

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Department of Information Technology Services

AGENDA DATE: February 09, 2015

CONTACT PERSON/PHONE: Bruce D. Collins – Purchasing Director
Purchasing & Strategic Sourcing, (915) 212-1181

Enrique Martinez, Jr. – Director
Information Technology Services, (915) 212-1400

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL:

Strategic Goal 2, Set the Standard for Safe and Secure City.

SUBJECT:

That the City Manager be authorized to sign contracts with Motorola Solutions HGAC, Trapeze, and RTC for the 800 MHz Rebanding Project in the estimated amount of \$1,234,486.72.

BACKGROUND / DISCUSSION:

On October 29, 2013, City Council approved the City of El Paso to enter into a Planning Funding Agreement (PFA) with Sprint Corporation. The approval of the Frequency Reconfiguration Agreement (FRA) allows the 800 MHz Rebanding Project initiation affecting 3,100 subscriber devices. The P25 Radio System supports our Public Safety, Sun Metro AVL, El Paso International Airport and Animal Services daily operations.

SELECTION SUMMARY:

This is a Sole Source procurement.

PRIOR COUNCIL ACTION:

October 29, 2013 Planning Funding Agreement with Sprint Corporation

AMOUNT AND SOURCE OF FUNDING:

Federal Communications Commission (FCC) 800 MHz Report and Order (FCC 04-168) requires that Sprint Nextel provide the funds for affected public safety agencies to reconfigure their systems with new frequencies comparable to those presently in use in the estimated amount of \$1,234,486.72.

BOARD / COMMISSION ACTION:

N/A

*****AUTHORIZATION*****

DEPARTMENT HEAD:

Enrique Martinez Jr., Information Technology Services, Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the Agreement for Programming Services by and between the City of El Paso and R.T.C., Inc., a Texas Corporation, for a project known as "El Paso Statistical Area Communications System", a sole source provider of programming services for all the re-banding and reconfiguration activities as a result of the April 1, 2013 adoption by the Federal Communication Commission and the Homeland Security Bureau of a reconfiguration channel plan for the 800 MHz band along the U.S.- Mexico border, in the amount of Forty Seven Thousand Three Hundred Thirty Five and No/00 Dollars (\$47,335.00) to be paid by Nextel Communications, Inc.

ADOPTED THIS ____ DAY OF _____, 2015.

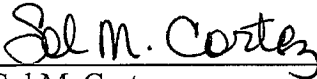
CITY OF EL PASO:

Oscar Leeser,
Mayor

ATTEST:


Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:



Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:



Enrique Martinez Jr., Director
Information Technology Services

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**800MHZ REBANDING SUPPORT
SERVICES AGREEMENT WITH
AGREEMENT WITH R.T.C., INC.**

This financial review services agreement (this "***Agreement***") is entered into this _____ day of _____, 2015 (the "***Effective Date***") by and between the City of El Paso, a home rule municipal corporation (the "***City***"), and R.T.C., Inc., a Texas Corporation (the "***Company***").

RECITALS

WHEREAS, the Federal Communication Commission ("FCC") and the Homeland Security Bureau adopted a reconfiguration channel plan for the 800 MHz band along the U.S. – Mexico border; and

WHEREAS, the FCC ordered Nextel Communications, Inc. ("Nextel") to provide and pay relocation funds to enable the relocation of public safety systems ("Systems") onto replacement channels and reconfiguration of Systems; and

WHEREAS, the Company possesses the qualifications, certifications, credentials, and expertise to perform programming services for the rebanding of the City's Systems; and

WHEREAS, the Company is the sole source provider of the programming services for the City's System; and

WHEREAS, pursuant to Section 252.022 of the Texas Local Government Code, an expenditure of items that are available from only one source is exempt from the competitive requirements for purchases; and

WHEREAS, the City desires to engage the Company to provide programming services necessary for the rebanding of the Sun Metro AVL system; and

IN CONSIDERATION of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION I. TERM. The effective date of this Agreement shall be January __, 2015. The Consultant shall complete the services under this Agreement within 430 day of receipt of the notice to proceed.

SECTION II. SCOPE OF SERVICES. The Company hereby agrees to perform the programming services necessary for the rebanding of the Sun Metro AVL System ("Programming Services") in accordance with the Scope of Work in *Exhibit A* and incorporated herein by reference.

SECTION III. COMPENSATION AND METHOD OF PAYMENT. Payment to the Company for the Programming Services shall not exceed FORTY SEVEN THOUSAND THREE HUNDRED THIRTY FIVE and 00/100 Dollars (\$47,335).

Payments shall be paid in accordance with the Company's Proposal, which is attached hereto and incorporated herein by reference in *Exhibit A*. Company hereby agrees that at no time will the Company make a claim against the City for more than the rates provided under the terms of this Agreement.

It is understood by the parties of this Agreement that the obligation to compensate Company for the Programming Services belongs to Nextel. The City shall not be liable to compensate the Company for the Programming Services.

SECTION IV. LOCATION OF PERFORMANCE. The Company shall perform the Programming Services in the City and County of El Paso, Texas or such other place(s) as may be necessary to fulfill the terms of this Agreement.

SECTION V. REPRESENTATIONS OF THE COMPANY. The Company represents, warrants, and agrees as follows:

- A. It will comply with all applicable federal, state and local governmental laws, rules, regulations and all provisions of the City of El Paso Charter and the El Paso City Code, now existing or as may be amended, in the performance of its duties under this Agreement.
- B. It shall obtain and pay for all licenses, permits and certificates required by any applicable statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder. The Company warrants that it is duly authorized and licensed to perform its duties hereunder in each jurisdiction in which it will act. It further warrants that its employees, agents and subcontractors shall maintain all required profession licenses during the term of this Agreement. If the Company receives notice from a licensing authority of a suspension or revocation of a license of the Company's employee(s), agent(s) or subcontractor(s), the Company shall immediately remove such employee, agent or subcontractor from performing any further services under this Agreement until such license is reinstated and in good standing. If the Company fails to maintain such licenses or fails to remove any employee, agent or subcontractor who performs services under this Agreement whose license has expired or been

revoked or suspended, the City shall be entitled, in its sole discretion, to immediately terminate this Agreement upon written notice to the Company.

- C. It warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Company for the purpose of securing business. For breach or violation of this warranty, the City shall have the right in addition to any other right or rights to cancel this Agreement without liability and to deduct from the Agreement price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

SECTION VI. INDEPENDENT CONTRACTOR RELATIONSHIP. Nothing herein shall be construed as creating a relationship of employer and employee between the parties hereto. The City shall not be subject to any obligations or liabilities of the Company incurred in the performance of this Agreement unless otherwise herein authorized. The City will provide no fringe benefits to the Company or its employees.

SECTION VII. INSURANCE REQUIREMENTS. With no intent to limit the Company's liability or the indemnification provisions set forth hereinafter, the Company shall provide and maintain the following insurance in full force and effect at all times during the term of this Agreement and any extensions thereto. The City shall be provided with certificates of insurance evidencing the required insurance prior to the Effective Date of this Agreement and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies.

A. INSURANCES

1. Worker's Compensation. A third-party policy of Workers' Compensation insurance coverage providing Statutory Benefits according to the Workers Compensation Act of the State of Texas and/or any other state or federal law as may be applicable to the work and shall cover all of the persons engaged in the work.

2. Commercial Liability, Property Damage Liability and Vehicle Liability Insurance. The Company shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Vehicle Liability Insurance as shall protect the Company and the Company's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from services performed under this Agreement, whether such services be performed by the Company or by anyone directly employed by the Company. The minimum limits of liability and coverage shall be as follows:

a) **Commercial General Liability**

Personal Injury or Death

\$1,000,000 for each person

\$1,000,000 in the aggregate

Property Damage

\$1,000,000 for each occurrence

\$1,000,000 in the aggregate

b) **Vehicle Liability**

Combined Single Limit

\$1,000,000 per accident

B. ERRORS AND OMISSIONS LIABILITY INSURANCE. The Company shall procure and maintain, at the Company's sole expense, Professional Liability Insurance (Such as errors and omissions insurance) for the benefit of the City to cover the errors and omissions of the Company, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000) on a claims made basis.

C. FORM OF POLICIES. The insurance required herein may be in one or more policies of insurance, the form of which must be approved by the City's Risk Manager.

D. ISSUERS OF POLICIES. The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible, reputable, and have financial capability consistent with the risks covered. Each issuer shall be subject to approval by the City's Risk Manager in his sole discretion as to conformance with these requirements.

E. INSURED PARTIES. Each policy, except those for Workers' Compensation and Employer's Liability, must name the City of El Paso (and their elected and appointed officials, officers, agents and employees) as Additional Insured parties on the original policy and all renewals or replacements during the term of this Agreement.

F. MATERIAL CHANGE IN POLICY(IES). Prior to any material change in any policy required herein, the City will be given sixty (60) days advance written notice by registered mail. Further, the City will be immediately notified of any reduction or possible reduction in aggregate limits of any such policy where such reduction, when added to any previous reductions, would exceed twenty-five percent (25%) of the aggregate limits.

H. CANCELLATION. Each policy must expressly state that it may not be canceled or non-renewed unless sixty (60) days advance notice of cancellation or intent not to renew is given in writing to the City's Purchasing Director by the insurance company. The Company shall also give written notice to the City's Purchasing Director within fifteen (15) days of the date upon which total claims by any party against the Company reduce the aggregate amount of coverage below the amounts required by this Agreement.

I. DELIVERY OF POLICIES. The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them together with written proof that the premiums have been paid, shall be deposited by the Company with the City's Purchasing Director prior to beginning work under this Agreement, and thereafter before the beginning of each subsequent year of the term of this Agreement. Notices and Certificates required by this clause shall be provided to:

City of El Paso
Purchasing and Strategic Sourcing Department
Attn: Purchasing Director
300 N. Campbell
El Paso, Texas 79901

Notwithstanding the termination notice provisions in this Agreement, the failure of the Company to provide the City's Purchasing Director with the above proof of insurance prior to beginning work and thereafter prior to the beginning of each year of the term of this Agreement, shall constitute a default on the part of the Company entitling the City, upon three (3) days written notice to the Company to terminate this Agreement. This default provision shall also apply to the proof of insurance requirements under circumstances where a policy is canceled or expires during a given year of the Agreement. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that the Company, throughout the term of this Agreement, continuously and without interruption, maintain in force the required insurance coverage set forth above. Failure of the Company to comply with this requirement shall constitute a default of the Company allowing the City, at its option, to terminate this Agreement as referenced above.

SECTION VIII. INDEMNIFICATION. The Company or its insurer shall indemnify, hold harmless, and defend the City, its elected officials, agents, employees, officers, directors and representatives of the City, individually or collective, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death of property damage, made upon the City directly arising out of, resulting from or related to the Company's activities under this Agreement for Third Party Claims Administration and Medical Cost Containment, including any act or omission by the Company, its agents, employees or subcontractors while in the exercise of performance of the rights or duties under this Agreement, all, without however, waiving and governmental immunity available to the City. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any person or entity. Without modifying the conditions of preserving, asserting, or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to the Company every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. In addition, the Company shall promptly advise the City in writing of any claim or demand against the City or the Company known to the Company related to or arising out of the Company's activities under this Agreement. the Company will: 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Company may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages

even if groundless, false or fraudulent, brought because of such injuries or damages. The Company will pay all judgments finally establishing liability of the City in actions defended by the Company pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by the Company, and premiums on any appeal bonds. The City, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest without relieving Company of any of its obligations under this paragraph. The City will not be responsible for any loss of or damage to the Company's property from any cause.

SECTION IX. TERMINATION OF AGREEMENT. This Agreement may be terminated under any one of the following circumstances:

A. TERMINATION FOR CONVENIENCE: This Agreement may be terminated by City and the Company upon written notice, provided such notice specifies an effective date for cancellation of not less than thirty (30) calendar days from the date such notice is received. It is also understood and agreed that upon such notice of termination, the Company shall cease all services under this Agreement. Upon such termination, the Company shall provide a final invoice for all work completed prior to the City's notice of termination. The City shall compensate the Company in accordance with this Agreement; however, the City may withhold any payment to the Company for the purpose of set off until such time as the exact amount of damages due the City from the Company is determined. Nothing contained herein, or elsewhere in this Agreement, shall require the City to pay for any work which is unsatisfactory, incomplete or not in compliance with the terms of this Agreement and its attachments.

B. TERMINATION FOR DEFAULT: It is further understood and agreed by the Company and the City that either party may terminate this Agreement for cause. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate after thirty (30) consecutive calendar days, enumerating the failures for which the termination is being sought; b) a minimum of fifteen (15) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination.

However, the City retains the right to immediately terminate this Agreement for default if the Company fails to maintain its licenses, certifications and other standards required to be a qualified Company pursuant and the laws of the State of Texas or violates any local, state or federal laws. In the event of termination by the City pursuant to this subsection, the City may withhold payments to the Company for the purpose of set off until such time as the exact amount of damages due the City from the Company is determined.

SECTION X. GENERAL PROVISIONS.

A. TIME IS OF THE ESSENCE. The Company understands and agrees that time is of the essence for all services and deliverables requested herein and that all tasks of this Agreement are to be completed as expeditiously as possible.

C. SUCCESSOR AND ASSIGNS. The Company shall not assign or attempt to convey an interest in this Agreement without the prior written consent of the City.

D. VENUE. For purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

E. LEGAL CONSTRUCTION. Every provision of this Agreement is severable, and if any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement. Where the context of the Agreement require, the singular shall include the plural and the masculine gender shall include feminine. Any reference to the City Manager in this Agreement shall mean the City Manager of the City of El Paso or her designee.

F. COMPLIANCE WITH LAW. The Company shall comply with all Federal, State and local laws and ordinances applicable to the work contemplated herein.

G. NOTICE. Any notice, demand, request, consent or approval that either party may or is required to provide to the other party be in writing and either personally delivered or sent via certified mail, return receipt requested, postage prepaid, to the following addresses:

CITY: City of El Paso
City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

With Copy to: Department of Information Technology Services
Director
P.O. Box 1890
El Paso, Texas 79950-1890

COMPANY: R.T.C., Inc.
Frank Longoria
President
300 E. Sunset Road
El Paso, TX 79922

Changes may be made to the names and addresses noted herein through timely written notice to the other party.

H. FORCE MAJEURE. The Company shall not be responsible or liable for any loss, damages or delay caused by force majeure which is beyond the control of the parties to this Agreement, including but not limited to riot, insurrection, embargo, fire or explosion, the elements, acts of nature, epidemic, war, earthquake, flood or the official act of any government.

I. COMPLETE AGREEMENT. This Agreement constitutes and expresses the entire agreement between the parties hereto in reference to the services described in this Agreement for the City, and in reference to any of the matters or things herein provided for, or hereinbefore discussed or mentioned in reference to such services, all promises, representations and understanding relative thereto herein being merged.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at El Paso, Texas effective as of the first date appearing heretofore.

[Signature page to follow]

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**800MHZ REBANDING SUPPORT
SERVICES AGREEMENT WITH
AGREEMENT WITH R.T.C., INC.**

(Signature page)

IN WITNESS WHEREOF, the parties have hereunto set their hands this ____ day of __
_____, 2015.

CITY OF EL PASO

Tomás González
City Manager

R.T.C., Inc.

Frank Longoria
President

APPROVED AS TO FORM:

Sol M. Cortez
Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:

Enrique Martinez
Enrique Martinez, Interim Director
Information Technology Services

EXHIBIT A

R.T.C., Inc. Proposal

El Paso AVL Re-banding Quote

Item	Task	Labor Rate	Qty	Cost Each	Ext. Cost
Subscriber Equipment					
1	Build radio template (7 each)	\$95.00	17.5		\$1,662.50
2	Program subscribers (first touch)		250	\$72.00	\$18,000.00
3	Program subscribers (second touch)		250	\$72.00	\$18,000.00
4	Project Management	\$95.00	24		\$2,280.00
					\$39,942.50
					\$39,942.50
Infrastructure					
5	Reconfigure 3 Hills repeater	\$95.00	3		\$285.00
6	Retune transmitter combiner	\$95.00	1		\$95.00
7	Reconfigure Luther Building repeater	\$95.00	3		\$285.00
8	Retune transmitter combiner	\$95.00	1		\$95.00
9	Reconfigure East repeater	\$95.00	4		\$380.00
10	Retune transmitter combiner	\$95.00	1		\$95.00
11	Reconfigure Clint repeater	\$95.00	4		\$380.00
12	Retune transmitter combiner	\$95.00	1		\$95.00
13	Project Management	\$95.00	16		\$1,520.00
					\$3,230.00
					\$3,230.00
Engineering & Verification					
14	Implementation Planning	\$95.00	16		\$1,520.00
15	Acceptance Testing	\$95.00	8		\$760.00
					\$2,280.00
					\$2,280.00
Materials & Software					
16	Kenwood Programming software (KPG-49DK)		5	\$68.50	\$342.50
17	Kenwood Programming interface cables (KPG-46KM)		5	\$158.00	\$790.00
18	TAIT Programming software & cable (T03-M)		5	\$150.00	\$750.00
					\$1,882.50
					\$1,882.50
					\$47,335.00

**COUNCIL PROJECT FORM
(RESOLUTION)**

*******POSTING LANGUAGE BELOW*******

Please place the following item on the **CONSENT** agenda under **RESOLUTIONS** for the Council Meeting of **February 9, 2015.**

Strategic Goal 2, Set the Standard for Safe and Secure City.

That the City Manager be authorized to sign the Agreement for Programming Services by and between the City of El Paso and R.T.C., Inc., a Texas Corporation, for a project known as "El Paso Statistical Area Communications System", to provide programming services for all the re-banding and reconfiguration activities as a result of the April 1, 2013 adoption by the Federal Communication Commission and the Homeland Security Bureau of a reconfiguration channel plan for the 800 MHz band along the U.S.- Mexico border, in the amount of Forty Seven Thousand Three Hundred Thirty Five and No/00 Dollars (\$47,335.00) to be paid by Nextel Communications, Inc.

Department: Information Technology
Districts(s): ALL
Reference No.: 2015-648

*******ADDITIONAL INFO BELOW*******



**FINANCIAL SERVICES
PURCHASING DIVISION**

SOLE SOURCE AFFIDAVIT

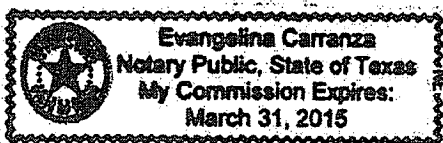
THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared Frank Longoria, a person known to me to be the person whose signature appears below; whom after being duly sworn upon his/her oath deposed and said:

1. My name is Frank Longoria. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: R.T.C., Inc.
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):
Motorola Astro 25 800MHz Rebanding radio Project
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.

Signature

SUBSCRIBED AND SWORN to before me on this 14 day of January 2015.



NOTARY PUBLIC

Evangelina Carranza

PRINTED NAME

March 31, 2015

MY COMMISSION EXPIRES

COMPANY NAME: R.T.C., Inc.

ADDRESS, CITY, STATE & ZIP CODE 300 E. Sunset, El Paso, TX 79922

PHONE: 915-584-6646 FAX NUMBER: 915-584-6265

CONTACT NAME AND TITLE: Frank Longoria-President

WEB ADDRESS: www.rtcinc.org EMAIL: frank@rtcinc.org

FEDERAL TAX ID NUMBER: 74-2901811 TEXAS SALES TAX NUMBER: 1-74-29018116

R.T.C., Inc



MOTOROLA SOLUTIONS

Service Elite Specialist

January 13, 2015

Mr. Ed Ozogar
Project Manager Department of Information Technology Services
218 N. Campbell Ave, 3rd Floor
El Paso, Texas 79901

Subject: Sole Source Letter-Motorola ASTRO 25 800MHz Rebanding Radio Project

Dear Mr. Ozogar:

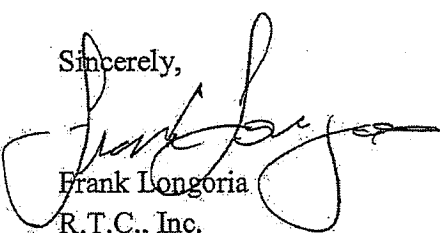
R.T.C., Inc., (RTC) is the local Elite Service Provider for Motorola Solutions in El Paso county and other surrounding counties in west Texas. RTC has been providing installation, repairs and maintenance to Motorola equipment and systems under contract with Motorola Solutions.

The currently implemented P25 Motorola Simulcast Communications System is currently under warranty, with the responsibility of responding to any service or installation issues falling under RTC. Throughout the warranty period and followed afterwards with the maintenance agreement, it is RTC's responsibility to continue with providing the aforementioned services.

If any further clarification is needed, please do not hesitate to call.

Thank you.

Sincerely,


Frank Longoria
R.T.C., Inc.
President