



# NRH

NORTH RICHLAND HILLS

## GOVERNMENT CONTRACT AND PURCHASING RIDER FOR CONTRACTS WITH THE CITY OF NORTH RICHLAND HILLS, TEXAS

By submitting a response to a solicitation or bid, or by entering into a contract for goods or services and/or by accepting a purchase order, the Contractor, Consultant, Vendor, or other party identified below (collectively "Contractor"), agrees that the terms and conditions herein shall govern all agreements with the City unless otherwise agreed to by a **specifically executed provision** within the contract or purchase order, provided same is permissible by law. The terms and conditions herein are **BINDING** and **SUPERSEDE** any and all other terms and conditions whether oral or written in any separate agreement or found on Contractor's website or other electronic platform.

**APPLICATION.** This **GOVERNMENT CONTRACT AND PURCHASING RIDER FOR CONTRACTS WITH THE CITY OF NORTH RICHLAND HILLS, TEXAS** ("Government Rider") applies to, is considered a part of, is incorporated into, and takes precedence over any conflicting provision in, or attached to, the Response to Solicitation or Bid, Contract or Purchase Order, Agreement for Purchase or Sale, Standard Terms and Conditions, Quote, Invoice, or other applicable agreement of the Contractor (collectively the "Agreement"), to which this Government Rider is attached and described as follows:

Title of Agreement with Additional Terms: **Service Agreement USC000003657**  
Legal Name of Cooperative Contractor: **Motorola Solutions, Inc.**  
Legal Name of Third-Party Contractor (if applicable) (if not applicable enter N/A): **NA**  
Description of Goods or Services ("Goods or Services"): **ASTRO Essential Plus**  
Cooperative Agreement: **HGAC50054**  
Total Contract Price: \$ **53,684.23**

Notwithstanding any language to the contrary in the attached Agreement between Contractor and the **City of North Richland Hills ("City")**, individually referred to as a "party" and collectively referred to as the "parties," the parties stipulate by evidence of execution of this Government Rider below by a representative of each party duly authorized to bind the parties hereto, that the parties hereby agree that the provisions in this Government Rider below shall be applicable to and shall modify and supersede the Agreement as set forth below:

**SECTION 1. TIME FOR PAYMENT AND INTEREST.** The City's payments under the Agreement, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251 of the Texas Government Code. Payment shall be due within thirty (30) days of the date the City receives an invoice for the goods or services. Interest on any overdue payment shall not exceed 1% plus the prime rate as published by the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. To the extent the Agreement requires the City to agree to a higher rate of interest than allowed by law, or to incur penalties or late fees prior to 30 days before receipt of invoice or services, any such requirements shall be null and void, are hereby deleted from the Agreement and shall have no force or effect.

**SECTION 2. INDEMNIFICATION; LIABILITY; NO FUTURE DEBT.**

**2.1 Multiyear Contracts.** If the NRH City Council does not appropriate funds sufficient to make any payment for a fiscal year after the City's fiscal year in which the Agreement becomes effective, and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Agreement shall automatically terminate at the end of the fiscal year for which funds were appropriated, in accordance with Section 5, Article XI of the Texas Constitution. The City shall have the right to terminate the Agreement at the end of any City fiscal year, without any penalty to the City, if the City Council does not appropriate sufficient funds to continue the Agreement to the next fiscal year. The City shall provide Contractor with as much advance written notice of such termination as is reasonably possible, but not less than thirty (30) days. 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 or services.

**2.2 No Future Debt.** In compliance with Section 5, Article XI of the Texas Constitution, all payment obligations of the City hereunder are subject to the availability of funds. If such funds are not appropriated or become unavailable during the Term of the Agreement, or in any renewal year of the Agreement, the City shall have the right to terminate the Agreement, except for those portions of funds which have been appropriated prior to termination. To the extent the Agreement requires the City to agree to the creation of future debt for which funds are not appropriated, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect. 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 or services.

**2.3 INDEMNIFICATION AND LIABILITY. CONTRACTOR SHALL BE LIABLE FOR, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY INJURY, LOSS OR DAMAGE DUE TO, OR ARISING OUT OF, THE NEGLIGENT ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF CONTRACTOR. TO THE EXTENT THE AGREEMENT REQUIRES THE CITY TO INDEMNIFY, DEFEND AND/OR HOLD CONTRACTOR OR ANY OF ITS AFFILIATES, EMPLOYEES, DIRECTORS, OFFICERS, VOLUNTEERS, OR REPRESENTATIVES (collectively the "CONTRACTOR INDEMNITEES") HARMLESS, THE CITY SHALL NOT BE REQUIRED TO DEFEND ANY CONTRACTOR INDEMNITEE UNDER THE AGREEMENT AND THE CITY SHALL ONLY INDEMNIFY OR HOLD ANY INDEMNITEE HARMLESS TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND ONLY TO THE EXTENT SUCH INJURY, LOSS, OR DAMAGE IS DUE TO THE NEGLIGENT ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF THE CITY. THE CITY SHALL NOT BE UNDER ANY OBLIGATION TO CREATE ANY SINKING FUND TO SATISFY ANY OBLIGATION TO INDEMNIFY UNDER THE AGREEMENT. NOTWITHSTANDING ANY OF THE FOREGOING, IN NO EVENT SHALL THE CITY'S LIABILITY EXCEED THE TOTAL AMOUNT OF FEES PAID BY THE CITY UNDER THE AGREEMENT FOR THE PREVIOUS TWELVE MONTH PERIOD. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS, OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS**

**AGREEMENT. THIS PROVISION SHALL SUPERSEDE ANY OTHER PROVISION OF CONTRACTOR IN ANY SEPARATE AGREEMENT, TERMS AND CONDITIONS, QUOTE OR INVOICE.**

**SECTION 3. INSURANCE.** The City is a Government entity under the laws of the state of Texas, and pursuant to Chapter 2259 of the Texas Government Code, "Self-Insurance by Government Units," the City is self-insured and therefore is not required to purchase insurance. The City shall not be required to purchase an insurance policy under this Agreement. Any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect. The City will provide a letter of self-insured status as requested by Contractor.

**SECTION 4. CONFIDENTIALITY.** The City is a Government entity under the laws of the State of Texas and all documents or information held or maintained by the City are subject to disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (the "Act"). To the extent any provision in the Agreement attempts to prevent the disclosure of information that is subject to public disclosure under federal or Texas law, including any provision that prohibits disclosure of the terms and conditions of the Agreement, such provision is invalid. Any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

**SECTION 5. TAX EXEMPTION.** The City shall not be liable to Contractor for any federal, state or local taxes for which the City is not liable by law, including state and local sales and use taxes, pursuant to Section 151.309 of Title 3, Texas Tax Code, and federal excise tax, pursuant to Subtitle D of the Internal Revenue Code. Accordingly, those taxes shall not be added to any goods or services under the Agreement. The City shall furnish a copy of the applicable tax exemption certificate upon request from Contractor. If the City is billed for any taxes not in compliance with this Section 6, the City shall be authorized to remit payment less the taxes imposed.

**SECTION 6. GOVERNING LAW AND VENUE.** This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed in accordance with the laws of the United States and the state of Texas, exclusive of conflicts of laws provisions. Venue for any suit brought under this Agreement shall be in a court of competent jurisdiction in Tarrant County, Texas. To the extent this Agreement is required to be governed by any state law other than Texas or venue in any jurisdiction other than Tarrant County, any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

**SECTION 7. SOVEREIGN IMMUNITY.** Nothing in the Agreement, or herein in this Government Rider, constitutes a waiver of the City's sovereign immunity. To the extent the Agreement requires the City to waive its rights or immunities as a government entity, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

**SECTION 8. RIGHT TO TRIAL BY JURY.** The City reserves its right to settle disputes by trial by jury. Any such provision in the Agreement that requires the City to waive its right to a trial by jury shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

**SECTION 9. ALTERNATIVE DISPUTE RESOLUTION.** To the extent the Agreement requires all disputes to be resolved by binding arbitration, any such provision shall be null and void, is hereby deleted from the Agreement and shall have no force or effect. Prior to instituting litigation under the Agreement, the parties may agree to mediation upon written mutual consent. Any such mediation shall be governed by the applicable rules of the American Arbitration Association, with mediation being held in Tarrant County, Texas. Each party shall share equally in the costs of the mediator, and shall be responsible for its own attorney's fees and expenses.

**SECTION 10. LIMITATION ON CLAIMS.** Any claim for breach of this Agreement shall be brought within four (4) years in accordance with Texas Civil Practices and Remedies Code Sec. 16.004 and Texas Business and Commerce Code Sec. 2.725. To the extent the Agreement requires a shorter period for limitation on claims, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

**SECTION 11. FORCE MAJEURE.** Either party may terminate this Agreement and shall not be liable for any alleged damages or loss due to failure to perform its obligations under this Agreement if the performance is delayed or canceled by reason of a Force Majeure event, including but not limited to, war; civil commotion; acts of God; inclement weather; Government restrictions, regulations, or interferences; fires; labor strikes; material shortages; lockouts; national disasters; epidemics; pandemics; riots; transportation restrictions; or any other circumstances which are reasonably beyond the control of the party.

**SECTION 12. RIGHT TO AUDIT.** The City shall, until the expiration of three (3) years after final payment under the Agreement, have the right to access and the right to examine and photocopy any directly pertinent books, documents, papers and records, whether electronic or hardcopy (collectively "Records") of Contractor involving transactions under this Agreement to ensure compliance herewith. The City shall have the right to access Contractor's Records during normal working hours and shall provide Contractor with reasonable advance notice of intended audits, but not less than ten (10) business days. Notwithstanding the above, Motorola Solutions will not be required to provide or produce actual cost data, "cost or pricing data," or other proprietary or internal data inconsistent with those requirements applicable to federal commercial item procurements or otherwise beyond the scope of directly pertinent information customarily provided in the commercial marketplace and consistent with the fixed priced nature of the agreement.

**SECTION 13. SUCCESSORS AND ASSIGNS.** The parties each bind themselves and their successors, executors, administrators and assigns to this Agreement and to all covenants of this Agreement hereafter.

**SECTION 14. CITY'S LOGO OR MARKS.** The City's logo is protected by applicable federal and state copyright and trademark laws. Contractor may not use the City's name in a demeaning, obscene or detrimental manner as determined by the City in its sole discretion, and Contractor shall not use the City's logo in any manner, except as specifically approved by the City in writing.

**SECTION 15. RIDER CONTROLLING:** If any provisions of the attached Agreement, conflict with the terms herein of this Government Rider, are prohibited by applicable law, conflict with any applicable rule, regulation or ordinance of the City, the terms in this Government Rider shall control.



By signature below of an authorized representative, the parties hereby accept and agree to the terms and conditions set forth in this Government Rider.

**CITY OF NORTH RICHLAND HILLS:**

By: \_\_\_\_\_  
Paulette A. Hartman  
City Manager

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

**Motorola Solutions**

By: Travis L. Treviño  
Name: Travis Treviño  
Title: **Sr. Customer Support Manager**

Date: 11/13/2024

**ATTEST:**

By: \_\_\_\_\_  
Alicia Richardson  
City Secretary/Chief Governance Officer

**APPROVED AS TO FORM AND LEGALITY:**

By: Bradley A. Anderle  
Bradley A. Anderle  
City Attorney

**NRH Council Action** Y/N

Date Approved \_\_\_\_\_

Agenda No. \_\_\_\_\_

Ord / Res No. \_\_\_\_\_