FIRST AMENDMENT
TO INTERLOCAL AGREEMENT

THIS FIRST AMENDMENT to Interlocal Agreement R2016-1487, is made and entered into on August 17th 2021, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and the City of Delray Beach, a municipal corporation of the State of Florida ("City").

In consideration of the mutual promises contained herein, the County and City agree as follows:

1. The term of the Agreement expires on October 17, 2021 and shall be extended through October 16, 2026 pursuant to the exercise of the first five (5) year renewal option.

2. The Agreement is hereby modified to add the following:

   SECTION 3A: INSURANCE

   Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the City represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

   If CITY is not self-insured, CITY shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

   Should CITY purchase excess liability coverage, CITY agrees to include County as an Additional Insured.

   The CITY agrees to maintain or to be self-insured for Workers' Compensation Insurance in accordance with Chapter 440, Florida Statutes.

   Should CITY contract with a third-party (Contractor) to perform any service related to the AGREEMENT, CITY shall require the Contractor to provide the following minimum insurance:

   - Commercial General Liability insurance with minimum limits of $1,000,000 combined single limit for property damage and bodily injury per occurrence and $2,000,000 per aggregate. Such policy shall be endorsed to include CITY and COUNTY as Additional Insureds. CITY shall also require that the Contractor include a Waiver of Subrogation against COUNTY.
   - Business Automobile Liability insurance with minimum limits of $1,000,000 combined single limits for property damage and bodily injury per occurrence.
   - Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of $1,000,000 each accident.

When requested, the CITY shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the CITY of its liability and obligations under this Agreement.

3. Section 9 of the Agreement is deleted in its entirety and replaced with the following:

SECTION 9: APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida.

4.Section 14 of the Agreement is deleted in its entirety and replaced with the following:

Section 14: NON-DISCRIMINATION

The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, AT&T warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

5. The Agreement is hereby modified to add the following:

Section 15: PUBLIC RECORDS

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the City: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the City shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time The City is specifically required to:

A. Keep and maintain public records required by the County to perform services as provided under this Contract.

B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The City further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

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 contract term and following completion of the Contract, if the City does not transfer the records to the public agency.

D. Upon completion of the Contract the City shall transfer, at no cost to the County, all public records in possession of the City unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the City transfers all public records to the County upon completion of the Contract, the City shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the City keeps and maintains public records upon completion of the Contract, the City shall meet all applicable requirements for retaining public records. All records stored electronically by the City must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the City to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. City acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

SECTION 16: E-VERIFY-EMPLOYMENT ELIGIBILITY

16.01 City warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the City's contractors and subcontractors performing any duties and obligations of this Agreement are registered with the E-Verify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

16.02 County shall terminate this Agreement if it has a good faith belief that City has knowingly violated Section 448.09(1), Florida Statutes, as may be amended.

5. Except as modified by this First Amendment, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof and is hereby ratified and confirmed by the City and the County.

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed as of the day and year first above written.

ATTEST:

JOSEPH ABRUZZO
CLERK OF THE CIRCUIT
COURT& COMPTROLLER

By: _____
Deputy Clerk

PALM BEACH COUNTY, a political subdivision of the State of Florida

By: _____
Dave Kerner, Mayor

APPROVED AS TO
LEGAL SUFFICIENCY:

By: _____
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS:

By: _____
Isamì Ayala-Collazo, Director
Facilities Development & Operations

ATTEST:

CITY CLERK

By: _____
Katerri Johnson, City Clerk

CITY OF DELRAY BEACH, a municipal corporation of the State of Florida

By: _____
Shelly Petrolia, Mayor

APPROVED AS TO
LEGAL SUFFICIENCY:

By: _____
Lynn Gelin, City Attorney

Agenda Item #: 3H-1

PT | SV 6-0
HV abs
R-2016-1487

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: October 18, 2016 | **[X] Consent** | **[ ] Regular** | **[ ] Ordinance** | **[ ] Public Hearing**

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Interlocal Agreement with the City of Delray Beach, a municipal corporation ("City") to use the County's microwave system to transport signals between the City and the Master Site.

Summary: This Agreement with the City, which provides the terms and conditions under which the City can use the County's microwave system to transport radio signals from the City's tower to the County's Master Site. The Agreement provides for four (4) renewal options, each for a period of five (5) years. The City has approved the Agreement. Under the terms of the Agreement, the City pays a pro rata share of the operational and maintenance costs associated with the microwave system. The costs for each fiscal year are provided by the County by March 1st annually. The Interlocal Agreement may be terminated by either party, with or without cause, with one (1) year notice. It is the City's responsibility to purchase, install, own and otherwise maintain the equipment. The County is also authorizing the connection of seven (7) City provided receivers to the County's provided receiver multi-coupler, utilization of the County's site UPS system and rack space inside the County's Equipment Shelter. **(FDO Admin) Countywide (LDC)**

Background & Justification: The County has committed to the purchase, design, installation and operation of a Countywide P25 Public Safety Radio System and digital microwave communication system to meet the needs of the Palm Beach County Sheriff's Office, Palm Beach County Fire Rescue, Palm Beach County Emergency Management Service, and various Palm Beach County general governmental agencies; and the City has committed to the purchase, design, installation and operation of its own a P25 Trunked Radio System to meet the needs of the City of Delray Beach. The City intends to continue to be connected to the County's Prime Site as agreed upon by a separate Interlocal Agreement pursuant to R2016-0623. The City has requested to utilize the County's S-7 receiver network due to the eventual decommissioning of the current location of the City's receiver site. The City intends to use the County's microwave system to transport signals between the City and the Master Site. The annual cost for the microwave use is $2,184.98. The City agrees to pay the total cost of purchase, installation and maintenance of the City Receiver Equipment. The County's estimated annual costs are Average Infrastructure Maintenance costs are $1.3 Million (not including the above microware maintenance) and the City uses one (1) of the eleven (11) RF sites. The cost for the use of the County S-5 Equipment Shelter for the City Receiver Equipment annually is $10,877.

Attachments:

1. Interlocal Agreement with the City of Delray Beach

Recommended By: SB Tammy Wise — Department Director — 9/19/16 — Date

Approved By: for M Baker — County Administrator — 9/27/16 — Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	**2017**	**2018**	**2019**	**2020**	**2021**
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County					
NET FISCAL IMPACT	* $0.	$0	$0.	$0.	$0.
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Revenue Source _____ _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

* There is no fiscal impact to this item as each City is paying 100% of the costs unique to their work. The costs for the microwave will be provided by the County to the City no later than March 1st annually. The costs for the receiver site will not be adjusted annually.

C. Departmental Fiscal Review: _____ 9.2016

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

_____ 9/21/16
OFMB 9/21 9/21

_____ 9/27/16
Contract Development and Control
9/26/16

B. Legal Sufficiency:

_____ 9/20/16
Assistant County Attorney

C. Other Department Review:

_____
Department Director

This summary is not to be used as a basis for payment.

Prepared By and Return to:
Stefanie Beskovoyne
Business and Community Agreements Manager
Facilities Development & Operations
Palm Beach County Board of County Commissioners
2633 Vista Parkway
West Palm Beach, FL 33411-5604

R2016 1487

INTERLOCAL AGREEMENT

This Interlocal Agreement is made and entered into this OCT 1 8 2016, by and between Palm Beach County ("County"), a political subdivision of the State of Florida and the City of Delray Beach ("City"), a Florida municipal corporation existing under the laws of the State of Florida.

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes (2015), the Florida Interlocal Cooperation Act of 1969 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities and permits public agencies to enter into Interlocal Agreements to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the County has committed to the purchase, design, installation and operation of a P25 Public Safety Radio System ("PSRS") and digital microwave communication system to meet the needs of the Palm Beach County Sheriff's Office, Palm Beach County Fire Rescue, Palm Beach County Emergency Management Service, and various Palm Beach County general governmental agencies; and

WHEREAS, the City has committed to the purchase, design, installation and operation of its own a P25 Trunked Radio System to meet the needs of the City of Delray Beach; and

WHEREAS, the City intends to continue to be connected to the County's Prime Site as agreed upon by a separate Interlocal Agreement pursuant to R2016-0623; and

WHEREAS, the City has requested to utilize the County's S-7 receiver network due to the eventual decommissioning of the current location of the City's receiver site; and

WHEREAS, the City intends to use the County's microwave system to transport signals between the City and the Master Site.

NOW THEREFORE, in conjunction with the mutual covenants, promises and representations contained herein the parties hereto agree as follows.

SECTION 1. Purpose

The purpose of this Interlocal Agreement is to set forth the County and the City's fiscal responsibilities with respect to the City's use of the County S-7 shelter for its receiver equipment and to connect to the County's microwave system to transport signals to and from the City's PSRS trunked radio system to the County's new Master Site.

SECTION 2. Responsibilities

2.01 MICROWAVE. It is the City's sole responsibility to provide, or cause to be provided, communication transport between the City S-6 and County S-7. The County will be responsible for the purchase, installation, ownership and physical maintenance and operation of the County's microwave network including the microwave equipment located at S-7.

2.01.1 The City agrees to pay its fair share of the operation and maintenance costs associated with the microwave system, on pro rata capacity basis. The operations and maintenance costs to be included are: system administration costs (which include personnel costs), utilities, equipment, software, and component renewal and replacement costs, and microwave equipment maintenance costs (which maybe out-sourced or performed by the County).

2.01.2 The costs use of the County's microwave system shall be calculated using the following methodology updating the total system maintenance and administration costs as well as the percentage of total costs attributable to the microwave system to reflect actual costs. The County's estimated annual costs are Microwave System Maintenance costs are $143,000. The City uses three (3) of the fourteen (14) microwave sites. The City uses (2) T-1s to three (3) separate towers.

$143,000 x 3/14 x 2/28 = **$2,184.98.**

The annual cost for the microwave use is **$2,184.98.**

2.02 RECEIVER. The County authorizes the connection of seven (7) City provided Motorola brand receivers to the County's provided receiver multi-coupler, utilization of the County's site UPS system and the utilization of one (1) 19" rack space inside the County S-7 Equipment Shelter specifically in the space identified in Attachment 1 (collectively referred to as "City Receiver Equipment"). However, this Agreement does not authorize the City to place any appurtenances on the County's communication tower.

2.02.1 The City agrees to pay the total cost of purchase, installation and maintenance of the City Receiver Equipment. The County's estimated annual costs are Average Infrastructure Maintenance costs are $1.3 Million (not including the above microware maintenance) and the City uses one **(1)** of the eleven (11) RF sites.

$1,329,411.00/11 x **1/11** = **$10,877.00.**

The cost for the use of the County S-5 Equipment Shelter for the City Receiver Equipment annually is **$10,877.**

2.02.1.1 The City's Receiver Equipment installation address is located at 345 South Congress Avenue, Delray Beach, FL 33445.

2.03 The adjusted microwave costs for Section 2.01.2 the future fiscal year (October 1 – September 30) will be provided by the County to the City by the County Administrator or his or her designee, no later than March 1st, annually. The costs for the Receiver Site (2.02) will not be adjusted annually. Future adjustments will be made using the same methodology as Section 2.02 if the City changes its complement of equipment.

2.04 The City shall pay the County, in full, each fiscal year no later than February 1st. Payment shall be made to:

Board of County Commissioners:
Attn: Electronic Services and Security Division
2633 Vista Parkway, West Palm Beach, FL 33411

SECTION 3. Liability

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

The County makes no representations about the capabilities or reliability of the County's microwave system or network equipment. The City has evaluated its other options for providing accomplishing the communication transport and the receivers and has decided to enter into this Agreement in lieu of other options available to the City. The County's System is designed to assist qualified law enforcement, fire, and other emergency service professionals. It is not intended to be a substitute for the exercise of judgment or supervision of these professionals. Both parties acknowledge that the responsibility for providing law enforcement, fire, or other emergency services rests with the City, which is providing such service, and not with the other party to this Agreement.

SECTION 4. Term of Agreement

The term of this Agreement shall be a period of five (5) years from execution and may be renewed for four (4) five (5) year periods upon written modification by both parties.

SECTION 5. Amendments to this Agreement

This Agreement may be amended from time to time by written amendment by all Parties.

SECTION 6. Termination

This Agreement may be terminated by any party with or without cause upon one (1) year notice in writing. The Agreement may be terminated for cause by either party upon 60 days notice in writing. This Agreement shall automatically terminate in the event that the County discontinues the operation of the microwave system at the County S-7

SECTION 7. Annual Budget Appropriations

The County's and City's performance and obligation to pay pursuant to this Agreement are contingent upon annual appropriation for its purpose by the Board of County Commissioners and the City Commission.

SECTION 8. Notices

Any notice given pursuant to the terms of this Agreement shall be in writing and done by Certified Mail, Return Receipt Requested. The effective date of such notice shall be the date of the receipt, as evidenced by the Return Receipt. All notices shall be addressed to the following:

As to the County:

Director, Facilities Development & Operations
2633 Vista Parkway
West Palm Beach, FL 33411

With a copy to:

Radio System Administrator
2633 Vista Parkway
West Palm Beach, FL 33411

County Attorney's Office
301 North Olive Avenue
West Palm Beach, FL 33402

As to City:

City Manager
City of Delray Beach
50 N.W. 1st Avenue
Delray Beach, FL 33444

With a copy to:

Chief of Police

City of Delray Beach
300 W. Atlantic Ave
Delray Beach, FL 33444

SECTION 9. Applicable Law Enforcement Costs

This Agreement shall be governed by the laws of the State of Florida. In any litigation brought by a party to this Agreement to enforce the terms of this Agreement, each party shall bear its own costs and attorney's fees incurred in connection therewith.

SECTION 10. Filing

A copy of this Agreement shall be filed by the County with the Clerk of the Circuit Court in and for Palm Beach County.

SECTION 11. Delegation of Duty

Nothing contained herein shall be deemed to authorize the delegation of the Constitutional or Statutory duties of any party.

SECTION 12. Palm Beach County Office of the Inspector General

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-321 – 2-440, as may be amended. The Inspector General is authorized with the power to review post, present and proposed County contracts, transactions, accounts and records The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

SECTION 13. No Third Party Beneficiary

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or City.

SECTION 14. Non-Discrimination

Pursuant to Resolution R-2014-1421, as amended, it is the policy of the Board of County Commissioners of Palm Beach County that Palm Beach County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, national origin religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability or genetic information.

The City has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the City does not have a written non-discrimination policy, or one that conforms to the County's policy, it has affirmed through a signed statement provided to County that City will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

(Remainder of the page intentionally left blank)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first written above.

ATTEST:

R2016 1487 OCT 18 2016

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

PALM BEACH COUNTY, a political subdivision of the State of Florida

By: _____
Mary Lou Berger, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
County Attorney

APPROVED AS TO TERMS AND CONDITIONS:

By: _____
Audrey Wolf, Director
Facilities Development & Operations

ATTEST:

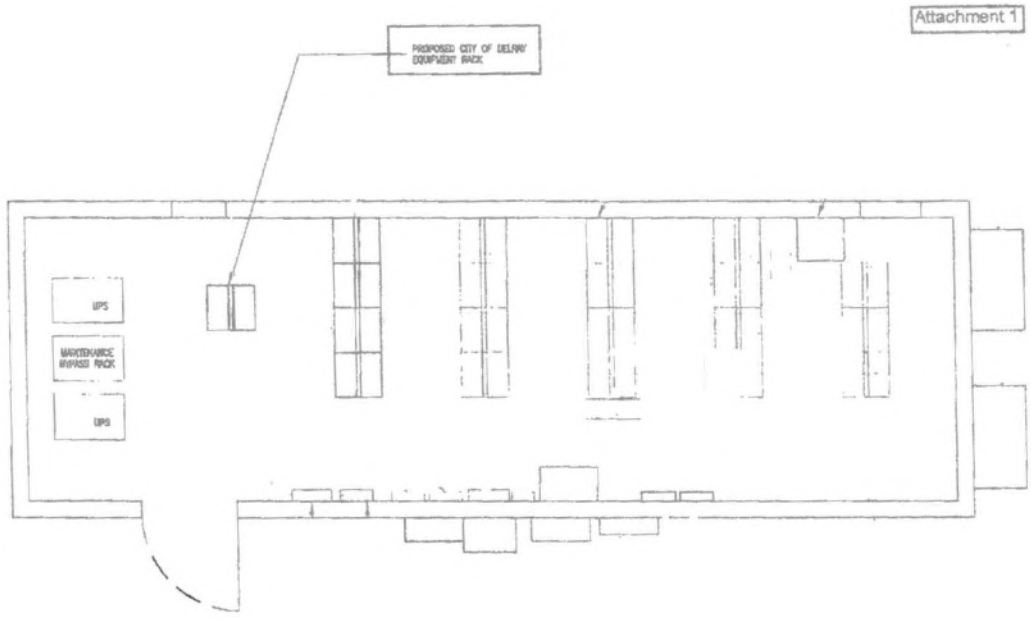
By: _____
City Clerk
Chevelle Nubin

Chevelle D. Nubin
Print City Clerk

CITY OF DELRAY BEACH, by its City Commissioners

By: _____
Cary Glickstein, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
City Attorney
Janice Rustin, Interim City Attorney

Attachment 1