

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 1, 2009

Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a) an interlocal agreement with the City of West Palm Beach (City) allowing for the shared use of an electronic surveillance video system (System) located at the new Intermodal Facility; and

b) a Equipment and Access Easement Agreement which will allow the City to assume ownership of the equipment and be responsible for the ongoing operation, maintenance, and repair of the System.

Summary: The operations plan for the Intermodal Facility focused on both the security and operational requirements of the Facility to determine the most effective combination of physical, human and electronic systems. Security requirements have been met with perimeter fencing, lighting, landscaping and security guards. Operational requirements can be met with video surveillance. It is mutually beneficial to both the County and City to expand and leverage the use of the City's existing System. The County will furnish seven (7) video cameras and related infrastructure (Equipment) to be interfaced directly with the City's existing System. The City will assume ownership of the Equipment and be responsible for the ongoing operation, maintenance, and repair. The City will provide the County with access to System, and there are no charges associated with this agreement. The City is required to pay all costs associated with Equipment maintenance and to comply with the established operating procedures for the System. The term of the agreement is five (5) years. The Agreement may be terminated by either party due to default only. (ESS) Countywide (JM)

Background and Justification: The operations plan for Intermodal Facility focused on both the security and operational requirements of the Facility to determine the most effective combination of physical, human and electronic systems. Security requirements have been met with perimeter fencing, lighting, landscaping and security guards. Operational requirements can be met with video surveillance. It is mutually beneficial to both the County and City to expand and leverage the use of the City's existing System.

Attachments:

1. Interlocal Agreement
2. Equipment and Access Easement Agreement

Recommended by: _____

Armeny Worf
Department Director

8/12/09
Date

Approved by: _____

Jah
County Administrator

8/28/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>-0- # See below</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE POSITIONS (Cumulative)

Is Item Included in Current Budget? Yes No

Budget Account No: Fund _____ Department _____ Unit _____ Object Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact:
Acquisition and year one maintenance of camera were grant funded.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Development & Control Comments:
 Annual savings estimated to be \$2,500 in maintenance.

Jim D... 8/25/09

 8/17/09 OFMB *of...* CN 8/14/09

Jim J. Jacobson 8/25/09

 Contract Dev. and Control

B. Legal Sufficiency:

R. Jal 8/27/09

 Assistant County Attorney

This Contract complies with our contract review requirements.

C. Other Department Review:

Res. 2009-09

INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2009, by and between the CITY OF WEST PALM BEACH, a Florida municipal corporation ("City"), and PALM BEACH COUNTY, a political subdivision of the State of Florida ("County").

WHEREAS, Section 163.01 of the Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969", authorizes 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 harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163 of the Florida Statutes permits public agencies as defined therein to enter into interlocal agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the City has an electronic surveillance video system ("System") within the City of West Palm Beach for the purpose of monitoring public property to deter and solve crime; and

WHEREAS, the County is the owner of property located at 150 Clearwater Drive known as the Intermodal Facility ("County Property") which is directly west of the City's Seaboard Train Station located at 500 Tamarind Avenue; and

WHEREAS, the County has recently completed improvements to the County Property and desires to install surveillance cameras on the site for the purpose of supporting County operations and to include this property with the other publicly owned properties monitored by the City's System; and

WHEREAS, the County desires to purchase and install seven (7) surveillance cameras and related equipment ("Equipment") and transfer ownership of the Equipment to the City to be utilized as part of the City's System; and

WHEREAS, the cameras will be capable of being viewed and monitored by the City's Police Department and the County; and

WHEREAS, it has been determined to be mutually beneficial to both the County and City to execute this Agreement which sets forth the terms for the conveyance of the Equipment to the City and the parameters under which the City will provide access to the City's System to the County.

NOW THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

SECTION 1: RECITALS AND PURPOSE

- 1.01 The foregoing recitals are true and correct and incorporated herein by reference.
- 1.02 The purpose of this Agreement is to set forth the terms and conditions for the conveyance of the Equipment to the City and to set forth the parameters under which the City will provide County access to the City's Electronic Surveillance Video System.

SECTION 2: COUNTY EQUIPMENT AND RESPONSIBILITIES

- 2.01 The County shall purchase the cameras and related equipment described in Exhibit "A" attached hereto from the vendor of the City's System, Security 101, and install the Equipment at the locations described in Exhibit "A". County shall ensure that maintenance and support for the first year following acceptance of the Equipment shall be provided by Security 101 at no cost to the City.
- 2.02 The County shall obtain warranties of not less than one year from the manufacturer(s) of the Equipment and from Security 101 for the installation of the Equipment ("Warranties").
- 2.03 Upon installation of the Equipment by the County and prior to acceptance by the City, the County and City shall confirm that the Equipment is fully compatible with and capable of being integrated with the City's System.
- 2.04 Upon acceptance of the Equipment by the County, the County shall convey ownership of the Equipment to the City by bill of sale in the form attached hereto as Exhibit "B" ("Bill of Sale") and shall assign to the City all Warranties.
- 2.05 The County's representative/contract monitor during the term of this Agreement shall be Charles Frazier, or his successor, whose telephone number is 561-233-0789.
- 2.06 The County shall grant to the City an easement, in the form attached hereto as Exhibit "C", to access the Property for purposes of operation, maintenance, repair or replacement of the Equipment ("Equipment and Access Easement").
- 2.07 The County agrees to close the video viewing software at all times that it is not being manned or viewed by County.
- 2.08 The County and City acknowledge and agree that the cameras are for the viewing and monitoring of public areas only.

SECTION 3: CITY'S RESPONSIBILITIES

3.01 Upon conveyance of the ownership of the Equipment to the City, the City shall be responsible for the operation, maintenance, and repair of the Equipment and shall keep the Equipment in proper operating condition; if the City is unable to keep the Equipment in proper operating condition, the City shall convey all Equipment to the County at no cost to County by Bill of Sale in the same format as the attached Exhibit "C".

3.02 The City shall assist the County and facilitate the internetworking design and support required to allow the County access to the System provided that such obligation does not require the expenditure of City funds.

3.03 City shall provide a User Name and password which will allow the County's designated users to control (pan, tilt and zoom) and view the cameras and to access archived videos.

3.04 The City shall install video viewing software on one (1) County work station at a location to be determined by the County which will enable the County to export out archived video and produce appropriate media for evidentiary purposes.

3.05 The City makes no representation or warranties about the design or capabilities of the City's System and makes no guarantee as to the continual, uninterrupted use of the System or its fitness for the needs of the County.

3.06 The City's representative/contract monitor during the term of this Agreement shall be Benjamin Nelms, or his successor, whose telephone number is 561- 822-1923.

SECTION 4: TERM OF AGREEMENT

4.01 The term of this Agreement shall commence immediately upon execution of this Agreement and shall continue until the first to occur: (i) the end of the life of the Equipment, or (ii) five (5) years.

SECTION 5: INDEMNIFICATION AND LIABILITY

5.01 County and City shall each be liable for its own actions and negligence and, to the extent permitted by law, shall indemnify, defend and hold harmless the other party against any actions, claims, or damages arising out of its negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either County or City to indemnify the other party for County's or City's negligent, willful or intentional acts or omissions.

5.02 The terms and conditions of this Agreement incorporate all the rights, responsibilities and obligations of the parties to each other. The remedies provided herein are exclusive. The County

and City waive all other remedies including but not limited to consequential and incidental damages.

5.03 Neither the County nor the City shall be liable to each other or for any third party claim which may arise out of the services provided hereunder or the System itself, its operation or use or its failure to operate as anticipated, upon whatever cause of action any claim is based. The System is designed to assist qualified law enforcement and other emergency service professionals. It is not intended as a substitute for the exercise of judgment or other security measures.

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

SECTION 6: TERMINATION DUE TO DEFAULT

Either party may terminate this Agreement due to default by the other party with ninety (90) days notice to the defaulting party, during which ninety (90) day notice period the defaulting party shall have the option of curing its default. In the event of termination by default, the equipment shall become the property of the non-defaulting party.

SECTION 7: NOTICES

All written notices, demands and other communications required or provided for under this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, in the case of mailing, or by overnight or same day courier, or by electronic transmission producing a written record, or hand delivered. All notices shall be addressed to the following or to such other address or person as shall be designated by a party in a written notice given in the manner required hereby.

As to the City:

City Administrator
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401

City Attorney
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401

As to the County:

County Administrator
Palm Beach County
301 North Olive Avenue
West Palm Beach, FL 33401

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

SECTION 8: APPLICABLE LAW

This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida. To encourage prompt and equitable resolution of any litigation, each party hereby waives its rights to a trial by jury in any litigation relating to this Agreement.

SECTION 9: FILING

A copy of this Agreement shall be filed with the Clerk & Comptroller in and for Palm Beach County.

SECTION 10: ENTIRE AGREEMENT

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, written or oral, relating to this Agreement.

SECTION 11: SEVERABILITY

In the event that any sentence, section, paragraph or portion of this Agreement shall be held by a court to be invalid for any reason, such invalidity shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

SECTION 12: WAIVER

Any waiver by either party hereto of any one or more of the covenants, conditions, or provisions of this Agreement, shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement.

SECTION 13: AVAILABILITY OF FUNDS

This Agreement is expressly conditioned upon the availability of funds lawfully appropriated and available for the purposes set out herein as determined in the sole discretion of the City. In the event funds to operate and maintain this System become unavailable, the City may terminate this Agreement upon no less than thirty (30) days notice to the County. The City shall be the sole and final authority as to the availability of funds for the System. This Agreement and all obligations of County hereunder are also subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners. In the event County cannot fulfill its obligations under this Agreement due to lack of funding, County may terminate this Agreement upon no less than thirty (30) days notice to City. The County shall be the sole and final authority as to the availability of funds for this Agreement.

SECTION 14: DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of the officers of the County and the City.

SECTION 15: EQUAL OPPORTUNITY


The County and the City agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, gender identity or expression, age, or sexual orientation be excluded from the benefits of, or be subjected to, any form of discrimination under any activity carried out by the performance of this Agreement.

SECTION 16: EFFECTIVE DATE

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.


ATTEST:

By:


City Clerk

CITY OF WEST PALM BEACH, a Florida
municipal corporation

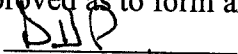
By:


Lois J. Frankel, Mayor 8/10/09

Office of the City Attorney

Approved as to form and legal sufficiency

By:



Date:

7/31/09

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
Assistant County Attorney

By: Army Wolf
Department Director

Exhibit "A"
CCTV Camera Locations

There are seven (7) CCTV cameras located at this facility. Five (5) of the cameras are fixed (stationary) and two (2) are pan, tilt & zoom (PTZ) cameras, which can be controlled by the person monitoring the system. The PTZ cameras can be moved in a 360 degree circle, raised and lowered and zoomed in and out to better see an object of concern.

One of the PTZ cameras is located on a light pole across from the "Kiss and Drop" location on the west side of the grounds, and the other is located on a light pole on the north-west end of the circular drive, across from the restroom facility. These cameras can be used for surveillance of the entire grounds.

Of the fixed cameras, four (4) are located along the bus drop-off platform and provide a view of the platform from the south end to the three story building on the north side. The fifth fixed camera is pole mounted adjacent to the "Kiss and Drop" and provides a continual view of this area.

Description	Qty	Make/Model	Price
Camera	2	Axis 233D	\$6,816.25
Camera	5	Axis 225FD	\$6,914.86
Infrastructure	5	Axis 225FD Mount 25736	\$616.35
Infrastructure	5	Axis 225FD Pendant Kit	\$536.20
Infrastructure	5	Axis 225FD Pole Mount	\$367.36
Infrastructure	2	Axis 233D Outdoor Housing	\$1,443.61
Infrastructure	2	Axis 233D Pole Mount	\$321.24
Infrastructure	2	Connectronics 82-3710	\$218.12
Infrastructure	2	Connectronics 82-3711-3	\$68.88
Infrastructure	1	Connectronics 82-5315B	\$134.89
Infrastructure	7	Ditek Surge Protectors	\$462.07
Infrastructure	1	Firetide 4600	\$1,007.37
Infrastructure	1	Firetide 6102	\$1,818.15
Infrastructure	1	Firetide WIPA5824	\$106.19
Infrastructure	6	NEMA 12x8 w/ J-box	\$792.42
Infrastructure	6	4-Port POE Network Switch	\$9,633.36
Infrastructure	1	Fiber Connections	\$751.12

Infrastructure	2	Power Supply for PZT	\$262.40
Infrastructure	6	Power Supply for Switch	\$1,937.25
Infrastructure	7	Trident Tek-VZ-ESS-STN-CL1	\$3,357.90
			\$37,565.99

EXHIBIT "B"

BILL OF SALE ABSOLUTE

KNOW ALL MEN BY THESE PRESENTS:

THAT, PALM BEACH COUNTY, a political subdivision of the State of Florida, (hereafter referred to as "Grantor"), for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) in lawful money of the United States paid to it by the **CITY OF WEST PALM BEACH**, a Florida municipal corporation, (hereinafter referred to as "Grantee"), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer, and deliver unto Grantee, its successors and assigns, the seven (7) Axis Communications Surveillance Cameras and related equipment and licenses as further described in Exhibit "A" attached hereto installed by Grantor at 150 Clearwater Drive in the City of West Palm Beach, Florida.

TO HAVE AND TO HOLD the same unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed this day of _____, 20__.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
County Attorney

By: _____
Department Director

EXHIBIT "C"

This Instrument Prepared By
And Should Be Returned to:

Vincent J. Noel, PSM
City of West Palm Beach
1000 45th Street, Suite 15
West Palm Beach, FL 33407

Parcel No. _____

EQUIPMENT AND ACCESS EASEMENT AGREEMENT

THIS EQUIPMENT AND ACCESS EASEMENT AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2009, by and between Palm Beach County, a political subdivision of the State of Florida, whose address is 2633 Vista Parkway, West Palm Beach, Florida 33411-5608 (the "Grantor"), and the City of West Palm Beach, a municipal corporation organized and existing under the laws of the State of Florida, whose address is P.O. Box 3366, West Palm Beach, Florida 33402 (the "Grantee").

BACKGROUND:

- A. Grantor is the owner of certain land located in the City of West Palm Beach, Palm Beach County, Florida, as further described in Exhibit "1" attached hereto (the "Property"); and
- B. Grantor has agreed to grant an equipment and access easement to Grantee for the purpose of access to and operation, maintenance, repair and replacement of the surveillance cameras located on the Property.
- C. Grantor and Grantee have entered into this Agreement to provide for the granting of the easement described herein and to provide for the rights of the parties with respect thereto.

TERMS:

- 1. Equipment and Access Easement. Grantor grants to the Grantee, its successors and assigns, and its agents, employees, and contractors, a perpetual, non-exclusive easement (the "Easement") under and over the property described in Exhibit "2" attached hereto (the "Easement Area") for the purpose of ingress, egress and access to and operation, maintenance, repair and replacement of surveillance cameras located in the Easement Area.

2. Maintenance of Easement Area/Compliance with Laws. Grantee shall keep the Easement Area free from trash, debris and safety hazards following any use of the Easement Area; provided, however, that the foregoing shall not impose any obligation on Grantee to maintain the Easement Area. Grantee shall use the Easement Area in accordance with all applicable laws, rules and regulations of governmental authorities having jurisdiction over the Easement Area or use thereof as herein provided. Any damage to the Easement Area caused by Grantee, its agents, employees or contractors shall be promptly repaired by Grantee at its sole cost and expense using materials of like kind and quality, restoring the Easement Area to the same condition it was in prior to the damage being done.

3. Clearing of Obstructions. Grantee shall have the right to clear all trees, undergrowth and other obstructions within the Easement Area, and the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the Easement Area which might interfere with or fall upon the surveillance cameras installed within the Easement Premises. Grantee covenants that it will protect Grantor's other improvements in and around the Easement Premises when performing such clearing or trimming.

4. No Liens. Neither Grantor's nor Grantee's interest in the Easement Area or Property, shall be subject to liens arising from Grantee's use of the Easement Area, or exercise of the rights granted hereunder. Grantee shall promptly cause any lien imposed against the Easement Area or Property as a result of work done on behalf of Grantee, to be discharged or transformed to bond.

5. Indemnification. Grantee shall be liable for its own actions and negligence and, to the extent permitted by law, shall indemnify, defend and hold harmless Grantor against any actions, claims, or damages arising out of its negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Grantee to indemnify Grantor for Grantor's negligent, willful or intentional acts or omissions.

6. Reservation of Grantor's Rights. Grantor shall retain and have the right to use the Easement Area for any purpose which is not inconsistent with and does not interfere with the use of the Easement Area for the purposes herein granted.

7. Intentionally Deleted.

8. No Waiver. No delay in exercising or omission of the right to exercise any right or power by any party hereunder shall impair any such right or power or shall be construed as a waiver of any breach or default or of acquiescence thereto.

9. Governing Law/Venue. This Agreement shall be construed and interpreted in accordance with, and the validity of this Agreement shall be judged by the laws of the State of Florida. Venue for any action hereunder shall lie exclusively in Palm Beach County, Florida.

10. Covenants Running with the Land and Binding Effect. This Agreement shall run with the land and shall be binding upon Grantor, all parties entitled to use or possession of the Property by or through Grantor, including lessees, and the successors and assigns of each of the aforementioned parties unless or until this Agreement is terminated as herein provided. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.
11. Term. The term of this Agreement shall be five (5) years from the Effective Date; provided, however, that this Agreement may be terminated at any time hereafter with the consent of the parties, by written instrument duly executed and acknowledged by all of the parties and duly recorded in the public records of Palm Beach County, Florida.
12. Abandonment. If the Grantee, its successor or assigns, shall ever abandon the Easement granted hereby or cease to use the same, this Easement shall automatically terminate.
13. Status of Easement. Anything in this Agreement to the contrary notwithstanding, no breach of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Agreement shall be binding upon, and be effective against, any party whose title is acquired by foreclosure, trustee's sale or otherwise.
14. Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
15. Not a Partnership. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.
16. Captions and Headings. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.
17. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.
18. Construction. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.
19. Recordation. This Agreement shall be recorded in the public records of Palm Beach County, Florida.

20. Effective Date. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

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

Signed, sealed and delivered
in the presence of:

GRANTOR:

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: _____
Department Director

ATTEST:

GRANTEE:

CITY OF WEST PALM BEACH, a Florida
municipal corporation

By: _____
Mayor Lois J. Frankel

City Clerk

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by _____, on behalf of the City of West Palm Beach. He/She is personally known to me or has produced _____ as identification and did not take an oath.

Notary Public
My commission expires:

EXHIBIT "1"

LEGAL DESCRIPTION
PROPERTY

West Palm Beach Intermodal Transfer Facility

A replat of a portion of blocks 46, 47, 48 and 49; and portions of the adjacent right-of-ways and 14' alleys of plat of map of the town of West Palm Beach, according to the plat thereof as recorded in plat book 1, page 2, of the public records of Palm Beach County; lying in section 21, township 43 south, range 43 east, in the City of West Palm Beach, Palm Beach County, Florida.

This Instrument Prepared By
And Should Be Returned to:

Res 269-09
Vincent J. Noel, PSM
City of West Palm Beach
1000 45th Street, Suite 15
West Palm Beach, FL 33407

Parcel No. _____

EQUIPMENT AND ACCESS EASEMENT AGREEMENT

THIS EQUIPMENT AND ACCESS EASEMENT AGREEMENT (the "Agreement") is made and entered into this 10th day of August, 2009, by and between Palm Beach County, a political subdivision of the State of Florida, whose address is 2633 Vista Parkway, West Palm Beach, Florida 33411-5608 (the "Grantor"), and the City of West Palm Beach, a municipal corporation organized and existing under the laws of the State of Florida, whose address is P.O. Box 3366, West Palm Beach, Florida 33402 (the "Grantee").

BACKGROUND:

- A. Grantor is the owner of certain land located in the City of West Palm Beach, Palm Beach County, Florida, as further described in Exhibit "1" attached hereto (the "Property"); and
- B. Grantor has agreed to grant an equipment and access easement to Grantee for the purpose of access to and operation, maintenance, repair and replacement of the surveillance cameras located on the Property.
- C. Grantor and Grantee have entered into this Agreement to provide for the granting of the easement described herein and to provide for the rights of the parties with respect thereto.

TERMS:

1. Equipment and Access Easement. Grantor grants to the Grantee, its successors and assigns, and its agents, employees, and contractors, a perpetual, non-exclusive easement (the "Easement") under and over the property described in Exhibit "2" attached hereto (the "Easement Area") for the purpose of ingress, egress and access to and operation, maintenance, repair and replacement of surveillance cameras located in the Easement Area.

2. Maintenance of Easement Area/Compliance with Laws. Grantee shall keep the Easement Area free from trash, debris and safety hazards following any use of the Easement Area; provided, however, that the foregoing shall not impose any obligation on Grantee to maintain the Easement Area. Grantee shall use the Easement Area in accordance with all applicable laws, rules and regulations of governmental authorities having jurisdiction over the Easement Area or use thereof as herein provided. Any damage to the Easement Area caused by Grantee, its agents, employees or contractors shall be promptly repaired by Grantee at its sole cost and expense using materials of like kind and quality, restoring the Easement Area to the same condition it was in prior to the damage being done.
 3. Clearing of Obstructions. Grantee shall have the right to clear all trees, undergrowth and other obstructions within the Easement Area, and the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the Easement Area which might interfere with or fall upon the surveillance cameras installed within the Easement Premises. Grantee covenants that it will protect Grantor's other improvements in and around the Easement Premises when performing such clearing or trimming.
 4. No Liens. Neither Grantor's nor Grantee's interest in the Easement Area or Property, shall be subject to liens arising from Grantee's use of the Easement Area, or exercise of the rights granted hereunder. Grantee shall promptly cause any lien imposed against the Easement Area or Property as a result of work done on behalf of Grantee, to be discharged or transformed to bond.
 5. Indemnification. Grantee shall be liable for its own actions and negligence and, to the extent permitted by law, shall indemnify, defend and hold harmless Grantor against any actions, claims, or damages arising out of its negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Grantee to indemnify Grantor for Grantor's negligent, willful or intentional acts or omissions.
 6. Reservation of Grantor's Rights. Grantor shall retain and have the right to use the Easement Area for any purpose which is not inconsistent with and does not interfere with the use of the Easement Area for the purposes herein granted.
 7. Intentionally Deleted.
 8. No Waiver. No delay in exercising or omission of the right to exercise any right or power by any party hereunder shall impair any such right or power or shall be construed as a waiver of any breach or default or of acquiescence thereto.
 9. Governing Law/Venue. This Agreement shall be construed and interpreted in accordance with, and the validity of this Agreement shall be judged by the laws of the State of Florida. Venue for any action hereunder shall lie exclusively in Palm Beach County, Florida.
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10. Covenants Running with the Land and Binding Effect. This Agreement shall run with the land and shall be binding upon Grantor, all parties entitled to use or possession of the Property by or through Grantor, including lessees, and the successors and assigns of each of the aforementioned parties unless or until this Agreement is terminated as herein provided. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.
 11. Term. The term of this Agreement shall be five (5) years from the Effective Date; provided, however, that this Agreement may be terminated at any time hereafter with the consent of the parties, by written instrument duly executed and acknowledged by all of the parties and duly recorded in the public records of Palm Beach County, Florida.
 12. Abandonment. If the Grantee, its successor or assigns, shall ever abandon the Easement granted hereby or cease to use the same, this Easement shall automatically terminate.
 13. Status of Easement. Anything in this Agreement to the contrary notwithstanding, no breach of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Agreement shall be binding upon, and be effective against, any party whose title is acquired by foreclosure, trustee's sale or otherwise.
 14. Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
 15. Not a Partnership. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.
 16. Captions and Headings. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.
 17. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.
 18. Construction. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.
 19. Recordation. This Agreement shall be recorded in the public records of Palm Beach County, Florida.
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20. Effective Date. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

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

Signed, sealed and delivered
in the presence of:

GRANTOR:

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

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

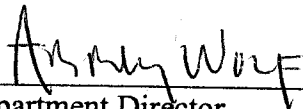
By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By:  _____
Department Director

(CR)

ATTEST:

[Signature]
City Clerk

GRANTEE:

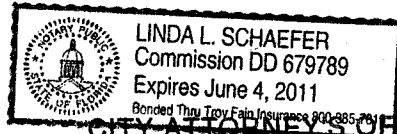
CITY OF WEST PALM BEACH, a Florida
municipal corporation

By: [Signature]
Mayor Lois J. Frankel

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 10 day of AUGUST, 2009, by Lois J. Frankel, on behalf of the City of West Palm Beach. He/She is personally known to me or has produced _____ as identification and did not take an oath.

[Signature]
Notary Public
My commission expires:



CITY ATTORNEY'S OFFICE

Approved as to form
and legal sufficiency

By: [Signature]

Date: 7/31/09

EXHIBIT "1"

LEGAL DESCRIPTION
PROPERTY

West Palm Beach Intermodal Transfer Facility

A replat of a portion of blocks 46, 47, 48 and 49; and portions of the adjacent right-of-ways and 14' alleys of plat of map of the town of West Palm Beach, according to the plat thereof as recorded in plat book 1, page 2, of the public records of Palm Beach County; lying in section 21, township 43 south, range 43 east, in the City of West Palm Beach, Palm Beach County, Florida.

