

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 10/02/07 [X] Consent [] Regular
[] Ordinance [] Public Hearing

Department Submitted By: Palm Beach County ISS
Submitted For: Palm Beach County ISS

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Attachment to Master Services Agreement (MSA) (R2002-0956, as amended through R2006-2752) with BellSouth Communications, Inc. to participate in a Total Revenue Spend Bonus (TRSB) reward program based on total spending with BellSouth and their affiliated companies.

Summary: This attachment will allow the County to leverage existing contracts for telephone services, equipment and maintenance and other services from BellSouth and their affiliated companies to obtain potential reward payments from BellSouth. This reward is in addition to the basic reward included in the current BellSouth MSA. The reward level has a maximum potential of \$600,000 per year if certain expenditure thresholds are met. The County is under absolutely no obligation to participate in this program and the program is being offered to the County at no cost. This attachment is coterminous with the BellSouth MSA which expires on June 30, 2009. Countywide (PK)

Background and Justification: The County has had a Master Service Agreement (MSA) in place with BellSouth since 2002. This arrangement provides the County with deep discounts on services and identifies one point of contact for the majority of the County's telecommunications services. This attachment maximizes the other telecommunications services already in place by the County for a potential yearly reward.

Attachment:

- 1) 2 Originals, Total Revenue Spend Bonus (TRSB) Attachment
- 2) BellSouth Master Service Agreement w/Volume & Term Agreement, (R2002-0956, as amended, R2004-1592, R2005-0348, R2006-2752)

Recommended by: Steve Borden 9-17-07
Department Director Date

Approved by: [Signature] 9/24/07
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
|---|-------------|-------------|-------------|-------------|-------------|
| Capital Expenditures | \$0 | \$0 | | | |
| Operating Costs | | | | | |
| External Revenues | | | | | |
| Program Income (County) | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | \$0 | \$0 | | | |
| # ADDITIONAL FTE POSITIONS (Cumulative) | 0 | | | | |

Is Item Included in Current Budget? Yes No

Budget Account Number: N/A

B. Recommended Sources of Funds / Summary of Fiscal Impact

C. Departmental Fiscal Review:

Robert C. Beal 9/17/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

There is no fiscal impact at this time, although if certain expenditure thresholds are met, the county can be reauthorized up to \$600,000 per year.

[Signature] 9/19/07
OFMB

[Signature] 09/17/07 *[Signature]* 9/17/07

[Signature] 9/20/07
Contract Administration

B. Legal Sufficiency:

This item complies with current County policies.

Paul F. [Signature] 9/24/07
Assistant County Attorney

C. Other Department Review:

Department Director

Total Revenue Spend Bonus Attachment

This Attachment supplements the terms and conditions of the BellSouthSM Business Master Agreement FL03-4424-00 ("Master Agreement") between Palm Beach County ("Customer") and the BellSouth Companies identified in the Master Agreement for the purpose of establishing a Total Revenue Spend Bonus ("TRSB"), and also provides Customer a TRSB with respect to equipment purchases under Master Equipment Purchase and/or Maintenance Service Agreement BCS 42316.

1. DEFINITIONS

Unless otherwise specified herein, each defined term used in this Attachment shall have the same meaning as in the Master Agreement. The following terms shall have the following ascribed meanings. Other terms may be defined in the context of their use in this Attachment.

1.1 "TRSB Eligible Services" - all products and services purchased under the following agreements:

- Master Services Agreement FL02-C364-00 (R2002 0956)
- Regulated Services Attachment FL02-C364-10 (R2002 0956)
- BellSouth Business Master Agreement FL03-4424-00 (R2004 1594)
- Master Equipment Purchase and/or Maintenance Service Agreement BCS 42316

1.2 "TRSB Eligible Revenues"

1.2.1 For the Regulated Services, eligible revenues include all regulated services purchased by Customer whose billing is used to calculate the Annual Revenue Commitment in the Regulated Services Attachment. Non-recurring charges, taxes, and publicly imposed surcharges are not TRSB Eligible. Charges billed for TRSB Eligible Regulated Services for which Customer has not paid will not be counted as TRSB Eligible Revenues, and will not be used in calculating the TRSB award.

1.2.2 For the Equipment and Equipment Services and Non Regulated Services Attachments, all paid revenues for Services and Equipment that are associated with the respective attachments will be considered TRSB Eligible Revenues, except as listed below. Revenues that **will not** be included in the calculation of the TRSB are as follows:

- 1.2.2.1 Equipment purchase revenues that have not been paid by Customer
- 1.2.2.2 Equipment drop-shipment purchases
- 1.2.2.3 Digital Subscriber Line (DSL) services
- 1.2.2.3 Monthly recurring revenues for Equipment, Equipment Services or Non Regulated Services for which the customer has not paid
- 1.2.2.4 Taxes, Shipping and Handling Charges

1.2.3 Equipment Discount Schedule

1.2.3.1 In order for equipment revenues to be considered part of the Total Revenue Spend Bonus the following discount schedule shall apply. Any Equipment purchases at discounts greater than the listed amounts are not TRSB Eligible.

| | Equipment Discount | Install Discount | Maintenance Discount | Drop Ship Discount |
|---------------|---------------------------|-------------------------|-----------------------------|---------------------------|
| Nortel | 29% | 29% | 0% | 29% |
| Cisco | 38% | 38% | 10% | 36% |
| Avaya | 29% | 29% | 0% | 29% |

2. TOTAL REVENUE SPEND BONUS AWARD CALCULATION

2.1 During the Annual True-Up period described in the Regulated Services Attachment, if Customer has met or exceeded its TRSB Threshold Commitment set forth herein for that Contract Year, Customer will be eligible for a TRSB bonus award as described in the TRSB Bonus Award Table in Section 2.6 below not to exceed \$600,000.00 in any Contract Year..

2.2 The TRSB Award will be applied by the applicable BellSouth Company at the time of the Annual True-up of the BellSouth Regulated Services Attachment.

2.3 The TRSB Threshold revenue calculation for Regulated Services will be based on the Regulated Services amount billed to customer prior to the application of any Volume and Term Reward.

2.4 The TRSB Award for Regulated Services will be applied against the net amount of Regulated Services Revenue after the Volume and Term Reward has been applied.

2.5 BellSouth will provide documentation to support the TRSB calculation.

2.6 Total Revenue Spend Bonus Award Table

| Criteria | Threshold | Award |
|----------------------------|------------------|--------------|
| TRSB Revenue Equal to: | \$10,500,000 | 2.0% |
| TRSB Revenue Greater than: | \$11,000,000 | 2.5% |
| TRSB Revenue Greater than: | \$11,500,000 | 3.0% |
| TRSB Revenue Greater than: | \$12,000,000 | 3.5% |
| TRSB Revenue Greater than: | \$12,500,000 | 4.0% |
| Annual Reward Cap | \$600,000 | |

3. Miscellaneous

3.1 BellSouth and Customer agree that the effective date of this Agreement shall be the first day of the month following the month in which this Amendment is signed and accepted by Company.

3.2 This offer shall be valid until **October 4, 2007**.

IN WITNESS WHEREOF, The Board of County Commissioners of Palm Beach County, Florida, has made and executed this Contract on behalf of the said Owner and caused the seal of the said Owner to be affixed hereto, and BBS has hereunto set its hand and seal the day and year written. BBS represents that it is authorized to execute this Contract on behalf of itself and the BellSouth Companies

ATTEST:

Sharon R. Bock, Clerk and Controller

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie Greene
Chair

By: BellSouth Business Systems, Inc.

By: Michael F. King
(Authorized Signature)

Printed Name: Michael F. King

Title: Area Dir.

Date: _____

APPROVED AS TO TERMS AND CONDITIONS
BY Steve Bordeau
ISS DIRECTOR

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2008</u> | <u>2009</u> |
|---|--------------------|--------------------|--------------------|-------------|-------------|
| Capital Expenditures | | | | | |
| Operating Costs | <u>\$7,200,000</u> | <u>\$9,600,000</u> | <u>\$7,200,000</u> | | |
| External Revenues | <u>-637,500</u> | <u>-850,000</u> | <u>-637,500</u> | | |
| Program Income (County) | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | <u>\$6,562,500</u> | <u>\$8,750,000</u> | <u>\$6,562,500</u> | | |
| # ADDITIONAL FTE POSITIONS (Cumulative) | | | | | |

Is Item Included In Current Budget? Yes X No _____

Budget Account No.: Various

Budget account numbers for the BellSouth services under this MSA are many and various and will be billed to all County agencies through an interface program.

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

Over the last two years of this contract (June 2005 and June 2006), the County has received \$1,480,288 in Rewards based on Eligible Services provide by BellSouth.

C. Departmental Fiscal Review: Robert C. Pascal 12/4/06

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

John Smith 12/6/06
OFMB
ATN 12-6-06
12-5-06

W. J. Jacobson 12/18/06
Contract Administration
12/18/06

This Amendment extends the term of the contract beyond the original term and all renewal options.

B. Legal Sufficiency:

Paul F. J. 12/11/06
Assistant County Attorney

C. Other Department Review:

Department Director

AMENDMENT #3 TO VOLUME & TERM ATTACHMENT

R2006 2752 (R2002 - 0956, June 18, 2002)
DEC 19 2006

This Amendment is to the Volume & Term Attachment FL02-C364-10, entered into between BellSouth Telecommunications, Inc. ("BellSouth") and Palm Beach County ("Customer") on June 18, 2002.

- A. Customer and BST agree to extend the Term of the Volume & Term Attachment for two (2) additional Contract Years.
- B. Second Amended Appendix 1 to Amendment 2 of the Volume and Term Attachment shall be replaced, in its entirety, by the Third Amended Appendix 1, attached.
- C. First Amended Appendix 2 to Amendment 2 of the Volume and Term Attachment shall be replaced, in its entirety, by the Second Amended Appendix 2, attached.
- D. BellSouth and Customer agree that the effective date of this Amendment shall be the first day of the month following the month in which this Amendment is signed and accepted by both parties.
- E. The "Expiration Date" of the Volume & Term Attachment shall be **June 30, 2009** at 11:59 p.m.
- F. In recognition of this extension of service, should Customer migrate any of its existing BellSouth regulated services to comparable BellSouth non regulated services in the manner described in Section 9 of the Special Service Arrangement Agreement signed September 26, 2006, then the same terms and conditions as set forth in Section 9 relative to deferral of any termination liability shall also apply to permit deferral of any termination liability for regulated services and are incorporated by reference as if fully set forth herein. In addition, any Shortfall amount due under this Volume and Term Agreement that is attributable to such migration shall be deferred and then forgiven, but only to the extent the Shortfall amount results from the migration of any regulated services directly to comparable BellSouth non regulated services and only to the extent the reduction in regulated revenues attributable to the migration described above is fully offset by non regulated revenues which are equal to or greater than the reduction in regulated revenues that results from the migration.
- G. By virtue of executing this Amendment, Customer and Company agree that said execution is also deemed to be an execution of the necessary Letter of Election, attached hereto and made a part herein, for the services listed in Attachment A in order to provide termination dates that are co terminus with this Amendment as stated in Section E above.

Except for the foregoing, the remaining terms and conditions of the Volume & Term Agreement remain fully executable between BellSouth and Customer.

IN WITNESS WHEREOF, The Board of County Commissioners of Palm Beach County, Florida, has made and executed this Contract on behalf of the said Owner and caused the seal of the said Owner to be affixed hereto, and BBS has hereunto set its hand and seal the day and year written. BBS represents that it is authorized to execute this Contract on behalf of itself and the BellSouth Companies

R2006 2752

DEC 19 2006

ATTEST:

SHARON BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

By: *Tracy Powell*
Deputy Clerk



By: *Addie L. Greene*
Addie Greene
Chair

By: BellSouth Telecommunications, Inc.
(Corporate name)
By BellSouth Business Systems, Inc.

a Georgia corporation
(insert state of incorporation)
By: *R.G. Wheelahan*
(signature)
R.G. Wheelahan
(print signatory's name)

Its Vice President Sales Support
(print signatory's title)

December 11, 2006
(date of execution)

Wayne Russell
(witness signature)

Wayne Russell
(witness name printed)

APPROVED AS TO TERMS AND CONDITIONS
BY *Steve Borden*
ISS DIRECTOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
Paul F. [Signature]
COUNTY ATTORNEY

Third Amended Appendix 1

Group A

ALARM & CONTROL CKT
ANALOG DATA SERVICE
ATM SERVICE
BELLSOUTH CHANNELIZED TRUNKS
BUS PLUS/BUS CHOICE
BUSINESS ISDN
CUSTOM CALLING
DID
DIR. WHITE PAGE SVCS
ENHANCED CALLERID (ST-UP)
FCO & FX SERVICES
FLAT RATE BUSINESS
FLAT RATE PBX TRUNKS/NARS
FLEXSERV
FRAME RELAY
MEGALINK
MEGALINK CHANNEL
MESSAGING CNS FEATURES
METRO ETHERNET
MSG/MEAS RATE BUS
NARs - MegaLink Channel Service
NON LIST/NON PUBLISHED SVCS
OFF PREM EXT (OPX)
PRESTIGE
PRIMARY RATE ISDN
REMOTE CALL FWD
SMARTPATH
SMARTRING LAS SPA DED RING
SYNCHRONET
TIE LINES
TOUCHSTAR
VOICE GD NON-DATA

Second Amended Appendix 2

ANNUAL REVENUE COMMITMENT FOR CONTRACT YEAR 6

| <u>Annual Revenue Commitment</u> | <u>Reward Level</u> | <u>Product Group</u> |
|----------------------------------|---------------------|----------------------|
| \$9,600,000.00 | 20.0% | A |

*\$9,600,000.00 is annualized based on actual September 2006 billing. Annual Revenue Commitment will be adjusted at Annual True Up for Contract Years 6 and 7 per Sections I.C., II.C., and XIII of the original Volume and Term Attachment FL02-C364-10.

Attachment A

Services under standard tariff term agreements or Letters of Election (LOE)

**CENTREX
FLEXSERV
FOREIGN EXCHANGE
FRAME RELAY
MEGALINK
METRO ETHERNET
PRIMARY RATE ISDN
PRIVATE LINE
SYNCHRONET
TRUNKS**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2005 | 2006 | 2007 | 2008 | 2009 |
|---|-----------|-----------|-----------|-------|-------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | <152,105> | <164,970> | <177,712> | _____ | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | <152,105> | <164,970> | <177,712> | _____ | _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |

Is Item Included In Current Budget? Yes _____ No X

Budget Account No.: 0801 - 760 - 7601 - 6930

Budget account numbers for the BellSouth services under this MSA are many and various and will be billed to all County agencies through an interface program.

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

Over the first two years of this contract (June 2002 through June 2004), the County has received \$1,025,536 in Rewards based on Eligible Services provide by BellSouth.

C. Departmental Fiscal Review: Robert C. Beal 1/20/05

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Jim Out 1-25-05
OFMB
1-25-05
1-25-05
1-21-05

Jim J. Jacoby 1/28/05
Contract Administration 1/27/05

B. Legal Sufficiency:

Paul F. J. 1/31/05
Assistant County Attorney

This amendment complies with our review requirements.

C. Other Department Review:

Department Director

R2005 0348 FEB 15 2005

**AMENDMENT #2 TO MASTER SERVICES AGREEMENT AND VOLUME &
TERM ATTACHMENT
(R2002 - 0956, June 18, 2002)**

This Amendment is to the Master Agreement FL02-C364-00 and Volume & Term Attachment FL02-C364-10, entered into between BellSouth Telecommunications, Inc. ("BellSouth") and Palm Beach County ("Customer") on June 18, 2002.

- A. Customer and BellSouth hereby agree that the term of Master Services Agreement FL02-C364-00 and the Volume and Term Attachment FL02-C364-10 entered into on June 18, 2002 and Amended on June 11, 2004, shall be extended for an additional period of two (2) years.
- B. The Amended expiration date shall now be June 30, 2007 at 11:59 PM EDT.
- C. For the period of extension, the reward level of 14% shall be changed to 18%. ✓
- D. For the term of the extended period, the attached Second Amended Appendix I shall replace the Amended Appendix I signed by Customer on June 11, 2004.
- E. Beginning in Year 4 and for the period of extension, the First Amended Appendix II shall replace the original Appendix II.
- F. All orders entered into under the Master Agreement (FL02-C364-00, R2002-0956) and this amended Volume and Term Attachment (FL02-C364-10) shall continue in accordance with the term of service specified in such order under the same terms and conditions.
- G. The effective date of this Amendment shall be July 1, 2005.
- H. The new Reward Level of 18% shall also become effective within the current Contract Year on the first day of the month following the month in which Customer executes and Company accepts this Amendment.

Except for the foregoing, the remaining terms and conditions of the Master Services Agreement and Volume & Term Attachment and Amendments thereto remain fully executable between BellSouth and Customer.

IN WITNESS WHEREOF, The Board of County Commissioners of Palm Beach County, Florida, has made and executed this Contract on behalf of the said Owner and caused the seal of the said Owner to be affixed hereto, and BBS has hereunto set its hand and seal the day and year written.

Customer Initials 817
Date 1/21/05

BBS represents that it is authorized to execute this Contract on behalf of itself and the BellSouth Companies

R2005-0348

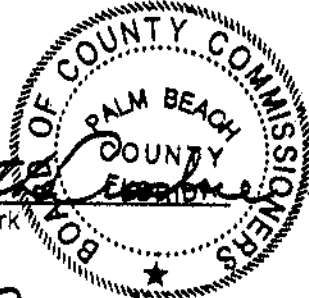
FEB 15 2005

ATTEST:

Sharon R. Bock
Clerk and Comptroller,

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS



By: Judith Crosbie
Deputy Clerk

By: Tony Masilotti
Tony Masilotti
Chairman

Judith Crosbie
(witness name printed)

By: BellSouth
(Corporate Name)

a Georgia corporation
(insert state of incorporation)

By: Janet B. Craft
(signature)

(Corporate Seal)

JANET B. CRAFT
(print signatory's name)

its Vice President General Mgr.
(printed signatory's title)

_____, 2005
(date of execution)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Paul P. [Signature]
COUNTY ATTORNEY

APPROVED AS TO TERMS AND CONDITIONS
BY Steven Bordenon
ISS DIRECTOR

Customer Initials SB
Date 1-21-05

Second Amended Appendix I

Reward Eligible Services

Group A

BELLSOUTH CENTREX
BELLSOUTH CHANNELIZED TRUNKS
BUS PLUS/BUS CHOICE
BUSINESS ISDN
CUSTOM CALLING
DID
DIR. WHITE PAGE SVCS
ENHANCED CALLERID (ST-UP)
FCO & FX SERVICES
FLAT RATE BUSINESS
FLAT RATE PBX TRUNKS/NARS
FLEXSERV
FRAME RELAY
MEGALINK
MEGALINK CHANNEL
MESSAGING CNS FEATURES
METRO ETHERNET
MSG/MEAS RATE BUS
MULTISERV/MULTISERV PLUS
NARs - ESSX/Digital ESSX Service
NARs - MegaLink Channel Service
NON LIST/NON PUBLISHED SVCS
PRESTIGE
PRIMARY RATE ISDN
REMOTE CALL FWD
SMARTPATH
SMARTRING IAS SPA DED RING
SYNCHRONET
TOUCHSTAR

3 of 4

Customer Initials SD
Date 1-21-05

First Amended Appendix II

ANNUAL REVENUE COMMITMENT FOR CONTRACT YEAR 2

| <u>Annual Revenue Commitment</u> | <u>Reward Level</u> | <u>Product Group</u> |
|----------------------------------|---------------------|----------------------|
| \$7,992,000.00* | 18% | A |

*\$7,992,000.00 is an annualized estimate based on actual billing for July 2004 through November 2004. The actual Annual Revenue Commitment for Year 4 and Year 5 will be determined at Annual True Up per Section II.C. "Annual Revenue Commitment" of the original Volume and Term Attachment FL02-C364-10.

R2002 0956 JUN 18 2002 MSA Number FL02-C364-00

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") and Volume and Term Attachment ("Attachment") is entered into by and between BellSouth Telecommunications, Inc., a Georgia corporation ("BellSouth") and Palm Beach County, on behalf of itself and its affiliated agencies (hereinafter collectively referred to as "Palm Beach County" or "Customer") as set forth herein.

I. Customer hereby orders the network services, which cover voice, video and data, described in the Master Services Agreement and Volume and Term Attachment at the recurring and non-recurring rates, charges in the order, and in accordance with terms and conditions as described in the applicable tariffs. Customer agrees to pay for the services included in orders related to this Agreement.

II. This Agreement and its Volume and Term Attachment are subject to and controlled by the provisions of BellSouth's tariffs including but not limited to the General Subscriber Services Tariff and the Private Line Services Tariff and all such revisions to said tariffs as may be made from time to time. Except for the rates and charges in the order attachment(s), the tariff shall supersede any conflicting provisions of this Agreement. BellSouth agrees that any appropriate tariff decreases for any rate element will be provided to the Customer.

III. A. Subject to Section E, if Palm Beach County desires to terminate the Master Services Agreement and the Volume and Term Attachment prior to its expiration, Palm Beach County must provide written notice of such termination 60 days prior to the effective date of termination. BellSouth will bill Customer the following termination charges:

1. The amount of Discounts received for the life of this Agreement or for the previous 12 months, whichever is less and

2. The prorated portion of the Agreement implementation and tracking costs, calculated as follows:
Prorated Implementation and Tracking Costs = \$79,339.00 times the Contract Months Remaining divided by the Total Contract Months.

The application of termination charges pursuant to this section shall not affect the application of termination charges pursuant to the tariff or any other agreement.

C. Subject to Section III E, if Customer cancels a service ordered prior to the expiration of the service period set forth in the appropriate order including Contract Service Arrangement orders and Special Service Arrangement (aka Special Assembly) orders, Customer shall be responsible for all termination charges unless otherwise specified. Termination charges are defined as all reasonable charges due or remaining as a result of the minimum service period agreed to by BellSouth and Customer as set forth in the order. Exception will be made for termination resulting as an upgrade to higher order of service.

D. Subject to Section III E, if Customer cancels a service ordered pursuant to an order prior to the completed installation of the service but after the execution of the order, Customer shall pay all reasonable costs incurred in the implementation of the service included in the order. Such reasonable costs shall not exceed all costs which could apply if the work in the implementation of the order had been completed.

E. This Agreement shall be subject to annual budgetary appropriations by Palm Beach County and should Palm Beach County fail to make such budgetary appropriation, this Agreement may be terminated upon ten (10) days prior written notice. Should termination result from this paragraph there shall be no penalty or assessment as more particularly provided in this Agreement.

D. The "Term" of this Agreement and the Volume and Term Attachment shall be three years from the effective date and Customer will have the option of two additional one year extensions with 90 days notice given to BellSouth.

IV. This Agreement when used in conjunction with a Special Assembly or Contract Service Arrangement may be subject to appropriate regulatory approval prior to commencement of installation. In the event such regulatory approval is denied, after a proper request by BellSouth, any Special Assembly and/or Contract Service Arrangement shall be null and void and be of no effect.

1952

R2002 0956

MSA Number FL02-C364-00

V. At the expiration of the service period for any service that is available pursuant to the tariff, the Customer may continue the service according to renewal options provided under the tariff. If the Customer does not elect an additional service period, or does not request discontinuance of service, the service will be provided at the monthly rate currently in effect for month-to-month tariff rates. Should other renewal options become available, BellSouth agrees to present these options to the County no later than 120 days before the expiration date of this agreement.

VI. Customer may order additional existing services or new services by submitting an appropriate order request properly authorized and submitted in accordance with BellSouth's procedures. Rates for additional and/or new services will be in accordance with the applicable tariff rates in effect at the time the order is accepted by BellSouth or as otherwise stated in the appropriate service order request.

VII. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida where the service is provided unless otherwise stated.

VIII. Except as otherwise provided in this Agreement, notices required to be given pursuant to this Agreement shall be effective when received, and shall be sufficient if given in writing, hand delivered or deposited in United States mail, postage prepaid, addressed to the appropriate party at the address set forth below:

BellSouth
 BellSouth Telecommunications, Inc.
 Vice President/General Manager
 701 Northpoint Pkwy., Suite 400
 West Palm Beach, FL 33407
 (Attention: Janet B. Craft)

Customer
 Palm Beach County
 3323 Belvedere Rd. Building 506
 West Palm Beach, FL 33406
 (Attention: _____)

IX. Customer may not assign its rights or obligations under this Agreement without the express prior written consent of BellSouth and only pursuant to the conditions contained in the appropriate tariff.

X. In the event that one or more of the provisions contained in this Agreement or incorporated within by reference shall be invalid, illegal or unenforceable in any respect under any applicable statute, regulatory requirement or rule of law, then such provisions shall be considered inoperative to the extent of such invalidity, illegality or unenforceability and the remainder of this Agreement shall continue in full force and effect.

XI. This Agreement shall become effective 12:00:00 am June 20, 2002 upon execution by both parties if executed prior to this time and date.

1953

R2002 0956

MSA Number FL02-C364-00

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Contract on behalf of the said Owner and caused the seal of the said Owner to be affixed hereto, and the Vendor has hereunto set his hand and seal the day and year written. The Vendor represents that it is authorized to execute this Contract on behalf of itself and its Surety (if Contract has value greater than \$200,000).

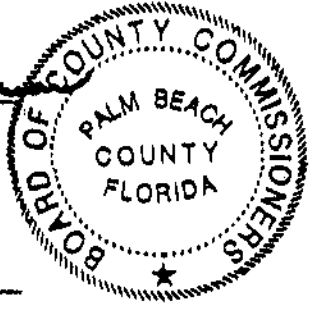
ATTEST:

DOROTHY H. WILKEN, Clerk

PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

By: Linda C. Hickman
Deputy Clerk



By: Warren H. Newell
Warren H. Newell JUN 18 2002
Chairman

Merry Corbett
(witness signature)

By: BELLSOUTH TELECOMMUNICATIONS, INC
(Corporate Name)

Sherry Corbett
(witness name printed)

a GEORGIA corporation
(insert state of incorporation)

Aimee N. Kimball
(witness signature)

By: R. D. Odom
(signature)

PIERRE M. KIMBALL
(witness name printed)

R. D. ODOM
(print signatory's name)

R2002 0956

Its PRESIDENT NETWORK SERVICES
(print signatory's title)

5/24, 2002
(date of execution)

(Corporate Seal)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
Amy Taylor Petrick
Assistant County Attorney

APPROVED AS TO TERMS AND CONSIONS
Anthony Wolfe
Director, Facilities Development and Operations

1954

R2002 0956

VOLUME AND TERM ATTACHMENT

I. DEFINITIONS

- A. A "V&T" Attachment ("Attachment") is a customized Contract Service Arrangement ("CSA") with respect to various local and intraLATA network services, covering voice, video and data, purchased by Palm Beach County from BellSouth in the telephone exchanges served by BellSouth in Florida. The V&T Attachment provides the Customer certain levels of discounts on identified local and intraLATA services based upon the Customer's commitment to and attainment of an Annual Revenue Commitment in accordance with the requirements described in this V&T Attachment.
- B. "Annual Revenue Commitment" is the agreed upon amount of billing each year to Palm Beach County by BellSouth for BellSouth's regulated services that represent the billing Palm Beach County agrees to achieve for purposes of this Attachment. Palm Beach County's Annual Revenue Commitment is included in Appendix II of this Attachment.
- C. "Baseline" is the annualized billing to Palm Beach County for BellSouth regulated services during each year that is used to calculate the Annual Revenue Commitment. Baseline in subsequent years shall be the aggregate billing for the previous 12-month period prior to the application of any Discount.
- D. "Discount Level" is the percentage reduction applied to the monthly-billed revenue for the BellSouth services that are Discount Eligible and for which billing has occurred or will occur during the current billing period.
- E. "V&T Eligible Services" include all regulated services purchased by Palm Beach County the billing of which is used to calculate Annual Revenue Commitment. Billing for non-recurring charges, directory assistance, measured or message local service, taxes, and publicly imposed surcharges including but not limited to the surcharges for 911 service and dual party relay service, is not considered V&T Eligible and is not used to calculate the Annual Revenue Commitment.
- F. "Discount Eligible Services" include all BellSouth local and intraLATA services purchased by Palm Beach County that are appropriate for a percentage reduction off the existing monthly billed revenue as mutually agreed to by Palm Beach County and BellSouth. The Discount Eligible Services are listed in Appendix I.
- G. "A Contract Year" is the twelve-month period during the term of the Master Services Agreement beginning 12:00:00 am June 20, 2002, the Effective Date of the Agreement. This date shall also establish the anniversary date for this Volume and Term Attachment.

II. ANNUAL REVENUE COMMITMENT

- A. Palm Beach County and BellSouth agree to an Annual Revenue Commitment in the first Contract Year of the Agreement of \$5,900,000.00. The Annual Revenue Commitment represents 100 percent of Palm Beach County's Baseline billing for 2001.
- B. BellSouth and Palm Beach County agree that all recurring charges (defined as monthly billed charges) for V&T Eligible Services billed by BellSouth to Palm Beach County during each year of the Agreement shall be applied toward the Annual Revenue Commitment. Palm Beach County's progress toward meeting the Annual Revenue Commitment will be tracked by BellSouth and measured in pre-discounted billed dollars.
- C. Palm Beach County and BellSouth also agrees to determine Palm Beach County's Annual Revenue Commitment at the beginning of each Contract Year. The Annual Revenue Commitment for each Contract Year shall be expressed as 100 percent of the Baseline billing for the previous Contract Year, except for the first Contract Year where the Annual Revenue Commitment shall be \$5,900,000.00.
- D. In the event the Annual Revenue Commitment is adjusted due to a Business Change, Higher Order of Service, or Tariff Change as defined herein, Palm Beach County shall be permitted to reduce its Annual Revenue Commitment by an amount equal to the adjustment made during the V&T Annual True-Up (as defined herein). The Annual Revenue Commitment levels contained in Appendix II shall be reduced by an amount equal to the adjustment made during the V&T Annual True-Up.
- E. Charges billed for V&T Eligible Services for which Customer has not paid shall not be counted toward the Annual Revenue Commitment.

III. DISCOUNT LEVELS

- A. BellSouth shall apply a discount that is a percentage reduction off the recurring tariff rates for the total billed revenue associated with the Discount Eligible Services. The Discount Level shall be based on the Annual Revenue Commitment and are provided in Appendix II.

B. Charges billed pursuant to the Federal or State Access Services tariffs, billing for taxes or publicly imposed surcharges, including but not limited to, the surcharges for 911 or dual party relay services, Local Usage, Special Service Arrangements, Contract Service Arrangements, WATSSaver, and End User Common Line Charges, are not eligible for the application of the discount.

IV. ANNUAL GROWTH INCENTIVE AWARD

If Palm Beach County exceeds its Annual Revenue Commitment by more than 5 percent during the contract year, Palm Beach County will receive an additional credit called the Annual Growth Incentive Award (AGIA). This award shall equal 1% of the billed charges for V&T Eligible Services less the current contract year Annual Revenue Commitment. The maximum annual AGIA will not exceed \$100,000.00. This award will be applied in the month following the annual billing review.

V. REGULATORY CONSIDERATIONS

A. Palm Beach County recognizes and agrees that the Master Services Agreement and V&T Attachment are not intended to replace or supersede existing tariffs and that all services that are included under the V&T Attachment will be purchased in accordance with the approved BellSouth General Subscriber Services Tariff and Private Line Services Tariff in effect in Florida. The provisions of such tariffs applicable to the services shall apply unless and except to the extent this Master Services Agreement or V&T Attachment contains express provisions specifically in conflict therewith (in which case the express provisions of the Master Services Agreement and the V&T attachment shall control to the extent permitted by applicable law.)

B. Palm Beach County acknowledges that BellSouth may be required to file and obtain approval of the V&T Attachment in Florida prior to the implementation of the V&T Agreement. BellSouth agrees to begin any necessary filings within 30 calendar days after the Effective Date. In the event the V&T Attachment is denied by a regulatory agency in any state or by another regulatory body with jurisdiction over this matter, this V&T Attachment shall be null and void and of no effect in Florida.

VI. COMMITMENT SHORTFALL

Palm Beach County agrees that if it fails to meet its Annual Revenue Commitment during a given year, BellSouth shall bill and Palm Beach County agrees to pay the difference between the actual billed revenue for the preceding 12 month period and its Annual Revenue Commitment unless adjusted in accordance with the provisions and terms set forth in paragraphs X, XI, XII of this document. BellSouth will issue Palm Beach County a bill for the commitment shortfall.

VII. PROVISION FOR DISCOUNTING ADDITIONAL AND NEW SERVICES UNDER V&T

For the purposes of this V&T Attachment an Additional Service is an intraLATA service that is tariffed by BellSouth on the Effective Date of this V&T Attachment and is not considered a Discount Eligible intraLATA Service. A New Service is an intraLATA service that has been tariffed by BellSouth after the Effective Date of the V&T Attachment. BellSouth will be responsible for the identification of new services that are V&T discount eligible. Customer may submit a request to BellSouth to obtain a discount on the Additional Service or New Service under the V&T Attachment.

VIII. ACQUISITION OF NEW BUSINESS

In the event Palm Beach County acquires a new business or operation within the BellSouth service area during the term of the Master Services Agreement and desires to include the services under the existing V&T Attachment, BellSouth and Palm Beach County shall review such request and in the event it is mutually determined that the inclusion of these services is appropriate, BellSouth shall amend this V&T Attachment and the Annual Revenue Commitment Level in Appendix II, as appropriate to include such services in the V&T Attachment. Any revisions due to acquisition will be made during the V&T Annual True-Up at the end of the year in which the acquisition occurred, and will affect the Annual Revenue Commitment for future years.

IX. AUTHORIZED USERS

Palm Beach County recognizes and agrees that the services included in this Attachment are specifically restricted to the use of Palm Beach County and its specified affiliates. In particular, the V&T Attachment is intended for the internal use of Palm Beach County and its affiliates and the resale of services included in this Attachment is strictly prohibited. Specified affiliates of Palm Beach County may be added to this agreement at any time subject to the consent of both parties. Examples of some of these affiliates include Solid Waste Authority, Palm Beach County Sheriff's Office, and the Palm Beach International Airport.

X. BUSINESS CHANGE

In the event of a divestiture of a significant part of Palm Beach County's business, a business downturn beyond Palm Beach County's control, or a network optimization using other BellSouth services, (hereinafter collectively referred to as "Business Change"), any of which significantly reduces the volume of network services required by Palm Beach County with the result that Palm Beach County is unable to meet its Annual Revenue Commitment under this Attachment (notwithstanding Palm Beach County's best efforts to avoid such a shortfall), BellSouth and Palm Beach County will

cooperate to reduce the Customer's Annual Revenue Commitment to the extent of any shortfall resulting from the Business Change. This provision shall not apply to a change resulting from a decision by Palm Beach County: (i) to reduce its overall use of telecommunications; or (ii) to transfer portions of its traffic or projected growth to providers other than BellSouth or Palm Beach County. Palm Beach County must provide BellSouth written notice of the conditions it believes will require the application of this provision. This provision does not constitute a waiver of any charges, including shortfall charges, incurred by Palm Beach County prior to the time the parties mutually agree to amend this Attachment. This provision does not affect the application of termination charges pursuant to the tariff or other agreements.

XI. HIGHER ORDER OF SERVICE

BellSouth may offer to County new technological features and capabilities, which will provide additional value to the Customer with higher functionality and increased capacity ("Higher Order of Service"). In the event Palm Beach County elects to incorporate such a Higher Order of Service into its network design, and the use of such Higher Order of Service results in Palm Beach County's being unable to meet its Annual Revenue Commitment under this Attachment, then, subject to all applicable regulatory requirements, BellSouth agrees to reduce Palm Beach County's Annual Revenue Commitment to the extent of any shortfall resulting from the migration to a Higher Order of Service.

XII. TARIFF CHANGES

If during the term of the Master Services Agreement, BellSouth requests and receives regulatory approval for price reductions on tariff services purchased by Palm Beach County and such price reductions cause Palm Beach County to be unable to meet its Annual Revenue Commitment under this V&T Attachment, then subject to applicable regulatory requirements, BellSouth agrees to reduce Palm Beach County's Annual Revenue Commitment to the extent of the shortfall resulting from the price reduction(s).

XIII. ANNUAL TRUE UP

At the end of each Contract Year, BellSouth will conduct a review of Palm Beach County's revenue to determine if Palm Beach County achieved its Annual Revenue Commitment ("Annual True-Up"). During the Annual True-Up, BellSouth will calculate any Commitment Shortfall in accordance with Section VI and determine Palm Beach County's Baseline billing for the following year in accordance with Section I.C. During the Annual True-Up, BellSouth and Palm Beach County can also propose any adjustments to the Annual Revenue Commitment. Finally, during the Annual True-Up, BellSouth and Palm Beach County will determine the Annual Revenue Commitment for the new Contract Year in accordance with Section II.C.

Palm Beach County and BellSouth agree that any credit resulting from the Annual True-Up will be applied as a

credit on the BellSouth bill for local and intraLATA services. Further, any debit resulting from the Annual True-Up for failure to meet the Annual Revenue Commitment or Termination Liability will be billed directly to Palm Beach County and County agrees to assume responsibility for all outstanding amounts.

XIV. MISCELLANEOUS

A. For local service disruption as a result of BellSouth and BellSouth equipment that causes lack of service for more than 24 hours, after notification by the County, BellSouth will credit the daily amount of service per the GSST tariff or the Local Service Level agreement.

B. A BellSouth account team is assigned to support your communication services. This team can be comprised of an Account Manager, Network Service Engineer, Service Consultant, Customer Service Representative, Installation Technician, Service Manager, 911 Representative, Billing Specialist, Yellow Pages Representative, and Network Engineers representing Cisco and Northern TeleCom products.

C. This Agreement shall be construed in accordance with the laws of the state of Florida where the service is provided unless otherwise provided.

D. Except as otherwise provided in this Agreement, notices required to be given pursuant to this Agreement shall be effective when received and shall be sufficient if given in writing, delivered by hand, facsimile, overnight mail delivery, or United States mail, postage prepaid, addressed to the appropriate party at the address set forth below. Either party hereto may change the name and address to which all notices or other documents required under this Agreement must be sent at any time by giving written notice to the other party. Current addresses are:

BellSouth
Vice President & General Manager
BellSouth Business Systems
701 Northpoint Pkwy., Suite 400
West Palm Beach, FL 33407

Customer
Palm Beach County
3323 Belvedere Rd. Building 506
West Palm Beach, FL 33406

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in any respect under any statute, regulatory requirement, or rule of law, then such provisions shall be considered inoperative to the extent of such invalidity, illegality or unenforceability, and the remainder of this Attachment shall continue in full force and effect.

F. Each party agrees to submit to the other all advertising, sales promotion, press releases, and other publicity matters relating to this Attachment or to the services provided under this Attachment wherein corporate or trade names, logos, trademarks, or service marks of the other party or any of its affiliated companies are mentioned or wherein there is language from which a connection to said names or marks may be inferred. Each party further agrees not to publish or use such advertising, sales promotions, press releases, or publicity matters without the other party's prior written approval.

G. Customer may not assign its rights or obligations under this Attachment without the prior written consent of the Company. Such consent shall not be unreasonably withheld.

Appendix I

Discount Eligible Services

Group A

ATM SERVICE
BELLSOUTH CENTREX
BELLSOUTH CHANNELIZED TRUNKS
BUS PLUS/BUS CHOICE
BUSINESS ISDN
CUSTOM CALLING
DIGITAL DATA SERVICES*
- FLEXSERVE*
- LIGHTGATE*
- MEGALINK*
DID
DIR. WHITE PAGE SVCS
ELEC TDM SW (ETS)
ENHANCED CALLERID (ST-UP)
ESSX ISDN*
FCO & FX SERVICES
FLAT RATE BUSINESS
FLAT RATE PBX TRUNKS/NARS
FRAME RELAY*
MEGALINK CHANNEL
MSG/MEAS RATE BUS
NARs - ESSX/Digital ESSX Service
NARs - MegaLink Channel Service
NON LIST/NON PUBLISHED SVCS
PRESTIGE
PRIMARY RATE ISDN*
REMOTE CALL FWD
SMARTPATH
SYNCHRONET
TOUCHSTAR

*These services are ineligible for discount under this Volume and Term Attachment if they are currently discounted under a BellSouth Contract Service Arrangement (CSA), BellSouth Special Assembly (SA), FIRN contract, or other BellSouth agreement.

Appendix II

ANNUAL REVENUE COMMITMENT FOR CONTRACT YEAR 1

3 Year Agreement:

| <u>Annual Revenue Commitment</u> | <u>Discount Level</u> | <u>Product Group</u> |
|----------------------------------|-----------------------|----------------------|
| \$5,900,000.00 | 14.0% | A |

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