Buyer shall work to resolve the dispute within thirty (30) days in good-faith with MCA. If the financial condition of the Buyer at any time does not, in MCA's sole and absolute discretion, justify continuance of performance or shipment on the terms of payment specified, MCA may require full or partial payment from the Buyer in advance in MCA's sole and absolute discretion. In the event of bankruptcy or insolvency of the Buyer, or in the event any proceedings are brought by or against the Buyer under any bankruptcy or insolvency laws, MCA shall be entitled to cancel any Order then outstanding and shall receive reimbursement for any expenses incurred by it in connection with such cancellation and any applicable cancellation charges.

LATE FEES. Without prejudice to any other rights or remedies of MCA, if payment is outstanding after a thirty business (30) day grace period, 1.5% of the total past due amount will be added to the balance or the amount that is permissible under Virginia law

LIMITATIONS: MCA reserves the right to inspect any equipment or service prior to its inclusion under the terms of this Agreement. MCA may at its sole discretion require that said equipment or system be restored to proper operating specifications at Customer's expense prior to its being covered under this Agreement. MCA may at its sole discretion declare Equipment to be unserviceable. In such case, MCA's sole responsibility is to remove such Equipment from the billing under this Agreement.

EXCLUDED SERVICES: The following services are not included under the terms of this Agreement. The repair of Equipment, replacement of parts, or any additional service labor due to accident, abuse, disaster, neglect, misuse, physical damage, liquid damage, damage by lightning or other Acts of God, service by personnel other than those authorized by MCA, alterations, modifications, attachments, accessories (other than those specifically designed for use with the particular piece of Equipment), use of Equipment with unauthorized batteries and/or power supplies or reprogramming by other than MCA personnel. Travel charges and expenses incurred by MCA at the request of the Customer to resolve a malfunction of equipment or systems not covered under this Agreement shall be billable to the Customer at current MCA rates as further detailed in Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913. If MCA finds that any Equipment has been altered or repaired by others, such Equipment shall not be covered by this Agreement and any services shall be billable to the Customer at current MCA rates as further detailed in Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

TAXES: In accordance with Section 16 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

LIABILITY INSURANCE: In accordance with Section 16 of Special Provisions of IFB 2000002625 of Contract No. 44000011913.

WARRANTY: MCA warrants that it will perform the services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement. EXCEPT FOR THE WARRANTY SET FORTH IN THIS PARAGRAPH, MCA MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

SHORTAGES AND DEFECTS OF PRODUCTS: Any claim of shortages or defects must be made within thirty (30) days of delivery to Buyer. Claims must be provided to MCA in writing and must detail for MCA the specific reason(s) for rejection. Buyer shall afford MCA prompt and reasonable opportunity to inspect all Products against which any claim is made. Buyer shall not return any Equipment to MCA without prior authorization. After MCA has reviewed the rejection notice and authorized the return, Buyer will return the unit to MCA (or MCA's designee) in the same condition as when it was received. All returns must be in the original container and packaging along with all accessories and instructions included must be shipped freight prepaid by Buyer and to be reimbursed by MCA no later than thirty (30) days after receipt of prepayment. Notwithstanding the foregoing, (a) in the event MCA reasonably determines that the basis for rejection relates to a matter covered by a Manufacturer Warranty, MCA shall have no liability to Buyer under this Section other than to inform Buyer of such determination.

FORCE MAJEURE: MCA shall not be responsible to Buyer for any failure to perform due to causes beyond its reasonable control, such as, but not limited to, acts of God, flood, fire, earthquake, explosion, acts of the Buyer, acts of civil or military authority, war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, embargoes or blockades, national or regional emergency, judicial action, pandemic, epidemic, default of subcontractors or vendors, labor disputes, accident, failure or delays on transportation, and inability to obtain necessary power, labor or materials (each, a "Force Majeure Event"). In the event of any delay due to such causes, or other difficulties, (whether or not similar in nature to any of those specified) the date of delivery shall be extended in writing for a period equal to the time lost.

LIMITATION OF LIABILITY: MCA SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOSS OF USE, REVENUE OR PROFIT, DAMAGE OR LOSS OF OTHER PROPERTY OR EQUIPMENT OR SYSTEMS OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT MCA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE LIABILITY OF MCA WITH RESPECT

TO ANY OF ITS OBLIGATIONS HEREUNDER, INCLUDING SERVICE, SALE, DELIVERY, RESALE, INSTALLATION OR THE TECHNICAL DIRECTION OF INSTALLATION, REPAIR OR USE OF ANY ITEM COVERED BY OR FURNISHED HEREUNDER, WHETHER SUCH LIABILITIES ARE FOUNDED IN CONTRACT, IN TORT, UNDER ANY WARRANTY, OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID TO MCA WITH RESPECT TO THE SERVICE GIVING RISE TO THE CLAIM.

Notwithstanding the foregoing, there shall be no limitation of liability of MCA for claims of bodily injury, including death, or damage to real property or tangible personal property resulting from the negligence of MCA or tangible personal property resulting from the negligence of MCA or any employee of MCA. Further, there is no limitation of liability of MCA for the intentional or willful misconduct, fraud or recklessness of MCA or any employee of MCA.

TERMINATION: In accordance with Sections 28 and 30 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

NO CHANGES: Except as previously described, no changes, alteration or modification of this Agreement may be made in accordance with Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913. This Agreement may not be assigned or transferred without the express written consent of MCA and as further detailed in Section 32 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

ATTORNEYS' FEES: Should any dispute arise between the parties regarding the interpretation, application, effect or enforcement of the Agreement, the prevailing party in any legal or arbitration proceedings commenced to resolve the dispute may be entitled to costs and reasonable attorney's fees incurred in said legal proceeding.

COVENANT NOT TO SOLICIT: Intentionally Omitted.

SEVERABILITY: If any provision or part-provision of these T&Cs is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these T&Cs.

GOVERNING LAW AND VENUE: This Agreement and the parties' performance hereunder shall be governed in accordance with Section 69 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913.

COUNTERPARTS: The Agreement may be executed in counterparts, which together constitute one and the same agreement. A facsimile copy or computer image, such as a PDF or tiff image, of a signature shall be treated as and shall have the same effect as an original signature. In addition, a true and correct facsimile copy or computer image of the Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

MISCELLANEOUS: This Agreement: (i) constitutes the entire agreement between MCA and Customer relating to the maintenance of the Equipment, and supersedes all prior agreements relating thereto, whether written or oral, and (ii) may not be amended or modified except in a writing signed by the parties hereto and as further detailed in Section 40 of the General Conditions and Instructions to Bidders of IFB 2000002625 of Contract No. 44000011913. If any provision of the Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of the Agreement. All notices given by one party to the other under this Agreement must be delivered by: (a) hand delivery, (b) certified mail, return receipt requested, (c) nationally recognized overnight courier service, or (d) facsimile, to the other party's respective address given in the preamble to the Agreement.

Equipment and Coverage Details - Attachment A

MCA Services - Warranty	Qty	Coverage	
		Services	
		See Special Instructions	MCA Premier 24 X 7 X 365

Infrastructure Total:

Customer Locations
Falls Church

Hybla Valley

Fairfax Station

To include a fourth site TBD

Special Instructions
 24-7 X 365 System response and support for all three sites
 4 hour on site response
 Enhanced Remote monitoring
 Remote diagnostics
 System notifications via email
 Repeater spares
 Rectifier spares
 Preventive Maintenance for infrastructure equipment 2 X a year

Statements of Work - Attachment B
Intentionally Omitted.

**MCA Premier Service (Warranty) - Infrastructure
Components**

Infrastructure support includes 24X7X365 response to all system issues arising from infrastructure, infrastructure cabling and antenna systems. Issues that result from power failure, force majeure, or tampering are excluded from this service. Repair of cabling and antenna systems is not a part of this service.

This service also includes depot repair handling of the infrastructure equipment. Should the equipment suffer a failure that cannot be addressed in the field, MCA will:

- Uninstall the infrastructure equipment
- Send to the Motorola Depot and/or Selex/Leonardo Depot
- Track repair status
- Receive the equipment back from the Motorola Depot and/or Selex/Leonardo Depot
- Confirm normal operation
- Re-install the equipment at the customer location.
- Communicate to the customer the status of their repair as it changes

One annual preventive maintenance check of all infrastructure, infrastructure cabling and antenna systems is also included. It is the customer's responsibility to give access to all infrastructure, cabling, and antenna systems for this check. It is MCA's responsibility to schedule with the customer and communicate any and all system impact. One annual firmware update of the infrastructure equipment will be completed at the time of the preventative maintenance check.