

FIRST AMENDMENT
to
Comcast Enterprise Services Master Services Agreement No. FL-11238521-DSmit

This First Amendment (“Amendment”) is concurrently entered into on January 19, 2024 (“Effective Date”) in conjunction with the Comcast Enterprise Services Master Services Agreement No. FL-11238521-DSmit (“Agreement”) by and between Comcast Cable Communications Management, LLC (“Comcast”) and City of Delray Beach (“Customer”), individually referred to herein as “Party” and jointly referred to as “Parties”. In the event of an explicit conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall take precedence in the interpretation of the explicit matter in question. Unless otherwise set forth herein, all capitalized terms set forth herein shall have the same meaning as set forth in the Agreement.

Whereas, the Parties desire to amend the Agreement by this writing to reflect the amended or additional terms and conditions to which the Parties have agreed to;

Now, therefore, in consideration of the mutual covenants, promises, and consideration set forth in this Amendment, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Article 9.12 of the Comcast Enterprise Services General Terms and Conditions is hereby added to read as follows:

Public Records. The Parties acknowledge and agree that all provisions of the Florida Public Records Law, Chapter 119, Florida Statutes, are and shall be binding and enforced at all times with regard to all action and activities under this Agreement. If by providing Services pursuant to the Agreement, Comcast is a contractor as defined by Section 119.0701, Florida Statutes, Comcast shall:

- A. Keep and maintain public records required by Customer to perform the Services.
- B. Upon request of Customer’s custodian of public records, provide Customer with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at the cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the term of the Agreement and following completion of the Agreement if Comcast does not transfer the records to Customer.
- D. Upon natural expiration or termination of the Agreement, Comcast shall transfer to Customer, at no cost, all public records in possession of Comcast or keep and maintain public records required by Customer to perform the Services. If Comcast transfers all public records to Customer upon termination or expiration of the Agreement, Comcast shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Comcast keeps and maintains public records upon completion of this Agreement, Comcast shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Customer upon request from Customer’s custodian of public records, in a format that is compatible with the information technology systems of Customer.

**IF COMCAST HAS QUESTIONS REGARDING THE APPLICATION
OF CHAPTER 119, FLORIDA STATUTES, TO COMCAST'S DUTY TO
PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT,
CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK'S OFFICE
100 NW 1st Avenue,
DELRAY BEACH, FLORIDA 33444,**

PHONE: 561-243-7051

EMAIL: CITYCLERK@MYDELRAYBEACH.COM

2. Article 9.13 of the General Terms and Conditions is hereby added to read as follows:

Comcast is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and may demand and obtain records and testimony from Comcast and its subcontractors and lower tier subcontractors. Comcast understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Comcast or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the Customer to be a material breach of this Agreement justifying its termination.

3. Article 9.14 of the General Terms and Conditions is hereby added to read as follows:

Non-Appropriation of Funds. In the event funds are not appropriated by the applicable federal and/or state agency during any fiscal period of the Service Term of Sales Order FL-11238521-DSmit-24748972, such Sales Order may be terminated by the Customer upon written notification to Comcast, to include a copy of the non-appropriation of funds notification, as of the beginning of the fiscal year for which funds are not appropriated or otherwise secured, provided that (a) Customer agrees to include in its budget request appropriations sufficient to cover Customer's obligations under the Sales Order; and (b) Customer agrees it will not use non-appropriations as a means of terminating the Sales Order in order to acquire functionally equivalent products or services from a third party. In the event Customer terminates the Sales Order under this provision, neither Party shall have any further obligation to the other Party with respect to such Sales Order, excepting Customer shall be responsible for the payment of any and all unpaid charges for Services rendered, for Comcast Equipment, and, any and all unpaid capital expenses incurred by Comcast on behalf of Customer under the Sales Order, all of which are to be paid by Customer to Comcast within thirty (30) days of the invoice date; provided, that, the amount of capital expenses owed by Customer shall be reduced by the total amount of non-recurring charges and monthly-recurring charges already paid to Comcast by Customer under the Sales Order at the time of termination. Customer hereby agrees to notify Comcast in writing as soon as it has knowledge that funds are not available for any fiscal period under the applicable Sales Order Service Term.

4. Article 9.15 of the General Terms and Conditions is hereby added to read as follows:

E-Verify.

A. Pursuant to section 448.095, Florida Statutes, beginning January 1, 2023, Comcast shall register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all employees working pursuant to this Agreement, hired on and after January 1, 2023.

B. Comcast must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from Comcast stating all employees working pursuant to this Agreement, hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system.

5. Article 9.16 of the General Terms and Conditions is hereby added to read as follows:

Non-Waiver of Immunity. Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of Comcast and the Customer in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the Customer be required to contain any provision for waiver.

6. In the event of an explicit conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall take precedence in the interpretation of the explicit matter in question.
7. Except as expressly modified by this Amendment, all other terms and conditions set forth in the Agreement and the First Amendment shall remain in full force and effect and are hereby ratified and confirmed by the Parties.

{REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK}

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the day and year written below and the persons signing covenant and warrant that they are duly authorized to sign for and on behalf of the respective Parties. Except as otherwise modified by this Amendment, all other terms and conditions set forth in the Agreement shall remain in full force and effect.

ATTEST:

CITY OF DELRAY BEACH

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Date: _____

Approved as to form and legal sufficiency:

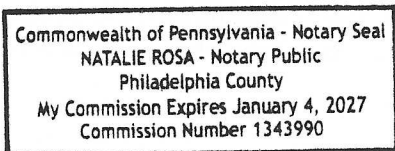
Lynn Gelin, City Attorney

**COMCAST CABLE COMMUNICATIONS
MANAGEMENT LLC.**

By: Michael Mazza

Print Name: Michael MAZZA

Title: VP Strategic Deal Management



(SEAL)

Commonwealth of Pennsylvania
STATE OF _____
COUNTY OF Philadelphia

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this day of January 31, 2021, by Michael Mazza (name of person), as VP Strategic Deal (type of authority) for Comcast (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification

Type of Identification Produced _____

Natalie Rosa
Notary Public - State of Pennsylvania
Commonwealth