

COMMISSIONERS JOURNAL NO. 54 - DELAWARE COUNTY  
MINUTES FROM REGULAR MEETING HELD DECEMBER 9, 2010

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present: Ken O'Brien, Dennis Stapleton, Tommy Thompson

RESOLUTION NO. 10-1594

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD DECEMBER 6, 2010:

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on December 6, 2010; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion Mr. Thompson Aye Mr. Stapleton Aye Mr. O'Brien Aye

PUBLIC COMMENT

RESOLUTION NO. 10-1595

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR1208, MINUS THE PAYMENT TO DELAWARE AREA CHAMBER OF COMMERCE 10011101-5305 IN THE AMOUNT OF \$30.00, AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR1208:

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR1208, Minus The Payment To Delaware Area Chamber Of Commerce 10011101-5305 In The Amount Of \$30.00 And memo transfers in batch numbers MTAPR1208 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
<b>PO' Increase</b>			
Electronic Restorations Services	Juvenile Court Clean Up	60111901-5370	\$169,244.08
Siemes	Bioxide Chemical	66211903-5290	\$ 13,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Line Amount</u>	<u>Line Number</u>
R1007152	NORTHWESTERN	ACCESS	40111402-5410	\$5,085.78	0001
	OHIO SECURITY	CONTROL			

Vote on Motion Mr. Stapleton Aye Mr. Thompson Aye Mr. O'Brien Aye

RESOLUTION NO. 10-1596

IN THE MATTER OF APPROVING PURCHASE ORDERS:

It was moved by Mr. Stapleton, seconded by Mr. Thompson to approve Purchase Orders as listed below:

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Amount</u>	<u>Line Number</u>
R1007202	OHIO REGIONAL	DCHIP HOUSING	23111711-5365	\$3,000.00	0001
	DEVELOPMENT	INSPECTIONS			
R1007202	OHIO REGIONAL	DCHIP HOUSING	23011702-5365	\$1,900.00	0002
	DEVELOPMENT	INSPECTIONS			
R1006935	ACCU PRO	CREATIVE	23111709-5365	\$25,00.00	0001
		HOUSING			
<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Desc</u>	<u>Line Account</u>	<u>Amount</u>	<u>Line Number</u>
R1007032	DELL MARKETING*	G. COMSTOCK	21011113 - 5260	\$1,300.00	0001
		COMPUTER			

\*(Same Request Number And Dollar Amount From Resolution No. 10-1570; Vendor Name Changed From Dell Catalog Sales; Authorization Required For This Vendor Number)

Vote on Motion Mr. O'Brien Nay Mr. Thompson Aye Mr. Stapleton Aye

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**RESOLUTION NO. 10-1597**

**IN THE MATTER OF APPROVING THE 5 YEAR COMMUNICATIONS SYSTEM MAINTENANCE SERVICE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND MOTOROLA, INC. FOR THE COUNTYWIDE DIGITAL 800 MHZ RADIO SYSTEM:**

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to approve The 5 Year Communications System Maintenance Service Agreement Between The Delaware County Commissioners And Motorola, Inc. For Products And Services For The Countywide Digital 800 Mhz Radio System;

Whereas, the 911 Communications Director and the Public Safety Systems Administrator recommends approval of the 5 year maintenance service agreement;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves The 5 Year Communications System Maintenance Service Agreement Between The Delaware County Commissioners And Motorola, Inc. For The Countywide Digital 800 Mhz Radio System.

**Service Terms and Conditions**

Motorola, Inc. ("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

**Section 1 APPLICABILITY**

These Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

**Section 2 DEFINITIONS AND INTERPRETATION**

2.1. "Agreement" means these Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2. "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3. "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

**Section 3 ACCEPTANCE**

Customer accepts these Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

**Section 4 SCOPE OF SERVICES**

4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

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4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

**Section 5 EXCLUDED SERVICES**

5.1. Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2. Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

**Section 6 TIME AND PLACE OF SERVICE**

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

**Section 7 CUSTOMER CONTACT**

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

**Section 8 PAYMENT**

Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date. Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity.

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**Section 9 WARRANTY**

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**Section 10 DEFAULT/TERMINATION**

10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

**Section 11 LIMITATION OF LIABILITY**

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Motorola will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, provided that Customer gives Motorola prompt, written notice of any such claim or suit. Customer shall cooperate with Motorola in its defense or settlement of such claim or suit. This section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

**Section 12 EXCLUSIVE TERMS AND CONDITIONS**

12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The

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Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2. Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

**Section 13 PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS**

13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

**Section 14 FCC LICENSES AND OTHER AUTHORIZATIONS**

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

**Section 15 COVENANT NOT TO EMPLOY**

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

**Section 16 MATERIALS, TOOLS AND EQUIPMENT**

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for

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Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

**Section 17 GENERAL TERMS**

17.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2. This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed.

17.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

17.4. Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7. THIS AGREEMENT WILL RENEW, FOR AN ADDITIONAL ONE (1) YEAR TERM, ON EVERY ANNIVERSARY OF THE START DATE UNLESS EITHER THE COVER PAGE SPECIFICALLY STATES A TERMINATION DATE OR ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS OF THAT ANNIVERSARY DATE. At the anniversary date, Motorola may adjust the price of the Services to reflect its current rates.

17.8. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

The Parties hereby enter into this Agreement as of the Effective Date.

**FIVE YEAR AGREEMENT BEGINNING JANUARY 1, 2011. 2011=\$354,353.00  
2012=\$364,983.00/2013=\$375,933.00/2014=\$387,211.00/2015=\$398,827.00**

(A copy of the agreement is available in the Commissioners' Office until no longer of administrative value).

Vote On Motion            Mr. Thompson    Aye    Mr. O'Brien    Aye    Mr. Stapleton    Aye

**RESOLUTION NO. 10-1598**

**IN THE MATTER OF APPROVING A MAINTENANCE SERVICE CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND EATON ELECTRICAL INC. FOR THE UNINTERRUPTIBLE POWER SYSTEM FOR THE 911 CENTER AND THE PRIME TOWER SITE AND FOR BATTERY PREVENTIVE MAINTENANCE INSPECTIONS AT TWELVE TOWER SITES :**

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to approve the following:

Whereas, the 911 Communications Director and the Public Safety Systems Administrator recommends approval of a maintenance service contract between The Delaware County Commissioners And Eaton Electrical Inc. for the Uninterruptible Power System for The 911 Center And The Prime Tower Site And For Battery Preventive Maintenance Inspections At 12 Tower Sites;

Now Therefore Be It Resolved that the Delaware County Board of Commissioners approves the maintenance service contract between The Delaware County Commissioners And Eaton Electrical Inc. for the Uninterruptible Power System for The 911 Center And The Prime Tower Site And For Battery Preventive Maintenance Inspections At 12 Tower Sites.

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**Eaton ProActive Service Plan  
Scope of Work  
Attachment R-6**

This scope of work is shared by the power quality equipment types listed in the below table. Note the applicable features vary by type of equipment being contracted and additional scopes of work may be required. All checks or processes may not be applicable to all equipment types or models.

Equipment Type	Corrective Maintenance Coverage	Electronics Preventive Maintenance	Battery Preventive Maintenance	eNotify Remote Monitoring	Tech Support	Discounts
Eaton UPS	Yes	Yes	No	Yes	Yes	Yes
Eaton PDU/PDR/RPP/STS	Yes	Yes	No	No	Yes	Yes
Flywheel	Yes	Yes	No	No	Yes	Yes
Non Eaton equipment (MVS)	Yes	Yes	No	No	Yes	No

- 1. Corrective Maintenance Coverage:** Inspection and repair of the electronic portion of the UPS (or other equipment type), or "Power Module" shall be performed as needed during the contracted period of maintenance at no extra charge to Purchaser. Remedial maintenance provided by Contractor shall include, and be expressly limited to, maintenance to the Power Module, travel expenses, all necessary parts replacement, adjustments and repairs. If the Purchaser maintains Eaton spare parts at the maintenance site, Contractor may, at its option, use those spare parts in the performance of Corrective Maintenance. Contractor shall replace the spare parts, which it so uses. **Exclusions:** certain wear parts are excluded from corrective coverage including external batteries and full capacitor replacement. All Corrective Maintenance to Battery System, if any, will be in accordance with battery manufacturers' warranty or separate agreement, if any. For Flywheel coverage: any failure due to lack of recommended bearing replacement, vacuum pump replacement (or "major maintenance" per manufacturer recommendation) will not be included under corrective maintenance coverage and will be billable at current time and material rates.
- 2. Electronics Preventive Maintenance:** One (1) annual 7x24 **UPS (or other equipment type) Power Module Preventive Maintenance** – Calibration of all metering and protective features. Functional testing of all transfer conditions. Inspection of online performance and equipment history. Examination of interfaces to other Powertrain equipment. Visual check on batteries and battery environment. Written evaluation providing a record of equipment performance. A Contractor will perform the Preventive Maintenance at the time requested by Purchaser during the CPM. For Flywheel: major maintenance is excluded and is sold separately upon request per recommended interval. See **Attachment R-2, UPS Power Module Preventive Maintenance Scope of Work.**
- 3. eNotify Remote Monitoring & Diagnostic Service:** Contractor will provide Remote Monitoring Service. This service will only be available if customer provides and supports a CAT5 LAN/Ethernet cable connected to an email server (along with necessary IP addresses to facilitate one-way connectivity). Contractor will notify Purchaser contact when a major alarm occurs. A monthly UPS Monitoring Summary Report will be sent electronically via email to customer contact. Not available on all products or models.

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Contractor's obligation shall be to perform remote monitoring start-up and validation of the remote monitoring system.

By permitting remote monitoring, End User acknowledges that Contractor may collect certain company specific (including information about End User that may be proprietary or confidential) and aggregate information about the End User's use of, and interaction with, the Product ("Company Specific Information" and "Aggregate Information" respectively). Contractor will not disclose Company Specific Information to third parties without end-user's written consent unless such Company Specific Information has been stripped of all identifiable, proprietary or confidential information ("Anonymized Information"). Anonymized and Aggregate Information may be used by Contractor for analysis and trending purposes and disclosed to third parties for purposes of comparisons and reliability reporting.

Remote monitoring shall include a monthly report summarizing alarms and important data relevant to UPS, battery or system performance. Contractor makes no warranty regarding, and has no obligation with respect to, the accuracy, completeness or omissions of any data, analysis or recommendation contained within this report. The End User must use reasonable judgment in interpreting this data and contact his or her local Eaton® sales representative or Contractor Technical Support with any questions.

4. **7x24 Technical Support:** technical support via telephone or email to Contractor shall be available to answer product or support questions.
5. **Customer Web Account Access:** Contractor will provide Purchaser with web-based access to account information and site service records. Access will be password restricted for maximum security of Purchaser records. A history of service performed, as well as scheduled service calls will be available.
6. **Discounts on spare part kits and upgrades:** Contractor will provide a 30% discount on time and material services (standby scheduled T&M service, battery replacements, recertification and custom quoted ((fixed price)) services are ineligible for discounts), optional spare part kits (not individual parts) and any field upgrade or modification performed by Eaton. Spare part kits are defined as an "A", "B", "C" or "D" level spare kit comprising between 80% and 10% of the replaceable parts for a specific Eaton product.

The Purchaser shall, from the commencement date of the Service Agreement, maintain the UPS Power Module in accordance with the published operating specifications for the Power Module at the time of purchase. The Purchaser shall, unless otherwise specified in the Service Agreement, maintain the Battery System in strict accordance with the Battery System manufacturer's recommended maintenance guidelines.



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### Eaton Valve Regulated (Sealed) Battery System Preventive Maintenance Scope of Work Attachment R-5

Maintenance of Battery Equipment includes, and is expressly limited to, those tasks set forth below.

Note: Due to the size and type of battery, testing and work procedures vary between battery jars above and below 100 watts per battery; work procedures may vary by UPS and battery type and may be limited by safety requirements. All additional work will be billable at the applicable rates per Attachment X-1.

Performed During Each Preventive Maintenance Visit	Below 100W/Jar	100W+/Jar
1. Measure and Record the following:		
A. Individual cell/battery float voltages and overall float voltage	Yes	Yes
B. Charger output current and voltage	Yes	Yes
C. AC ripple current and voltage imposed on the battery	Yes	Yes
D. Internal ohmic values of each cell/battery or perform a continuity test of each cell/battery	No	Yes
E. Connection Resistance of 10% of the inter cell/battery connection	No	Yes
F. Ambient temperature	Yes	Yes
G. Negative terminal temperature of one cell/battery per battery cabinet shelf or rack tier	Yes	Yes
2. Visually inspect conditions and appearance of the following:		
A. Connection terminals inter cell/battery connectors, cables and associated hardware	Yes	Yes
B. Cell/battery covers, containers, and post seals	Yes	Yes
C. Battery racks or cabinets and associated components and hardware	Yes	Yes
D. Cell/battery jar or cover, noting any excessive distortion	Yes	Yes
3. Perform cleaning of all accessible surfaces as required.	Yes	Yes
<b>Performed Once Per Calendar Year</b> The yearly maintenance procedure includes all of the above with the addition of the following:		
1. Measure and record the connection resistance of 100% of the inter cell/battery connections.	No	Yes
2. Re-torque any connection where the resistance is above 20% of the average.	No	Yes
<b>Reporting Each Preventive Maintenance Visit</b>		
1. The technician(s) will give the customer a verbal report summarizing the condition of the battery and identifying any critical issues before leaving the customer's site.	Yes	Yes
2. A detailed report containing all readings and observations will be sent to the customer within five business days.	No	Yes

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## Electronics (UPS Power Module) Preventive Maintenance

### Scope of Work Attachment R-2

This scope of work is shared by the following power quality equipment types: **Eaton UPS, Eaton PDU/PDR/RPP/STS, Flywheel and Non Eaton equipment (MVS)**. Note the applicable features vary by type of equipment being contracted and additional scopes of work may be required.

The following is an outline of general checks performed during an Eaton® Preventive Maintenance of the Eaton UPS Power Module normally performed by Eaton field service personnel. All checks are designed to be performed either during normal operation with no danger to the UPS's operation condition and the critical load, or during off line operation, in the bypass mode. All checks or processes may not be applicable to all equipment types or models.

#### 1. Visual Inspection

- a. Inspect all printed circuit board connections for cleanliness, swab contacts if necessary.
- b. Inspect all power connections for signs of overheating
- c. Inspect all subassemblies, bridges and legs for signs of component defects or stress
- d. Inspect all DC capacitors for signs of leakage
- e. Inspect all AC capacitors for signs of leakage
- f. Inspect and inventory all customer-owned spare parts
- g. Inspect for, and perform as required, any open engineering changes
- h. If work is completed under a PowerTrust™ Ultra contract, inspect battery monitoring system

#### 2. Internal Operating Parameters

- a. DC Ground Detection Offset
- b. Inverter leg current average balance
- c. Output filter current average phase balance
- d. Rectifier bridge current average leg balance
- e. AC Protection settings and operation
- f. DC Protection settings and operation
- g. Input and Output Frequency and Voltage Bandwidth settings
- h. Verify DC filter capacitance
- i. Verify AC tank and trap filter capacitance
- j. Power Supply voltages and waveforms
- k. Replace Power Module power supply back up control battery cells
- l. Static Switch leakage testing

#### 3. External Operating Parameters

- a. System Input Voltages (all phases)
- b. System Input Currents (all phases)
- c. DC Charging Voltages (float and equalize), record settings, adjust to nominal
- d. Rectifier phase on and walk up
- e. Inverter phase on and walk up
- f. Adjust all panel meters to measured values
- g. System Bypass Voltages (all phases)
- h. Manual and UV Transfer Testing, verify uninterrupted transfer waveform
- i. Outage simulation, and battery capability testing, and verify charger current limit
- j. Generator operation and interface verification

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**4. Environmental Parameters**

- a. UPS area ambient temperature and condition of ventilating equipment
- b. General Cleanliness of UPS Power Module
- c. General Cleanliness of UPS area
- d. Replace all air filters
- e. Clean control panel/CRT screen
- f. Flywheel only: Drain oil and change oil and filters **NOTE: One (1) oil and filter change per year.**

**5. Battery Cabinet Checks**

- a. General appearance of Battery System (all types)
- b. General cleanliness of Battery System area (all types)
- c. Inspect cells for physical abnormalities
- d. Inspect all DC connections for abnormalities
- e. Battery System area ambient temperature and condition of ventilating equipment
- f. For internal batteries only, measure and record:
  - i. Overall battery float voltage
  - ii. Charger output current and voltage
  - iii. Negative terminal temperature of one cell/battery per battery cabinet shelf or rack tier

**6. Monitoring System Parameters**

- a. Alarm archive review and printing
- b. Alarm lamp test-local and remote
- c. Replace all open monitor bulbs
- d. If work is completed under a PowerTrust Ultra contract, inspect battery monitoring system

**7. General**

- a. Customer Consultation
- b. Verbal Recommendations
- c. General Observations

Following the Preventive Maintenance inspection, a written report will be provided detailing the results of the inspection, and making specific recommendations toward future remedial action, upgrades, or sparing.

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**EATON CORPORATION**  
**SERVICE AGREEMENT – TERMS AND CONDITIONS (T-0)**  
**(As Amended Under Sections 8 and 21)**

**TERMS AND CONDITIONS:** The terms and conditions set forth herein, and any supplements which may be attached hereto, constitute the full and final expression of the contract for the sale of UPS services by Eaton Corporation, and supersedes all prior quotations, purchase orders, correspondence or communications whether written or oral between Eaton Corporation and the customer. Notwithstanding any contrary language in the customer's purchase order, correspondence or other form of acknowledgment, customer shall be bound by these terms and conditions when it sends a purchase order or otherwise indicates acceptance of this contract, or when it accepts delivery from Eaton Corporation of the products or services. THE CONTRACT FOR SALE OF SERVICES IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS STATED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CUSTOMER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY CONTRACTOR. No contract shall exist except as herein provided.

**1. DEFINITIONS:** As used in this Service Agreement, the terms listed below shall have the following meanings:  
 "Agreement" shall mean Eaton Corporation's Service Agreement Terms and Conditions, the Service Quote and the applicable Scope(s) of Work."  
 "Battery" shall mean the electric storage portion of a UPS.  
 "Contractor" shall mean Eaton Corporation.  
 "Covered Equipment" shall mean the equipment as listed on the Service Quote.  
 "CPM" shall mean the Contracted Period of Maintenance.  
 "Customer" shall mean the purchaser of this Agreement.  
 "Emergency Service" shall mean all services provided on an as needed basis that is not scheduled in advance  
 "PCS" shall mean Pre-Contract Survey.  
 "On-Site" shall mean Service performed at Customer's physical location as listed on the Service Quote.  
 "Power Module" shall mean the electronic portion of a UPS or other power quality device.  
 "Scope of Work" shall mean the services, procedures, methods, exclusions and coverage as purchased by the Customer  
 "Service" shall mean installation, maintenance (including Preventive Maintenance), repairs, inspection, adjusting, etc. of the UPS equipment provided by Contractor to Customer.  
 "UPS" shall mean Uninterruptible Power Supply which is comprised of the Power Module and Batteries.

**2. ELIGIBILITY:** All Covered Equipment that has experienced a lapse in Service coverage with the Contractor (or factory warranty coverage) or has had no service history with Contractor within the previous ninety (90) days, is subject to a PCS inspection by Contractor prior to eligibility for any Service under this Agreement. Customer is subject to charges for a PCS inspection at Contractor's then current Time and Material Service Rate Schedule (refer to Exhibit 1-PCS and Attachment X-1). If a PCS inspection is required for eligibility, a list of the equipment requiring a PCS inspection will be provided to Customer and will be incorporated into this Agreement.

**3. HOURS OF SERVICE:** Contractor will provide scheduled and emergency services portal-to-portal 8:00AM to 5:00 PM Monday-Friday (alternatively described as "5X8 Service") excluding all holidays observed by Contractor. The Customer may optionally purchase extended hours of scheduled and Emergency Service coverage (alternately described as "7x24 Service") which will include Emergency Service being provided on all holidays observed by Contractor. Notwithstanding anything herein or otherwise to the contrary, scheduled services are not available on Contractor's observed holidays. Contractor's observed holidays are as follows: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Post Thanksgiving Day, Christmas Eve Day and Christmas Day.

**4. ON-SITE RESPONSE TIME:** Following Customer's request for Service, Contractor will arrive at the location of the Covered Equipment the next business day or if optionally purchased by Customer, Contractor will arrive at the location of the Covered Equipment within eight (8), four (4) or two (2) CPM hours, provided the Covered Equipment is located within one hundred (100) miles of a Contractor service location. Response time does not include battery replacement service.

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**5. LABOR AND MATERIAL RATES:** For any additional Service outside the Scope(s) of Work purchased for Covered Equipment under this Agreement, Customer shall be billed at Contractor's then current Time and Material Rate Schedule (refer to Attachment X-1). This excludes any flat-rate Service quoted by Contractor representative.

**6. ENGINEERING CHANGES:** All engineering changes deemed necessary by Contractor will be installed during scheduled Service visits during the CPM. Any engineering changes deemed optional by Contractor will be offered to Customer on an as-available, per charge basis.

**7. CUSTOMER'S RESPONSIBILITY:**

A. **Communication and Scheduling** - Customer shall contact Contractor's Customer Reliability Center (1-800-843-9433) regarding all Service and Preventative Maintenance requests and all other matters arising out of or relating to this Agreement. With respect to Preventative Maintenance purchased by Customer, it shall be Customer's responsibility to contact Contractor to schedule the Preventative Maintenance. In the event that Customer fails to schedule and/or does not permit, for any reason, Preventative Maintenance to be completed within ninety (90) days of the scheduled service date, Contractor's obligation for that Preventative Maintenance shall be considered fulfilled.

B. **Movement** - If Covered Equipment is moved to another location within the United States, Service coverage will continue only upon the following conditions: (i) Customer shall notify Contractor in writing at least thirty (30) days in advance of power-down of Covered Equipment; (ii) Contractor reserves the right to supervise the power-down, disconnection, rigging, packing, movement, unpacking, reinstallation and re-start of the Covered Equipment for which Customer will be charged according to Contractor's then current Time and Material Service Rate Schedule; and (iii) resumption of Service coverage under this Agreement is subject to acceptance by Contractor of Covered Equipment at the new location.

C. **Safety** - Customer shall, at all times during the provision of Service hereunder, have a representative present at the Service site at no cost to, and solely for, the safety of Contractor.

D. **Access** - Customer shall grant ready access to the Covered Equipment, subject to reasonable security requirements, so that Contractor may perform Service under this Agreement.

**8. TERM AND TERMINATION:** This Agreement and all that is stated herein shall automatically be renewed, a maximum of two (2) times, for successive twelve (12) month periods at the prices in effect at the time of each renewal. Customer will be provided written notice of renewal of the Agreement sixty (60) days prior to its expiration, stating the prices for the applicable renewal term. In the event Customer elects not to renew this Agreement, Customer shall provide thirty (30) days written notice prior to the expiration of this Agreement. Notwithstanding the foregoing, Customer or Contractor may terminate this Agreement at any time upon thirty (30) days written notice to the other, subject to Section 16 herein.

**9. END OF SERVICE LIFE ("EOSL")/BEST EFFORTS:** Contractor may designate a Power Module as "End of Service Life/Best Efforts" which shall mean that limited parts are available or Service will be provided on a best efforts basis. This designation will be indicated on the Service Quote provided to Customer for Service renewal. In the event that Contractor cannot perform or complete a covered repair, Contractor may terminate coverage subject to Section 8 herein. Customer may request a pro-rated refund for the terminated portion of this Agreement, subject to Section 15 herein. Customer acknowledges EOSL/Best Efforts designation on the Service Quote will serve as Contractor's notice of limited service support and its recommendation to replace or decommission the Power Module.

**10. INSURANCE:** During the term of this Agreement, Contractor, at its own cost and expense, shall maintain in full force and effect the following insurance with sound and reputable insurers: (1) worker's compensation insurance in accordance with the statutory requirements of the state where the Service is to be performed; (2) automobile liability insurance on all motor vehicles licensed for highway use, both owned and non-owned; and (3) commercial general liability insurance for bodily injury and property damage.

**11. WARRANTY:** Contractor shall perform all Service in a professional and workmanlike manner. Contractor warrants repairing or replacing defective parts or materials and correcting defective workmanship reported to Contractor and/or diagnosed by Contractor's personnel during the term of this Agreement. Contractor warrants its corrective maintenance and replacement parts to be free from defects in material and workmanship for the term of this Agreement or for a period of ninety (90) days from the completion date of the repair or replacement of parts or

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materials, whichever is longer. In the event the parts or materials fail to meet published specifications due to a defect in parts or materials or workmanship covered by this Warranty, Contractor, at its discretion, will repair or replace the warranted parts or materials at no cost to Customer. This Warranty shall not apply to any Power Module and/or Battery that has been: (i) subject to damage caused by accident, fire, flood, lightning, vandalism, acts of God, Customer's neglect, misuse, misapplication, incorrect connection or external damage; (ii) subject to repair or alteration by Customer (or a third party) not authorized by Contractor in writing; or (iii) moved without adherence to Section 7B herein. THIS WARRANTY IS EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE CONTRACTOR'S SOLE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR FAILURE OF CONTRACTOR TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF CUSTOMER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE. Parts or materials supplied, but not manufactured by Contractor, are warranted solely by the manufacturer. Contractor's obligation under this Warranty is conditioned upon receipt of all payments due from Customer.

**12. ASSIGNMENT:** Neither party shall assign this Agreement or any of its rights and interests herein without the prior written consent of the other party. Notwithstanding anything in this Agreement or otherwise to the contrary, upon written notice to the other party, either party may assign this Agreement or any of its rights and interests herein to: (i) any parent, subsidiary, affiliated or successor corporation; or the purchaser of any of these entities; (ii) any corporation to which the party has sold all or substantially all of its assets (including the purchaser of any of the party's subsidiaries); or (iii) any corporation or legal entity with which the party may merge or consolidate.

**13. SUBCONTRACTING:** Contractor reserves the right to subcontract any portion of Service provided for under this Agreement without the prior consent of Customer.

**14. INDEMNITY:** Subject to Section 15 herein, Contractor shall defend, indemnify and hold harmless Customer, its officers, employees and agents, from and against any and all claims, liabilities, damages, demands, losses, causes of action and suits, including reasonable attorney's fees incident thereto, to the extent they result directly from or out of (1) any injury to or death of any person or damage to or destruction of any property caused by the negligent acts, errors, omissions or willful misconduct of Contractor, its agents or employees, and (2) any violation of federal or state law, regulation, order, rule or of any other governmental authority having jurisdiction by Contractor, its employees or agents.

**15. LIABILITY:** Notwithstanding anything in this Agreement or otherwise to the contrary, in no event shall Contractor or Customer, or their respective officers, directors, employees or agents be liable to the other for any incidental, indirect, special or consequential damages, such as, but not limited to, delay damages, lost profits or revenue, lost data or lost opportunity damages, resulting from or in connection with any claim or cause of action, whether brought in contract or in tort, even if Contractor or Customer knew or should have known of the possibility of such damages. Under no circumstances shall the aggregate liability arising out of or in connection with this Agreement exceed the price paid hereunder for the goods and services provided.

**16. PAYMENT:** All payments are due net thirty (30) days in full from date of invoice. Customer shall be invoiced for, and shall pay for, all Service not expressly provided for by the terms hereof, such as, but not limited to, site calls involving no-fault found inspections where no corrective maintenance was required. If any payment is not made when due, Contractor reserves the right to refuse to provide any further Service until such payment has been received. Customer shall be liable for expenses, including reasonable attorneys' fees, associated with collection proceedings for non-payment. In the event of early termination: i) Customer will be liable for any Service rendered to the reasonable satisfaction of Customer prior to the effective date of termination; and ii) Contractor, at its discretion, will provide a credit against any advance payments received as follows: a) a pro-rated amount based on the terminated portion of the fixed-price fee due Contractor; or b) an amount based on the difference between the amount paid by Customer prior to the effective date of early termination and the actual cost of Service completed (including emergency repair calls) by Contractor prior to the effective date of early termination.

**17. TAX:** Contractor's price is exclusive of any applicable tax. All orders will be subject to all applicable sales tax unless a current tax exemption certificate is on file with Contractor covering the state where Covered Equipment under this Agreement is located.

**18. PARTS:** Parts removed for replacement shall be Contractor's property. Parts used from Customer-owned spare parts kit shall be replaced by Contractor at no cost. Replacement parts shall be new or of the same quality as new.

**19. FORCE MAJEURE:** Contractor shall not be liable for any failure to perform, or delay in performing Service for Customer to the extent that such failure or delay results from causes beyond its reasonable control including, without any limitation, any act of God, war, revolution, riot, civil commotion, labor strike or any applicable governmental or judicial law or regulation, order or decree.

**20. INFORMATION:** All information of Customer shall be deemed non-confidential and Contractor will be under no duty of non-disclosure unless both parties execute a mutual non-disclosure agreement.

**21. GENERAL:** The terms and conditions of this Agreement cannot be modified or waived except by a writing signed by the parties hereto and waiver by Contractor or Customer of any provision hereof in any one instance shall not constitute a waiver as to any other instance. If a provision of this Agreement is invalidated for any reason, this Agreement remains binding except for such invalid provision. This Agreement shall be construed in accordance with and governed by the laws of the State of Ohio. Customer and Contractor hereby agree that all disputes arising out of this Agreement shall be submitted solely to the jurisdiction of the state and federal courts located in Delaware County, Ohio.

Vote on Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Stapleton Aye

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**RESOLUTION NO. 10-1599****IN THE MATTER OF APPROVING PERSONNEL ACTIONS:**

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to approve the following:

The President of the Board of Commissioners and the Administrative Services Department recommend to end the probationary period and approve accompany pay raise for Tiffany Jenkins the Director of Environmental Services; effective November 27, 2010:

Therefore Be It Resolved, that the Board of Commissioners end the probationary period and approve accompany pay raise for Tiffany Jenkins the Director of Environmental Services; effective November 27, 2010.

The Director of Environmental Services recommends approval of the Class I WW Collection Certification Pay Increase for Anthony Cooper, with the Regional Sewer District, effective date November 27, 2010.

Therefore Be It Resolved, that the Board of Commissioners approves the Class I WW Collection Certification Pay Increase for Anthony Cooper, with the Regional Sewer District, effective date November 27, 2010.

The Director of Environmental Services recommends approval of the Class I WW Collection Certification Pay Increase for Ricky Thomas, with the Regional Sewer District, effective date November 27, 2010.

Therefore Be It Resolved, that the Board of Commissioners approves the Class I WW Collection Certification Pay Increase for Ricky Thomas, with the Regional Sewer District, effective date November 27, 2010.

The Director of Environmental Services recommends approval of the Class I WW Collection Certification Pay Increase for Greg Blevins, with the Regional Sewer District, effective date November 27, 2010.

Therefore Be It Resolved, that the Board of Commissioners approves the Class I WW Collection Certification Pay Increase for Greg Blevins, with the Regional Sewer District, effective date November 27, 2010.

Vote On Motion            Mr. Stapleton    Aye    Mr. O'Brien    Aye    Mr. Thompson    Aye

**Commissioners' Committees Reports****Commissioner Stapleton****- CCAO/CEAO Winter Conference; Attended Sessions And Seminars On:**

- State Budget Outlook; Also Heard Govern Elect John Kasich Speak On How Different The New Budget Will Look**
- Solid Waste Districts Around The State**
- Election Results Around The State**
- Legislative Update For The Northwestern Quarter**
- Panel Of Sheriffs On Revenue Issues And Responsibilities**
- Performance Audits**
- Modernization Of Technologies; Reform And Reconstruction Of Government To Reduce Taxpayer Burden**
- Human Resources In Challenging Economic Times; Collective Bargaining, Layoffs And Furloughs**
- Modernizing The Requirements Of Code/Statues To Save Money**

**Commissioner O'Brien**

- Attended And Participated In The Regional Planning Executive Meeting; Budget Sound Footing And Possible Future Contracts**

**Commissioner Thompson**

- Attended A DKMM Meeting On Tuesday; Full Meeting Next Tuesday**
  - Monies Returned To Funds**
  - Moving Office Space**

**RESOLUTION NO. 10-1600**

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR COLLECTIVE BARGAINING:**

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to adjourn into Executive Session at 9:25AM.

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Vote On Motion Mr. O'Brien Aye Mr. Thompson Aye Mr. Stapleton Aye

**RESOLUTION NO. 10-1601**

**IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:**

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to adjourn out of Executive Session at 11:05AM.

Vote on Motion Mr. Thompson Aye Mr. Stapleton Aye Mr. O'Brien Aye

**DISCUSSION;**  
**ORANGE TOWNSHIP AND BACK-UP CENTER FOR 911 COMMUNICATIONS**

**RESOLUTION NO. 10-1602**

**IN THE MATTER OF ADJOURNING THE MEETING:**

It was moved by Mr. O'Brien, seconded by Mr. Stapleton to adjourn the meeting.

Vote on Motion Mr. Stapleton Aye Mr. Thompson Aye Mr. O'Brien Aye

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Ken O'Brien

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Dennis Stapleton

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Tommy Thompson

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Jennifer Walraven, Clerk to the Commissioners