10. RESOLUTION NO. R-13-11

A RESOLUTION AUTHORIZING THE EXECUTION OF A MUNICIPAL EQUIPMENT LEASE-PURCHASE AGREEMENT BETWEEN THE CITY OF PULLMAN AND MOTOROLA SOLUTIONS, INC. FOR THE PURPOSE OF SECURING RADIO EQUIPMENT FOR PULLMAN POLICE AND FIRE DEPARTMENTS.

NOTES:

REQUEST FOR COUNCIL ACTION

For Meeting of: March 1, 2011

ACTION REQUESTED

Approve lease with Motorola Leasing for the lease-purchase of narrow band radios for both Police and Fire Departments

BACKGROUND

The FCC required users of UHF/VHF radio frequencies, including governmental agencies, to move to a narrower range of band width, requiring the purchase of new radios designed to operate in this range. At the CIP meetings, it was determined that we would be unable to outright purchase these radios for Police and Fire, necessitating finding a lease.

RECOMMENDATION

Recommend approval of lease for the lease purchase of these radios and required accessories

FISCAL IMPACT

$_____

_____

BARS Code Number

SUBMITTED BY

Name: William F. Mulholland
Title: Finance Director
Department: Finance

ATTACHMENTS FOR COUNCIL REVIEW/ACTION

1. Resolution No. R-13-11
2. Memo dated 2/17/2011

REVIEWED BY

	Initial	Date
Department Head	WM	2-16-11
City Supervisor	JOD	2-25-11
City Attorney (As To Form)	CMaj	2-23-11

City of Pullman
Finance Department

Memo

To: Mayor, City Council, and City Supervisor

From: William F. Mulholland, Finance Director

CC: Department Heads

Date: 2/17/2011

Re: Lease purchase of narrow band radios

Since December of last year we have been trying to put a lease purchase package together for the purchase of the narrow band radios required by the FCC. Since an outright purchase of the radios as initially proposed in the CIP budget was not feasible due to the costs, a lease purchase was our only option.

Four groups were contacted for a tax-exempt lease. Bank of America declined due to the small dollars involved. Banner Bank came back with a conventional leasing proposition, which was rejected. Cal-First started with a tax-exempt lease, but after putting up collateral requirements as well as not wanting to make changes to the lease language requested by Laura McAloon, they reverted to a conventional lease, which was rejected. The final Group was Motorola Leasing, which also is the provider of the radios. Their tax exempt lease rates came in below budget projections and they have been easy to work with in structuring the lease and lease documentations.

It would be better to have been able to pay off the equipment purchase this year, but under the circumstances, this lease is the best available alternative.

RESOLUTION NO. R-13 -11

A RESOLUTION AUTHORIZING THE EXECUTION OF A MUNICIPAL EQUIPMENT LEASE-PURCHASE AGREEMENT BETWEEN THE CITY OF PULLMAN AND MOTOROLA SOLUTIONS, INC. FOR THE PURPOSE OF SECURING RADIO EQUIPMENT FOR PULLMAN POLICE AND FIRE DEPARTMENTS.

WHEREAS, the City Council for the City of Pullman has before it an agreement entitled Equipment Lease-Purchase Agreement which is attached hereto and marked as Exhibit "A"; and,

WHEREAS, this Council believes it to be in the best interests of the City of Pullman to authorize the execution of said Agreement; now, therefore,

IT IS HEREBY RESOLVED that the Mayor and the Finance Director be and they are hereby authorized and directed to execute the agreement for said services and to deliver an executed copy thereof to Motorola Solutions, Inc.

IT IS FURTHER RESOLVED that the Mayor and Finance Director are each hereby authorized and directed to take such further action as may be appropriate in order to effect the purpose of this Resolution and the Agreement authorized thereby.

ADOPTED by the City Council of the city of Pullman at a regular meeting held on the _____ day of _____, 2011.

DATED this _____ day of _____, 2011.

_____
Mayor Glenn A. Johnson

ATTEST:

_____
Finance Director
William F. Mulholland

Approved as to Form:

_____
City Attorney Laura D. McAloon

February 15, 2011

CITY OF PULLMAN, WA

Enclosed for your review, please find the **Municipal Lease** documentation in connection with the radio equipment to be lease purchased from Motorola Solutions Inc. The interest rate and payment streams outlined in Equipment Lease Purchase Agreement #23188 / Schedule 23188-001 are valid for contracts that are executed and returned on or before **March 3, 2011**. After **3/3/11**, the Lessor reserves the option to re-quote and re-price the transaction based on current market interest rates.

Please have the documents executed where indicated and forward the documents to the following address:

Motorola Credit Corporation
Attn: Paul Mecaskey / 5th Floor (SH5-B)
1301 E. Algonquin Rd
Schaumburg, IL 60196

Should you have any questions, please contact me at 847-538-3707.

Thank You,

MOTOROLA CREDIT CORPORATION
Paul Mecaskey

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 23188

LESSEE:	**LESSOR:**
CITY OF PULLMAN, WA 325 SE Paradise Street Pullman, WA 99163	Motorola Solutions Inc. 1301 E. Algonquin Rd. Schaumburg, IL 60196

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the Equipment described in any Schedule A now or hereafter 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 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 and hereby covenants that it will do all things lawfully within its power to obtain, maintain and pursue funds from which the Lease Payments may be made. It is Lessee's intent to make Lease Payments for the full Lease Term if funds are legally available therefor 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.

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 Motorola Solutions Inc. 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, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Notwithstanding the foregoing, Lessee agrees, to the extent not prohibited by law, that it will not cancel this Lease under the provisions of this Section if any funds are appropriated to it, or by it, for the acquisition, retention or operation of the Equipment.

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 payable solely from Legally Available Funds.

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; SECURITY INTEREST. Upon shipment of the Equipment to Lessee hereunder, title to the Equipment will vest in Lessee; provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its Assignee. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom; (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest.

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 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 all parts, mechanisms 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 except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, 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, 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 it's Assigns 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 it's Assigns 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. Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

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) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for

all Lease Payments and other amounts due prior to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, Lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; and (iv) 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. 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.

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.

18.1 PARTIAL PAYMENT/PURCHASE OPTION – GRANT FUNDING. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided 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 make a partial payment against the Lease one time per calendar year at an amount no less than $15,000.00 SO LONG AS SUCH PAYMENT IS BEING MADE FROM A FEDERAL GRANT FUNDING AWARD and upon Lessor's request, Lessee will provide Lessor certification of such. Application of said payment shall first be applied to accrued interest with the remainder going against the principal. Should Lessee make such payment, all remaining Lease Payments will be adjusted accordingly over the remainder of the Lease Term and Lessor shall provide to Lessee a revised Schedule B. Any reduction in outstanding principal can be viewed as the Lessee obtaining a greater equity position in the Lease subject to Lessor's rights pursuant to the other terms of this Lease.

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 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 the Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

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 1st day of March, 2011.

LESSEE:	**LESSOR:**
CITY OF PULLMAN, WA	**MOTOROLA SOLUTIONS INC.**
By:_____	By:_____
Title Mayor	Title:_____

OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement # 23188 and lease Schedule A# 23188-001 dated 3/1/2011 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, (III) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law.

Laura McAloon City Attorney for **CITY OF PULLMAN, WA**

SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT

Schedule A Lease Number: **23188-001**

This Equipment Schedule dated as of 3/1/2011 is being executed by MOTOROLA SOLUTIONS INC. ("Lessor") and **CITY OF PULLMAN, WA** (Lessee"), as a supplement to, and is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **23188** dated as of 3/1/2011 ("Lease"), between Lessor and 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: WA	

Initial Term: 48 Months **Commencement Date: 3/1/2011**
First Payment Due Date: 4/15/2011

5 consecutive annual payments as outlined in the attached Schedule B payable on the Lease Payment Dates set forth in Schedule B.

EXECUTED as of the date first herein set forth.

LESSEE: LESSOR:

CITY OF PULLMAN, WA **Motorola Solutions Inc.**

By: _____ By: _____

Title: Mayor Title: _____

EQUIPMENT LIST (LEASE # 23188-001)

EQUIPMENT XTS2500 PORTABLE RADIOS P25 COMPLIANT

ITEM	MODEL#	DESCRIPTION	QTY
1	H46KDD9PW5AN	XTS 2500 MODEL 1.5 VHF 96 CHANNEL 5 WATT P25 ASTRO DIGITAL PORTABLE RADIO.	30
1A	Q811	ASTRO DIGITAL CONVENTIONAL	30
1B	NTN1667A	TRI CHEMISTRY CHARGER	30
1C	PMMN4051A	REMOTE SPEAKER MIC	30
1D	NTN9858B	2100MA XTS SPARE BATTERY	30

EQUIPMENT TOTAL $51,395.40

SINGLE HEAD
EQUIPMENT XTL2500 MOBILE RADIOS P25 COMPLIANT

ITEM	MODEL#	DESCRIPTION	QTY
1	M21KTM9PW1AN	XTL2500 VHF 840 CHANNEL 100 WATT P25 MOBILE RADIO	3
1A	G241D	ASTRO READY ANALOG OPERATION	3
1B	G48	CONVENTIONAL OPERATION	3
1C	G442	XTL2500 SINGLE CONTROL HEAD	3
1D	G444	CONTROL HEAD SOFTWARE	3
1E	G67	THUMB SCREW REMOTE MOUNT	3
1F	B18	AUX SPEAKER 7.5 WATT	3
1G	W22	PALM MICROPHONE	3
1H	G89	NO ANTENNA NEEDED	3

EQUIPMENT TOTAL $7362.78

LIGHTS AND SIREN
EQUIPMENT XTL2500 MOBILE RADIOS P25 COMPLIANT

ITEM	MODEL#	DESCRIPTION	QTY
1	M21KTM9PW1AN	XTL2500 VHF 840 CHANNEL 100 WATT P25 MOBILE RADIO	10
1A	G241D	ASTRO READY ANALOG OPERATION	10
1B	G48	CONVENTIONAL OPERATION	10
1C	G442	XTL2500 SINGLE CONTROL HEAD	10
1D	G444	CONTROL HEAD SOFTWARE	10
1E	G67	THUMB SCREW REMOTE MOUNT	10
1F	B18	AUX SPEAKER 7.5 WATT	10
1G	W22	PALM MICROPHONE	10

1H	G89 NO ANTENNA NEEDED	10
1I	W269 ADD ELECTRONIC SIREN PUB ADDRESS	10
1J	W355 DEK KEYPAD	10
1K	W591 AUX SWITCH PANEL	10

EQUIPMENT TOTAL $35,209.00

TOTAL POLICE EQUIPMENT	**$93,967.18**
WASHINGTON SALES TAX	**$7329.44**
TOTAL POLICE EQUIPMENT	**$101.296.62**

Schedule B (#23188-001) / CITY OF PULLMAN, WA

Compound Period Annual

Nominal Annual Rate 3.920 %
Effective Annual Rate 3.920 %

	Event	Start Date	Amount	Number	Period	End Date
1	Loan	03/01/2011	101,296.62	1		
2	Payment	04/15/2011	21,898.64	1		
3	Payment	03/15/2012	21,898.64	4	Annual	03/15/2015

AMORTIZATION SCHEDULE - Normal Amortization

#	Date	Payment	Interest	Principal	Balance
Loan	03/01/2011				101,296.62
1	04/15/2011	21,898.64	489.56	21,409.08	79,887.54
2011	Totals	21,898.64	489.56	21,409.08	
2	03/15/2012	21,898.64	2,874.21	19,024.43	60,863.11
2012	Totals	21,898.64	2,874.21	19,024.43	
3	03/15/2013	21,898.64	2,385.84	19,512.80	41,350.31
2013	Totals	21,898.64	2,385.84	19,512.80	
4	03/15/2014	21,898.64	1,620.94	20,277.70	21,072.61
2014	Totals	21,898.64	1,620.94	20,277.70	
5	03/15/2015	21,898.64	826.03	21,072.61	0.00
2015	Totals	21,898.64	826.03	21,072.61	
Grand Totals		109,493.20	8,196.58	101,296.62	

Last interest amount decreased by 0.02 due to rounding.

INITIAL INSURANCE REQUIREMENT: $101,296.62

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.

LESSEE:

CITY OF PULLMAN, WA

By: _____

Title: Mayor

Date: _____

LESSOR:

Motorola Solutions Inc.

By: _____

Title: _____

Date: _____

Bank Qualified (Lease# 23188-001)

LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN **$10,000,000** OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED **$10,000,000.**

Lessee:

CITY OF PULLMAN, WA

By:_____

Title Mayor

CERTIFICATE OF INCUMBENCY

I, _____ do hereby certify that I am the duly elected or

(Signature of Secretary/Clerk)

appointed and acting Secretary or Clerk of the **CITY OF PULLMAN, WA,** an entity duly organized and existing under the laws of the **State of Washington** that I have custody of the records of such entity, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of such entity holding offices set forth opposite of their respective names. I further certify that (i) the signatures set opposite their respective names and titles are their true and authentic signatures and (ii) such officers have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number **23188** dated 3/1/2011, and Schedule A number **23188-001** dated 3/1/2011, between **CITY OF PULLMAN, WA** and Motorola Solutions Inc.

Name	**Title**	**Signature**
_____	Mayor	_____

(Individual who signed Lease documents should be listed here and sign where applicable)

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of **CITY OF PULLMAN, WA**, hereto this _____ day of _____, 2011.

By: _____

(Signature of Secretary/Clerk)

SEAL

EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **23188 - 001** dated 3/1/2011 to that certain Equipment Lease Purchase Agreement number **23188** dated 3/1/2011 will be maintained by the **CITY OF PULLMAN, WA** as stated in the Equipment Lease Purchase Agreement.

This insurance shall name MOTOROLA SOLUTIONS INC. or its assignee as additional insured and loss payee for the term of the Schedule A number **23188-001** dated 3/1/2011.

This insurance is provided by:

Liberty Northwest C/O AIA Ins.-(Mike Rydbob/
Name of insurance provider

mrydbom@aiains.com
Email address of provider

373 S. Grand/P.O. Box 717
Address of insurance provider

Pullman, Wa 99163
City, State and Zip Code

509-332-3535 / 509-321-5407
Phone number of insurance provider / Fax number of insurance provider

In accordance with the Equipment Lease Purchase Agreement Number **23188, CITY OF PULLMAN, WA,** 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	ACV	5/18/2010	5/18/2011	02-CE-216359-1
Property Damage	ACV	5/18/2010	5/18/2011	02-CE-216359-1

Lessee:

CITY OF PULLMAN, WA

By: _____

Its: _____

Date: _____

EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **23188 - 001** dated 3/1/2011 to that certain Equipment Lease Purchase Agreement number **23188** dated 3/1/2011 will be maintained by the **CITY OF PULLMAN, WA** as stated in the Equipment Lease Purchase Agreement.

This insurance shall name MOTOROLA SOLUTIONS INC. or its assignee as additional insured and loss payee for the term of the Schedule A number **23188-001** dated 3/1/2011.

This insurance is provided by:

Washington Cities Insurance Authority WWCIA) / Name of insurance provider

www.wciapool.org. Email address of provider

P.O. Box 88030
Address of insurance provider

Tukwila, WA 98138
City, State and Zip Code

206-575-6046 Phone number of insurance provider / 206-575-7426 Fax number of insurance provider

In accordance with the Equipment Lease Purchase Agreement Number **23188, CITY OF PULLMAN, WA,** hereby certifies that following coverage are or will be in full force and effect:

Type	Amount	Effective Date	Expiration Date	Policy Number
Public Liability	$20,000,000	01-1/2011	01/01/2012	CT-2011

Lessee:

CITY OF PULLMAN, WA

By: _____

Its: Mayor

Date: _____

STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS (#23188-001)

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?
Police

2. Why is the equipment essential to the operation of **CITY OF PULLMAN, WA?**
Communication

3. Does the equipment replace existing equipment?
Yes
If so, why is the replacement being made?
Federal mandate

4. Is there a specific cost justification for the new equipment?
No
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?

X General Fund
- Have dollars already been appropriated for the Lease Payment? Yes

- If yes, for what fiscal year(s) have appropriations been made?
2011-15

Combination of Federal Grant funding supplemented by General Revenues

- What fiscal year(s) is expected to be funded via federal grants: _____

- What fiscal year(s) is expected to be funded via general revenues: _____

- Have these general revenues already been appropriated for the Lease Payment(s)? Yes -or- No

☐ Other (please describe): _____

_____

_____

Lessee: **CITY OF PULLMAN, WA**

By: _____
Title: Mayor

Date: _____

Form **8038-G** (Rev. May 2010)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.
Caution: *If the issue price is under $100,000, use Form 8038-GC.*

OMB No. 1545-0720

Part I Reporting Authority

If **Amended Return**, check here ▶ ☐

1 Issuer's name
City of Pullman, WA

2 Issuer's employer identification number (EIN)
91 6001269

3 Number and street (or P.O. box if mail is not delivered to street address) — Room/suite
325 SE Paradise Street

4 Report number *(For IRS Use Only)*
3

5 City, town, or post office, state, and ZIP code
Pullman, WA 99163

6 Date of issue
3/1/2011

7 Name of issue
Equipment Lease Purchase Agreement #23188-001

8 CUSIP number

9 Name and title of officer of the issuer or other person whom the IRS may call for more information
William F Mulholland, Finance Director

10 Telephone number of officer or other person
(509) 338-3206

Part II Type of Issue (enter the issue price) See instructions and attach schedule

11	Education		
12	Health and hospital		
13	Transportation		
14	Public safety	101,296	62
15	Environment (including sewage bonds)		
16	Housing		
17	Utilities		
18	Other. Describe ▶		
19	If obligations are TANs or RANs, check only box 19a ▶ ☐ If obligations are BANs, check only box 19b ▶ ☐		
20	If obligations are in the form of a lease or installment sale, check box ▶ ☐		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	3/1/2015	$ 101,296.62	$ n/a	4 years	3.92 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest		22	
23	Issue price of entire issue (enter amount from line 21, column (b))		23	
24	Proceeds used for bond issuance costs (including underwriters' discount)	24		
25	Proceeds used for credit enhancement	25		
26	Proceeds allocated to reasonably required reserve or replacement fund	26		
27	Proceeds used to currently refund prior issues	27		
28	Proceeds used to advance refund prior issues	28		
29	Total (add lines 24 through 28)		29	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		30	

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31	Enter the remaining weighted average maturity of the bonds to be currently refunded ▶	years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded ▶	years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) ▶	
34	Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)	

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . .	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . .	36a		
b	Enter the final maturity date of the GIC ▶ _____			
37	Pooled financings: **a** Proceeds of this issue that are to be used to make loans to other governmental units . . .	37a		

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . ▶ ☐

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . ▶ ☐

40 If the issuer has identified a hedge, check box . . . . ▶ ☐

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Signature of issuer's authorized representative Date ▶ William F. Mulholland, Finance Dir. Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code ▶		EIN	
		Phone no.	( )

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . .	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . .	36a		
b	Enter the final maturity date of the GIC ▶ _____			
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units . . .	37a		

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . ▶ ☐

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . ▶ ☐

40 If the issuer has identified a hedge, check box . . . . ▶ ☐

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Signature of issuer's authorized representative Date

▶ Glenn A Johnson, Mayor Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code ▶		EIN	
		Phone no.	( )

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 Date: __3/1/2011__

Lease Schedule A Date:_3/1/2011_

Equipment Lease Purchase Agreement No.: 23188 Lease Schedule A No. : 23188-001

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# 23188-001 dated 3/1/2011. See Schedule A for a detailed Equipment List.

LESSEE:

CITY OF PULLMAN, WA

*** to be completed after delivery ***

By: _____

Title: Mayor

Date: _____

Form **8038-G** (Rev. May 2010)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.
Caution: *If the issue price is under $100,000, use Form 8038-GC.*

OMB No. 1545-0720

Part I Reporting Authority — If Amended Return, check here ▶ ☐

1 Issuer's name: **City of Pullman, WA**

2 Issuer's employer identification number (EIN): **91 6001269**

3 Number and street (or P.O. box if mail is not delivered to street address) / Room/suite: **325 SE Paradise Street**

4 Report number *(For IRS Use Only)*: 3

5 City, town, or post office, state, and ZIP code: **Pullman, WA 99163**

6 Date of issue: **3/1/2011**

7 Name of issue: **Equipment Lease Purchase Agreement #23188-001**

8 CUSIP number:

9 Name and title of officer of the issuer or other person whom the IRS may call for more information: **William F. Mulholland, Clerk/Treasurer**

10 Telephone number of officer or other person: **(509) 338-3206**

Part II Type of Issue (enter the issue price) See instructions and attach schedule

11	Education	11	
12	Health and hospital	12	
13	Transportation	13	
14	Public safety	14	101,296 62
15	Environment (including sewage bonds)	15	
16	Housing	16	
17	Utilities	17	
18	Other. Describe ▶	18	
19	If obligations are TANs or RANs, check only box 19a ▶ ☐ If obligations are BANs, check only box 19b ▶ ☐		
20	If obligations are in the form of a lease or installment sale, check box ▶ ☑		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	3/1/2015	$ 101,296.62	$ n/a	4 years	3.92 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest		22	
23	Issue price of entire issue (enter amount from line 21, column (b))		23	
24	Proceeds used for bond issuance costs (including underwriters' discount)	24		
25	Proceeds used for credit enhancement	25		
26	Proceeds allocated to reasonably required reserve or replacement fund	26		
27	Proceeds used to currently refund prior issues	27		
28	Proceeds used to advance refund prior issues	28		
29	Total (add lines 24 through 28)		29	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		30	

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31	Enter the remaining weighted average maturity of the bonds to be currently refunded ▶	years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded ▶	years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) ▶	
34	Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)	

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . .	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . .	36a		
b	Enter the final maturity date of the GIC ▶ _____			
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units . . .	37a		

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . ▶ ☐

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . ▶ ☐

40 If the issuer has identified a hedge, check box . . . . ▶ ☐

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Signature of issuer's authorized representative Date

▶ William F Mulholland, Clerk/Treasure Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code ▶		EIN	
		Phone no. ( )	

11. RESOLUTION NO. R-14-11

A RESOLUTION ACCEPTING THE BID OF BROWN CONTRACTING AND DEVELOPMENT, INC. FOR THE PIONEER CENTER/FIRE STATION NO. 2 EECBG PROJECT AND AUTHORIZING EXECUTION AND DELIVERY OF THE CONTRACT FOR SAID PROJECT.

NOTES:

REQUEST FOR COUNCIL ACTION

For Meeting of: 03/01/11

ACTION REQUESTED:

Award the Pioneer Center/Fire Station No. 2 EECBG project.

BACKGROUND:

The federal American Recovery and Reinvestment Act (ARRA) provided funding for the EECBG (Energy Efficiency Conservation Block Grant) program to the state of Washington. On September 29, 2009, the Council authorized the submittal of a grant application and letter of commitment for an EECBG grant in the amount of $126,728, which was accepted by the Washington State Department of Commerce. In Pullman's Capital Improvement Program (CIP) there are three Government Buildings Fund projects that were combined into the grant application: Window Replacement (Fire Station #2), Window Replacement/Insulation (Pioneer Center – Gym), and Window Replacement/Insulation (Pioneer Center – Main Building). On April 27, 2010, the Council accepted the EECBG grant and authorized execution of same. The initial project budget was estimated at $153,000. Avista has been contacted and their estimated participation as a funding partner is $16,272, leaving approximately $10,000 for the local match. Bids for the project were opened on February 23, 2011, with eight bids received. The low bidder was Brown Contracting and Development, Inc. of Spokane, Washington at $111,896.40. The architect's estimate was $153,000. A copy of the bid summary is attached for reference. The local funding is proposed to be from the Government Buildings fund with future reimbursement through rates.

RECOMMENDATION:

Adopt the attached resolution awarding contract 10-03, Pioneer Center/Fire Station No. 2 EECBG project, to Brown Contracting and Development, Inc. for the bid price of $111,896.40, which includes the lump sum bid and state sales tax.

FISCAL IMPACT:

$111,896.40

504.4900.518.30.48.10

BARS Code Number

SUBMITTED BY:

Name Kevin Gardes
Title Deputy Public Works Director
Dept. Public Works

ATTACHMENTS FOR COUNCIL REVIEW/ACTION:

1. Resolution No. R-14-11
2. Bid Summary

REVIEWED BY:

	Initial	Date
Department Head	MW	2/23/11
City Supervisor		2-25-11
City Attorney (As to Form)		2-23-11

S.R. #018

RESOLUTION NO. R- 14 -11

A RESOLUTION ACCEPTING THE BID OF BROWN CONTRACTING AND DEVELOPMENT, INC. FOR THE PIONEER CENTER/FIRE STATION NO. 2 EECBG PROJECT AND AUTHORIZING EXECUTION AND DELIVERY OF THE CONTRACT FOR SAID PROJECT.

WHEREAS, Brown Contracting and Development, Inc. submitted the low bid for Contract No. 10-03, Pioneer Center/Fire Station No. 2 EECBG Project, in the amount of One Hundred Eleven Thousand, Eight Hundred Ninety-Six and Forty/100 DOLLARS ($111,896.40); and,

WHEREAS, a contract has been prepared to provide for performance of said project; and,

WHEREAS, the City Council deems it to be in the best interests of the city of Pullman to enter into said contract; now, therefore,

IT IS HEREBY RESOLVED by the City Council of the city of Pullman that the bid of Brown Contracting and Development, Inc. for the above-described project be and it is hereby accepted.

BE IT FURTHER RESOLVED that the Mayor and the Finance Director be and they are hereby authorized and directed to execute the contract for said project and to deliver an executed copy thereof to Brown Contracting and Development, Inc.

BE IT FURTHER RESOLVED that pursuant to the provisions of WAC 308-330-265(2), the traffic engineer is hereby authorized to place and maintain official traffic control devices as the traffic engineer may deem necessary to regulate, warn, or guide traffic during construction.

IT IS FURTHER RESOLVED that the mayor is hereby authorized to take whatever further action is necessary, including but not limited to the execution of a Contractor's Escrow Agreement if requested by the Contractor, in order to effect the purposes of this resolution.

ADOPTED by the City Council of the city of Pullman at a regular meeting held on the _____ day of _____, 2011.

DATED this _____ day of _____, 2011.

_____
Mayor Glenn A. Johnson

ATTEST:

_____
Finance Director
William F. Mulholland

Approved as to Form:

_____
City Attorney Laura D. McAloon

ENGINEER'S ESTIMATE AND BID SUMMARY
PIONEER CENTER AND FIRE STATION NO. 2 ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT IMPROVEMENTS
BID OPENING 02-23-11

Item No.	Bid Item	Estimated Quantity	Engineer's Estimate		Brown Contracting and Development, Inc.		KACI General Contractor	
			Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Pioneer Center and Fire Station No. 2 Energy Efficiency and Conservation Block Grant Improvements	1 L.S.	141,929.50	141,929.50	103,800.00	103,800.00	107,217.84	107,217.84
		Sales Tax 7.8%		11,070.50		8,096.40		8,362.99
		TOTAL	**$**	**153,000.00**	**$**	**111,896.40**	**$**	**115,580.83**

Item No.	Bid Item	Estimated Quantity	Guho Corp.		Dardan Enterprises		Golis Construction, Inc.	
			Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Pioneer Center and Fire Station No. 2 Energy Efficiency and Conservation Block Grant Improvements	1 L.S.	107,271.04	107,271.04	108,272.00	108,272.00	116,100.00	116,100.00
		Sales Tax 7.8%		8,367.14		8,445.22		9,055.80
		TOTAL	**$**	**115,638.18**	**$**	**116,717.22**	**$**	**125,155.80**

Item No.	Bid Item	Estimated Quantity	M.E. Uphus Construction, Inc.		Skyline Contractors, Inc.		Western States Construction, Inc.	
			Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Pioneer Center and Fire Station No. 2 Energy Efficiency and Conservation Block Grant Improvements	1 L.S.	118,851.00	118,851.00	133,060.36	133,060.36	140,000.00	140,000.00
		Sales Tax 7.8%		9,270.38		10,378.71		10,920.00
		TOTAL	**$**	**128,121.38**	**$**	**143,439.07**	**$**	**150,920.00**

12. A PUBLIC HEARING IS SCHEDULED ON MADER'S ANNEXATION REQUEST.

STAFF REPORT

QUESTIONS FROM COUNCIL ON STAFF REPORT

READING OF ORDINANCE NO. 11-5

AN ORDINANCE ANNEXING TO THE CITY OF PULLMAN CERTAIN CONTIGUOUS REAL PROPERTY LOCATED ADJACENT TO THE NORTHWEST BOUNDARY OF THE CITY, BOUNDED ON THE EAST BY STATE ROUTE 27 AND ON THE WEST BY BRAYTON ROAD.

OPEN PUBLIC HEARING

CLOSE PUBLIC HEARING

DISCUSSION

ACTION TAKEN

NOTES:

REQUEST FOR COUNCIL ACTION

For Meeting of : 03/01/11

ACTION REQUESTED:

Conduct a public hearing to consider and act on the proposed Mader Annexation.

BACKGROUND:

On January 28, 2011, Steve Mader and Travis Willson filed a petition for annexation with the Pullman finance director in conformance with appropriate state regulations. The proposal involves the incorporation of 509 acres of land adjacent to the northwest boundary of the city, bounded on the east by State Route 27 and on the west by Brayton Road. Once an annexation petition is filed, state law requires the City Council to conduct a public hearing to consider and act upon the request. For additional information related to this matter, please refer to the attached staff report.

RECOMMENDATION:

Approve the proposed annexation by means of the attached ordinance.

FISCAL IMPACT: $_____

_____
BARS Code Number

SUBMITTED BY:

Name Jason Radtke JR

Title Assistant City Planner

Dept. Planning

ATTACHMENTS FOR COUNCIL REVIEW/ACTION:

1. Staff Report No. 11-3
2. Ordinance No. 11-5

REVIEWED BY:	Initial	Date
Department Head	FD	2/24/11
City Supervisor	[illegible]	2-25-11
City Attorney (As to Form)	____	_____

S.R. #019

CITY OF PULLMAN

Public Works and Planning Departments

325 S.E. Paradise Street, Pullman, WA 99163
(509) 338-3220 or (509) 338-3213 Fax (509) 338-3282
www.pullman-wa.gov

MEMORANDUM

TO: Mayor Johnson and Pullman City Council

FROM: Pete Dickinson, Planning Director PD
Jason Radtke, Assistant Planner JR

FOR: Meeting of March 1, 2011

SUBJECT: Proposed Mader Annexation

DATE: February 24, 2010

Staff Report No. 11-3

BACKGROUND

On October 18, 2010, Steve Mader filed a "Notice of Intent to Annex Real Property" with the city. This proposal involves the annexation of approximately 509 acres of land located adjacent to the northwest boundary of the city, bounded on the east by State Route (SR) 27 and on the west by Brayton Road (See Attachment "A," Location and Zoning Map). The parcel under consideration was recently prezoned R1 Single Family Residential for 134 acres, R2 Low Density Multi-Family Residential for 298 acres, I1 Light Industrial for 62 acres, and C3 General Commercial for 15 acres. The Comprehensive Plan land use designations given to the parcels in question at the time of prezoning were Low Density Residential, Industrial, and Commercial, respectively. The land under consideration is predominately used as farmland, but there is a single family house, a veterinary medicine research facility, a farmers' cooperative processing and storage facility, and a grain elevator on the property.

The Planning Commission met to review this proposal on October 27, 2010. No members of the public offered comments during the session. After a short discussion, the Commission voted unanimously to recommend approval of the request, subject to three conditions involving assumption of city indebtedness, acceptance of the above-referenced zoning districts for the property, and incorporation into the hospital district.

The City Council held a meeting to review the Notice of Intent to Annex on November 15,

2010. After discussing the matter, the Council voted unanimously to accept the proposed annexation and issue the following instructions to the petitioners:

1. The petitioner shall assume his proportionate share of city indebtedness upon annexation as determined by the city finance director.

2. The petitioner shall accept the assignment of R1 Single Family Residential, R2 Low Density Multi-Family Residential, I1 Light Industrial, and C3 General Commercial zoning designations for the subject property to become effective immediately upon annexation.

3. Prior to the City Council public hearing on this annexation proposal, the petitioner shall initiate proceedings for annexation to Whitman County Hospital District No. 1A.

On January 28, 2011, Steve Mader and Travis Willson filed a "Petition for Simultaneous Annexation & Zonning (sic) of Property to the City of Pullman" (See Attachment "B") as the next step in the process. State law requires that such a petition be signed by the owner(s) of a majority of the acreage proposed to be annexed and by a majority of the registered voters residing within the annexation area. In this case, the petition was signed by Steve Mader, who owns a majority of the subject property, and by Travis Willson, who is the only registered voter living on the property. The petition has been certified as sufficient by the Whitman County Assessor according to the rules set forth in RCW 35A.01.040 and RCW 35A.14.420, as documented in a letter from Joe Reynolds (See Attachment "C").

At its meeting of February 8, 2011, the Council set March 1, 2011 as the date for a public hearing to consider the petition for annexation. Pursuant to the requirements of RCW 35A.14.430, a Notice of the Public Hearing was posted in three public places within the proposed annexation area on February 16 and 17, 2011, and said notice was published in the Moscow-Pullman Daily News on February 18, 2011. Said notice was also mailed as a courtesy to interested parties on February 16, 2011.

With respect to the City Council's annexation instructions above, Item No. 1 would take effect upon annexation of the property. Item No. 2, regarding zoning for the parcel, would also take effect upon annexation. The petitioners have complied with Instruction No. 3 by submitting an annexation petition to Public Hospital District 1-A (See Attachment "D," Letter from Kelly Brown).

As noted in previous reports to the Council, there are a number of Comprehensive Plan objectives that pertain to this case. The specific provisions that apply in this instance are Comprehensive Plan Goal LU2, and Policies LU2.1, LU2.3, LU2.4, LU2.7, LU2.8,

LU2.9, and LU2.10.

STAFF ANALYSIS AND RECOMMENDATION

Planning staff is in favor of granting this proposed annexation. Approval of the applicants' request would incorporate land within Pullman's urban growth area, which has been established to allow for controlled growth and efficient municipal service delivery. The large size of the property involved in this proposal facilitates comprehensive planning of streets, utilities, and other public facilities throughout the area, thereby promoting the public welfare.

Access and utility service for the subject property appear to be satisfactory. The parcel is bordered by NW Terre View Drive, designated as a collector street on the city's arterial street plan, and by Brayton and Albion Roads. It is also noteworthy that the North Pullman Bypass (State Route 276) generally extends along the south boundary of the proposed annexation area. The city has received permission from the Washington State Department of Transportation to traverse SR 276 with a roadway and utilities approximately one mile west of SR 27. As development occurs on the subject property, all roads used for access into the area would be improved to acceptable standards. The city would also provide for adequate pedestrian facilities to promote safe travel for the general public. Utilities exist directly south of the subject property. Storm drain facilities would be constructed as needed to manage runoff.

If this proposal were to be approved, city staff anticipates minimal fiscal impact. The combination of residential and business development at the parcel under consideration is expected to balance overall impacts on the city's financial resources.

In conclusion, the petitioners for this proposed annexation have complied with the applicable provisions of state law and the instructions issued by the City Council. Planning staff recommends that the Council approve the petitioners' request to annex the subject property to the city of Pullman.

ACTION REQUESTED

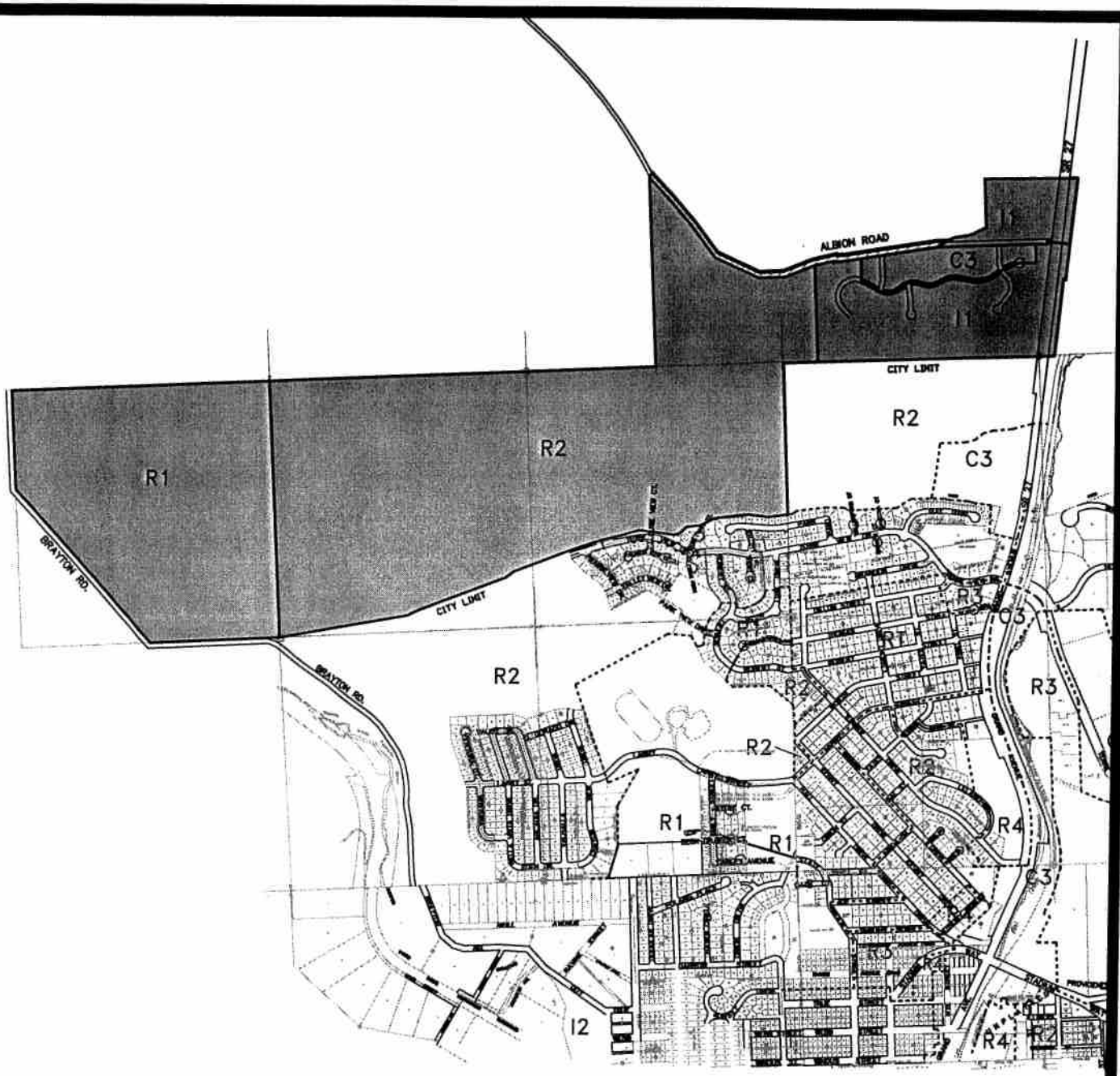
1. Accept public comment on the Petition for Annexation.

2. Adopt Findings of Fact and Conclusions (staff's suggested Findings and Conclusions are included as Attachment "E").

3. Move to approve or disapprove, by ordinance, the proposed annexation. Approval, if granted, shall be subject to the instructions outlined in the Petition for Annexation.

ATTACHMENTS

"A" Location and Zoning Map
"B" Petition for Annexation
"C" Letter from Joe Reynolds, received by the city 2/15/11
"D" Letter (without enclosure) from Kelly Brown, dated 2/14/11
"E" Findings of Fact and Conclusions



SUBJECT PROPERTY

CITY LIMITS

ZONING DISTRICT BOUNDARY

NORTH

P:\Engr & CAD\PLANNER\Zoning\Zoning Legal & Dwg Workups\Mader 2009-2010\Mader North.dwg

LOCATION AND ZONING MAP

ATTACHMENT "A"

Mader North Annexation

PETITION FOR SIMULTANEOUS ANNEXATION & ZONNING OF PROPERTY TO THE CITY OF PULLMAN

[MADER NORTH ANNEXATION - PAGE 1 OF 2]

To: The City Council of the City of Pullman, State of Washington;

Pursuant to R.C.W. Chapter 35A.14, the undersigned **Steve Mader and Travis Willson** do hereby petition the City Council of the City of Pullman, Washington, for the annexation to the City of Pullman the following described tract of real estate, situated in Whitman County, Washington, to-wit:

Attached hereto and by this reference made a part thereof is **Exhibit "A"**, a legal description of the property to be annexed.

The petitioner is owner and / or resident voter of the majority of the property for which annexation is sought. The petitioner is informed and understand:

1. The City Council will require the assumption of existing City indebtedness by the area to be annexed;
2. The City Council will require initiation of proceedings for annexation to Whitman County Hospital District No. 1A; and
3. If the area is annexed, it will be annexed with the following zone classifications, as shown on the attached **Exhibit "B"** of**; "R-1"** (Single Family Residential District), **"R-2"** (Low Density Multi-Family Residential District), **"I-1"** (Light Industrial District), and **"C-3"** (General Commercial District) classification, which will become effective upon annexation and shall remain effective until further modified in a manner provided by law.

Attached hereto and by this reference made a part there of is **Exhibit "B"**, a map that outlines the boundaries of the property sought to be annexed.

The Petitioner brought his **Notice of Intent to Annex** before the City Council on November 15, 2010. In accordance with RCW 35A.14, the following is a quotation of the minute entry from the regular meeting of the City Council of the requirements set forth by the City Council for the annexation;

Councilmember Waldrop made the following motion:
*"I move that the City accept the proposed annexation submitted by **Steve Mader** in the Notice of Intent to Annex Real Property filed with the City October 8, 2010, and that the City give the following annexation instructions:*

1. *That the petitioner shall assumehis proportionate share of City indebtedness upon annexation as determined by the City Finance Director.*
2. *That the petitioner shall accept the assignment of **R1** Single Family Residential, **R2** Low Density Multi-Family Residential, **I1** Light Industrial, and **C3** General Commercial zoning designations for the subject property to become effective immediately upon annexation.*

FILED

JAN 28 2011

CITY CLERK'S OFFICE
PULLMAN WASHINGTON

PETITION FOR SIMULTANEOUS ANNEXATION & ZONNING OF PROPERTY TO THE CITY OF PULLMAN

[MADER NORTH ANNEXATION - PAGE 2 OF 2]

To: The City Council of the City of Pullman, State of Washington **(Continued)**

*3. Prior to the City Council public on this annexation proposal, the petitioner shall initiate proceedings for annexation to **Whitman County Hospital District No. 1A".***

*Councilmember **Paul** seconded to approve the 510-acre parcel of land. The Motion carried unanimously.*

Warning

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Dated: 1/20/14

By: Steve B Mader / Land Owner

By: [illegible] Resident + voter

By: _____

ACKNOWLEDGEMENT

CHERYL M RODEEN NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES February 13, 2015

STATE OF WASHINGTON
COUNTY OF WHITMAN

ON THIS 20 DAY OF January
20 14, BEFORE Cheryl M Rodeen
A NOTARY PUBLIC IN AND FOR THE AFORESAID STATE, PERSONALLY APPEARED BEFORE ME Steve Mader & Travis Wilson

TO ME KNOWN TO BE THE PERSON/S WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT HE/THEY EXECUTED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED, FOR THE PURPOSES MENTIONED THERein.

NOTARY PUBLIC IN AND FOR
THE STATE OF WASHINGTON
RESIDING AT Colfax

MY COMMISSION EXPIRES 2-13-2015