

Meeting Date: December 2, 2014

☐ Regular

☐ Public Hearing

Department: Facilities Development & Operations

Motion and Title: Staff recommends motion to:

A) approve an Interlocal Agreement with the City of Boynton Beach a municipal corporation (“City of Boynton”) for the City of Boynton’s P25 compliant radio system;

B) approve an Interlocal Agreement with the City of Delray Beach, a municipal corporation (“City of Delray”) for the City of Delray’s P25 compliant radio system; and

C) **authorize** County Administrator or his designee to have the authority to execute all documents pertaining to the City Radio System after receiving City approval to execute the documents and after review for legal sufficiency.

Summary: These two identical Interlocal Agreements establish the terms and conditions pursuant to which the County will facilitate the migration of each City to a P25 compliant radio system by; 1) working with County's consultant to develop a design criteria package for the City's Radio System, 2) including the specifications for the City Radio System in the County's Request for Proposals (RFP) for a new P25 compliant radio system, and 3) utilizing the County's selected contractor to implement a City Radio System. To initiate the work, each City will make a City Design Criteria Package Election indicating that the City concurs with the scope of the consultant's services and simultaneously transferring 110% of the funds for the work (10% being for contingency). The City's Design Criteria Package will be included in the County's RFP for the P25 Migration Project. Contractors responding to the County's RFP will include separate pricing for each City's scope of work. After the Board has directed staff to commence negotiations with the selected contractor, each City will advise County as to whether it wants County to negotiate a Statement of Work (SOW) on the City's behalf with the selected contractor. If the City does not desire the County to commence negotiations with the selected contractor, the City will terminate the Interlocal Agreement and may conduct its own RFP. If a City chooses to have the County negotiate a final SOW, it will advise the County accordingly. After the City has reviewed the final negotiated SOW, the City can issue a Radio System Election accepting the SOW and transferring 110% of the costs for implementation of the City Radio System. Each City is responsible for all costs associated with the City's Radio System. County is solely responsible for all services associated with County staff and project management services for the City's Radio System project. 100% of any City funds remaining at the conclusion of the City Radio System project will be returned to the City. The term of the Agreements are three (3) years or until the completion of the City Radio System, whichever is longer. Until the time the Radio System Election is made, the Agreements can be terminated by either party by providing written notice to the other party. **(FDO Admin) Countywide (JM)**

Background & Justification: On April 15, 2014, Staff was authorized to proceed with the replacement of the County's Public Safety Radio System with a P25 compliant radio system (the "P25 Migration Project"). The cities of Boynton Beach, Delray Beach and Boca Raton have a shared Interlocal Agreement (R2011-0737) with the County for a South Palm Beach County cooperative connection to the Public Safety Radio System. Staff selected RCC Communications, Inc., for a continuing contract related to the P25 Migration Project which services include preparation of a vendor neutral design criteria package that will be utilized in the County's RFP. The Agreements provide each City with the ability to utilize the County's consultant to prepare vendor-neutral system replacement specifications for each City Radio System to be included in the County's RFP package as an alternate award, and at the City's option, to utilize the County's selected contractor to implement the SOW for the City. In lieu of entering into an Interlocal Agreement at this time, the City of Boca Raton has elected to continue its contracted work with RCC for the preparation of the design criteria package, but wants to consider participating in the County RFP process.

1. Interlocal Agreement with the City of Boynton Beach
2. Interlocal Agreement with the City of Delray Beach

Army Work

11/6/14

Date _____

Robert

11/26/14

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	0				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes No

Budget Account No: Fund Dept Unit Object
Program

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 additional project management costs associated with the Capital Improvements Division’s management of the consultant and contractor’s work on behalf of the cities are insignificant and the cost to process invoices would be greater than the cost of the services.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

OFMB 11/17/14
for Barbara Wheeler 11-25-14
Contract Development and Control
at time of our review,
the agreements were
not executed

B. Legal Sufficiency:

James C. [Signature] 11/25/14
Assistant County Attorney

C. Other Department Review:

Department Director

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

INTERLOCAL AGREEMENT

This **INTERLOCAL AGREEMENT** ("Agreement") is made and entered into _____, by and between Palm Beach County, a political subdivision of the State of Florida ("County") and the City of Boynton Beach ("City"), a municipal corporation existing under the laws of the State of Florida.

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, 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 initiated a P25 Migration Project pursuant to which the County will replace its existing public safety radio system with one that is APCO P25 compliant; and

WHEREAS, the City has been interoperable with the County's current public safety radio system since 2000 and desires to continue to receive the benefits of interoperability; and

WHEREAS, the City owns a radio system which is connected to the County's public safety radio system through the County's Motorola SmartZone™ Controller; and

WHEREAS, the City wants to replace its City owned system with an APCO P25 compliant system; and

WHEREAS, the County and City concur that it is in both parties' best interests to jointly plan, set performance specifications and participate cooperatively in a single procurement process for the replacement of their individual radio systems; and

WHEREAS, this Interlocal Agreement provides the framework for the City to make the election (or take the actions) specified in this Agreement and for the County to provide the services in relation to the City's P25 migration project as set forth herein.

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

Section 1: Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2: Purpose

The purpose of this Agreement is to define the relationship between the County and the City by setting forth the parameters under which the County will: (1) facilitate the Consultant's preparation of City's Design Criteria Package; (2) prepare an RFP for the P25 Migration Project which includes the City's Design Criteria Package as an Alternate; and (3) at City's election and cost, contract with the Contractor for the design and installation of the City's Radio System. The County will perform project management services for the City. In addition, this Agreement sets forth the City's obligations for funding the County's third party costs and expenses relating to the City's Radio System.

Section 3: Definitions

3.01 Alternate: A portion of the RFP which describes a discrete scope of work for which a response is mandatory, and which work must be performed by the respondent to the RFP, if City in its sole discretion makes the Radio System Election as set forth herein, despite the fact that the respondent will not know whether that discrete scope of work will actually be awarded as part of the P25 Radio System Contract.

3.02 Board: The Palm Beach County Board of County Commissioners.

3.03 CID: The Capital Improvement Division of the FDO Department. CID is responsible for the administration of the Consultant's and Contractor's contracts.

3.04 City: City of Boynton Beach, a municipal corporation of the State of Florida.

3.05 City Consultant Services Authorization (City CSA): Written document describing the Consultant's work effort necessary to; 1) prepare the City Design Criteria Package, 2) provide installation administration services, 3) provide project close-out services, and 4) authorize any other work, allowed pursuant to the Consultant contract, requested and approved by the City Representative.

3.06 City Contingency: Ten Percent (10%) of the cost of the City CSA and Ten Percent (10%) of the cost of the City SOW to be transferred to the County by the City; 1) at the time of City Design Criteria Election, and 2) at the time of City Radio System Election. The contingency to be transferred at the time of Radio System Election is equal to 10% of the cost of the City SOW and 10% of the costs of the Consultant's installation administration services. The City Contingency can be used by the City to fund changes made necessary by; 1) requests of the City, and/or 2) errors and/or omissions of the Consultant during the design/implementation phase, and/or 3) unforeseen conditions as defined by the P25 Radio System Contract.

3.07 City Design Criteria Package: The Consultant's work product in response to the City CSA. The City Design Criteria Package will specify performance based criteria for the City Radio System which may include material quality standards, conceptual design, budget restrictions, schedule and other requirements to accurately reflect the required project elements such as conducting field surveys, and performing propagation analyses.

3.08 City Design Criteria Package Election: A written notification which at a minimum contains a; 1) statement that the scope of work for the City CSA is final, 2) certification that the City accepts the Consultant's proposed cost for the City CSA, 3) a monetary transfer in an amount equal to 110% of the cost of the City CSA, 4) identification of the City Project Manager, and 5) certification that the City Representative has the authority to make the City Design Criteria Package Election.

3.09 City Project Manager: The Chief of Police, or his designee, that is the primary City point of contact for the County Project Manager with respect to the administration of the City CSA and the City SOW. This person shall act on behalf of the City and be responsible for making timely decisions, approvals (either approving or securing City approval), processing accounting approvals, and authorizing City initiated change orders and funding transfers. The City Project Manager shall not directly communicate with the Consultant or the Contractor but instead shall communicate with the County Project Manager unless otherwise authorized by the County Project Manager.

3.10 City Radio System: A City owned and operated P25 compliant public safety radio system.

3.11 City Radio System Budget: The total of the City CSA plus 10% contingency, the City SOW plus 10%, and any other funding that may be required by the County to complete the City's CSA or City SOW, approved by the City and transferred to the County from time to time.

3.12 City Radio System Election: A written notification which at a minimum contains a; 1) statement that the City concurs with the County's selection of a Contractor, 2) certification that the City accepts the scope, terms, conditions and costs of the City SOW, 3) certification that the City accepts the costs of the Consultant's cost for construction administration, 4) monetary transfer in an amount equal to 110% of the cost of the City SOW plus 110% of the Consultant's installation administration services, and 5) certification that the City Representative has the authority to make the City Radio System Election.

3.13 City Representative: The City Manager or designee who has the authority of the City to obligate the City pursuant to this Agreement, after adhering to City adopted policies and procedures.

3.14 City Statement of Work (SOW): The specific scope of work for the City Radio System which is negotiated with the selected Contractor and, at a minimum, includes provisions describing the responsibilities of the Contractor, defining the conditions of sale, delivery, installation and acceptance testing, detailing the system parameters, identifying unit quantities, detailing the cut-over plan and containing the price and schedule for the proposed City Radio System.

3.15 Consultant: RCC Consultants Inc., a professional engineering firm awarded a continuing services agreement by the County.

3.16 Consultant Services Authorization (CSA): A written task order issued against the Consultant contract which describes the scope of services to be performed, the cost for services and the timeframe for completion.

3.17 Contractor: The properly licensed vendor awarded a contract by the County for the P25 Migration Project.

3.18 County: Palm Beach County, a political subdivision of the State of Florida.

3.19 County Project Manager: The Capital Improvement Division Director, or his designee, that is responsible for the management of the Consultant contract and the P25 Radio System Contract.

3.20 County Representative: The FDO Director, who is given the authority to obligate the County in accordance to County adopted policies and procedures.

3.21 Electronic Services and Security Division (ESS): The division of FDO responsible for administration and management of the County's Radio Systems.

3.22 Facilities Development & Operations Department (FDO): The County Department responsible for oversight of ESS and the design, construction, management and operation of County electronic systems under the jurisdiction of the Board.

3.23 P25 Migration Project: The replacement of County's existing public safety radio system (in whole or in part) to a system which is compliant with the Association of Public-Safety Communications Officials (APCO) P25 standards which includes fixed transmitting and receiving equipment, a microwave system for communications between sites, remote and prime site control and management equipment, dispatch consoles and related equipment.

3.24 P25 Radio System Contract: A binding agreement between the County and the Contractor which sets forth the requirements for the P25 Migration Project including the cost thereof.

3.25 RFP: County issued request for proposals for a P25 Migration Project which will, upon City election, include the City Design Criteria Package as an Alternate.

3.26 SmartZone™ Controller: The Motorola SmartZone™ Controller is the central computer that currently manages and controls the operation of the County's and City's Public Safety Trunked Radio Systems. The SmartZone™ Controller manages access to system features, functions, individual radio users and talk-groups.

Section 4: Project Management Services

4.01 The County shall provide project management services throughout all phases of the P25 Migration Project. The County shall also provide project management services related to the City CSA and the City SOW.

4.02 The County shall have the full authority to take all actions and make all decisions necessary to prosecute the work associated with awarded contracts including on those portions of the work undertaken on the City's sole behalf. In such capacity, the County shall use its best professional judgment in determining which matters are of a nature and magnitude where consultation and approval of the City Project Manager must be obtained prior to authorizing an action. In general, matters which are routinely addressed with, or require approval of ESS, will require the approval of the City Project Manager. Matters which are routinely addressed with or require the approval of the Director, Facilities Development & Operations, will require the approval of the City Representative. However, when a specific provision of this Agreement requires City approval or consultation prior to the County taking action, such specific provision shall be applied to that specific approval requirement.

4.03 Pursuant to the requirements of Section 287.055, Florida Statutes (the Consultants' Competitive Negotiation Act), the County has selected RCC Communications, Inc. for a continuing contract related to the County's Public Safety Radio System, which includes the preparation of the design criteria package for the County's migration of its current public safety radio system to one that is in compliance with APCO P25 compliance standards.

4.04 The County shall cause the Consultant to create a vendor neutral design criteria package that will form the basis of a competitive Request for Proposals (RFP) for a contractor to implement the P25 Migration Project. The County shall conduct the RFP pursuant to County code, policies and procedures.

4.05 The County shall use its standard form contract for design and construction service authorizations and/or work orders which incorporates all provisions required by state statute, local laws or policies, including but not limited to, payment and performance bonds and insurance requirements.

4.06 The County shall negotiate the fees associated with the Consultant and/or Contractor contract and pay each Consultant and/or Contractor from the funds provided by the City for that purpose pursuant to Section 9 of the Agreement.

Section 5: Design Criteria Phase

5.01 The City Project Manager and the Consultant shall develop a scope of work by which the Consultant can develop the City Design Criteria Package sufficient to allow a design-build contractor to respond to the RFP. Using the scope of work identified by the City, the County Project Manager shall negotiate the Consultant's costs, which together comprise the City CSA. When the City is satisfied with the proposed City CSA, it shall provide the County with the City Design Criteria Election. The City must make the City Design Criteria Election no later than 30 days after the Effective Date of this Agreement. Upon receiving the City Design Criteria Election, the County shall enter into a City CSA on behalf of the City.

5.02 Upon County execution of the City CSA, the County and Consultant will diligently begin work on the City CSA.

5.03 The Consultant will concurrently provide the City and County Project Managers with copies of all deliverables and submittals required by the City CSA for review and comment. The County Project Manager shall meet with the City Project Manager and Consultant(s), if necessary, to review the deliverables and submittals. The Consultant shall provide the County and the Project Managers with written reports containing all comments resulting from all submittal reviews. The County and the City Project Manager shall review the written reports to ensure that the Consultant addresses each comment and incorporates changes approved by the City into the work product.

5.04 The City may make changes to the City CSA by having the City Representative request that the County Representative amend the City CSA and providing the same notification with regard to the change request as the City provided for the City Design Criteria Election. Upon receipt of the City's request to change; the County shall enter into an amendment to the City CSA. Funding for any City CSA amendment will be as described in Section 9.

5.05 The County Project Manager shall administer the City CSA in accordance with the Consultant Contract and the City CSA. In the event of a conflict between the Consultant Contract and the City CSA, the terms of the Consultant Contract shall prevail.

5.06 At any time during the term of this Agreement, the City may request that the County cause the Consultant to perform service provided for in the Consultant's contract other than those provided for in the City CSA. The City's request for other

services shall be in the same format and content as the City Design Criteria Package Election.

5.07 If the City terminates this Agreement after the Consultant has delivered the Design Criteria Package to County, then the County shall provide the City Design Criteria Package to the City.

Section 6: Request for Proposals (RFP)

6.01 The County shall prepare a RFP for a Contractor which includes an Alternate encompassing the City's Design Criteria Package and which may be awarded to the Contractor, at the City's election. The RFP shall contain language clearly indicating that the City's Design Criteria Package is a mandatory component, which may or may not be awarded in the City's sole discretion, and that the unit or component prices included in the Alternate shall be identical to those unit or component prices included in the bid for the County's P25 Migration Project. The City Radio System Election may, or may not be made by the City, in its sole discretion, and the proposer will be bound by its responses to the County portion of the RFP regardless of whether the City chooses to make the City Radio System Election.

6.02 The City shall be invited and encouraged to participate in all aspects of the RFP and the selection of a Contractor, but shall not have a representative sit as a voting member of the final selection committee. If the City does not concur with the results of the County's selection of a Contractor, the City may terminate this Agreement.

6.03 Despite not having a representative of the City as a voting member of the final selection committee for the Contractor, elected officials of the City shall comply with Sec. 2-355, Palm Beach County Code of Ordinances with regard to communication with respondents to the RFP. The County Representative shall provide to the City's elected officials the same notifications with regard to the cone of silence to City elected officials as he/she does to the Board. Employees of the City shall comply with the terms of the RFP with respect to directing communications to and from potential respondents about the RFP.

6.04 After the selection committee's recommendation has been considered by the Board, the Board may direct County Representative to begin negotiations with the selected contractor. Within 30 calendar days of the Board's direction to County staff to commence negotiations, the City Representative shall advise the County Representative as to whether the City desires that the County negotiate the selected contractor's City SOW.

6.05 The County Project Manager and Consultant shall negotiate the City SOW according to the City Design Criteria Package and the Contractor's proposal. The County Project Manager shall coordinate the negotiations with the City Project Manager so that the City can reasonably participate in the negotiations.

6.06 Upon completion of the negotiations with the selected contractor for the City SOW, the County will transmit a copy of the proposed City SOW to the City for review and final comment. Concurrent with the transmittal of the City SOW, the County shall also transmit the terms pursuant to which the County will allow the City to use assets of the County's P25 Radio System on an on-going basis. The City shall have no more than sixty (60) calendar days from the receipt of the transmittal for the City to provide the County with the City Radio System Election. If the City chooses not to make the City Radio System Election within 60 calendar days, the County shall have the right to terminate this Agreement.

Section 7: Design and Installation Phase

7.01 The County Project Manager shall conduct a pre-work conference for attendance by the Consultant, City Project Manager, the Contractor and all other interested parties.

7.02 The County Project Manager and the Consultant shall provide installation administration services described in the City CSA and the City SOW. Examples of such services are: 1) reviewing and commenting on shop drawings; 2) administering coordination meetings; 3) making recommendations on change orders; 4) measuring, estimating and calculating quantities of work and certifying estimates and vendor/installer payments; 5) performing and reporting on field testing of materials and equipment; 6) identifying and resolving technical problems encountered during implementation; 7) conducting on-site inspections of all facilities and equipment installations, certification of equipment operating parameters, verification of system integration and integration with existing systems and equipment; 8) participating in site acceptance testing, reviewing and verifying all test data to determine whether site and equipment performance is in compliance with the City SOW; and 9) participating at system acceptance testing including staging at the manufacturer's facilities and in the City after its installation.

7.03 The County Project Manager shall review the payment applications submitted by the Contractor for completeness and conformance with contract requirements. Certification of the amount(s) to be paid shall be determined with the Consultant after consultation with and approval by the City Project Manager. Copies of the applications for payment shall be sent to the City Project Manager after County approval of payment application.

7.04 The City may make changes to the City SOW by having the City Representative request that the County Representative amend the City SOW and providing the same notification with regard to the change request as the City provided for the City Radio System Election. Upon receipt of the City's request to change; the County shall enter into a change order to the City SOW. Funding for any amendment to the City SOW will be as described in Section 9.

Section 8: Project Close-Out

8.01 The County Project Manager and the Consultant shall provide project close-out services in accordance with the City CSA and City SOW. Examples of those services are: 1) review of general accuracy of information submitted and certified by the Contractor; 2) preparation of electronic Auto CAD 2013 record drawings based on information furnished, including significant changes in the work made during implementation; 3) during final inspection assist in the development of the list of items to be completed; 4) assist with acceptance testing, system certifications and inspections to verify final completion of the list of items and the work; and 5) obtain and compile all required close-out documentation including but not limited to record drawings, approved final permits, certificates of occupancy, certificates of completion, product and contractor warranties, training material and user manuals etc.

8.02 No earlier than the successful completion of the City Radio System acceptance testing and no later than concurrent with the closeout of the P25 Radio System Contract, the County will: 1) convey, via bill of sale to the City, all assets that are the subject of the City SOW; and 2) assign all warranties to the City that are the subject of the City SOW. The exact time for conveyance and assignment will be agreed upon by the County Representative and City Representative.

8.03 The sole responsibility for maintenance of the City Radio System, and the costs thereto, shall pass to the City concurrent with the conveyance of the assets and assignment of warranties described above.

8.04 The City and the County will create a separate agreement, or amend the existing agreement, for the City's ongoing use of any County P25 Radio System assets.

Section 9: Project Funding, Payments and Change Management

9.01 The City shall be responsible for all costs associated with the City CSA(s) and City SOW. City's funding responsibilities shall include, but not be limited to, all procurement costs, the costs of frequency management services, application and permit fees to governmental entities, surveys, geotechnical investigations, field coverage testing, utility connection charges, out of pocket costs and expenses incurred by the County in the performance of, or directly related to, this Agreement, and all expenses, fees or costs that are reasonably incurred by County and/or required to complete the City CSA and City SOW.

9.02 The County is solely responsible for funding all costs or services associated with; 1) the County's staff and County program management services, and 2) litigation with Consultant or Contractor resulting from the County's administration of the City CSA and City SOW, provided however that the litigation is not the result of any action of the City.

9.03 All funds sent by the City to the County will be placed in a separate unit within the County's budget entitled "Boynton Beach Radio System" which will become the City Radio System Budget. All funds transferred by the City to the City Radio System Budget must not be the subject of any contractual obligations, express or implied.

9.04 All expenditures authorized by the City pursuant to this Agreement will be made from the City Radio System Budget. City Radio System Budget shall not be used for expenses pursuant to Section 9.02.

9.05 Although contingency funding will be transferred at different times throughout the Agreement, the City contingency funds are cumulative and maintained as a single contingency until the City Radio System is completed.

9.06 City acknowledges that the County will not contribute any funds to the City CSA and City Radio System, and as a result, the City is encouraged to allocate sufficient funds to allow the City to maintain its own contingency account in the event that the costs exceed the City Radio System Budget. The County Representative will immediately notify the City Representative by email at any time that the costs of the City Radio System are projected to exceed the City Radio System Budget for City approval of scope reductions or increases to the City Radio System Budget.

9.07 Change requests approved by the City which do not impact the cost of the City SOW, may be authorized by the County Project Manager on the signature of the City Project Manager. Change requests approved by the City which impact the cost of the City SOW, but which can be addressed through the use of the City Contingency, shall be authorized by the County upon the signature of the City Representative.

9.08 Change requests approved by the City which cannot be funded from the contingency and will require additional contributions from the City, shall require County email notice to the City Representative and City Project Manager along with options, if any, for resolution of the change request along with the estimated costs. The City shall select, and approve by return email to County, an option within seven (7) business days of County's email notice, or 24 hours prior to the date a critical path will be impacted, whichever is shorter. If the scope of the change requires an increase in the City Radio System Budget, City shall within twenty (20) days provide its approval of the change constituting agreement to increase the City Radio System Budget which must be accompanied by a transfer of funds sufficient for the change order and an additional 10%.

9.09 The Director of FDO shall have the authority to execute all documents pertaining to the City Radio System, without further Contract Review Committee or Board of County Commissioner review, after receiving City approval to execute the documents pursuant to this Agreement. However, all such documents shall be reviewed for legal sufficiency prior to execution by the Director of FDO.

9.10 One hundred (100%) of any funds remaining in the City Radio System Budget will be refunded to the City within thirty (30) days of; (1) the date of the termination of this Agreement, or (2) the date of the close-out of the P25 Radio System project, whichever is earlier.

9.11 In the event that the Contractor fails to comply with the P25 Radio System Contract requirements and County relies on the Contractor's surety bond to cure the default, County agrees to hold City harmless from any cost beyond that which was contemplated by the scope of the City SOW at the time of default.

Section 10: Liability and Insurance

10.01 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. Furthermore, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

10.02 Without waiving the right to sovereign immunity as provided by Florida Statutes Section 768.28, the parties acknowledge that they are each self-insured for general liability under Florida sovereign immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may be established by the Florida legislature.

Section 11: Term

The term of this Agreement shall commence upon execution of the Agreement by the County (Effective Date) and shall extend for three (3) years or until the completion of the City Radio System, whichever is longer, unless terminated pursuant to Section 12 of this Agreement. The City and County can mutually agree to extend this Agreement for any duration acceptable to both parties.

Section 12: Termination

12.01 The City and County may unilaterally terminate this Agreement as provided in other sections of this Agreement. At any time prior to the County's receipt of the City's Radio System Election, the City may, for any reason, terminate this Agreement. In the event the City terminates the Agreement, the City shall provide written notice to the County. Within 5 business days of County's receipt of notice, the County shall terminate the services of the Consultant pursuant to the terms of the Consultant contract and the City agrees that it will reimburse the County for all costs incurred up to the date of the termination of the Consultant's contract.

12.02 At any time prior to the County's receipt of the City's Radio System Election, the County may, for any reason, terminate this Agreement by providing written notice to the City which shall be effective immediately upon receipt. The County shall

terminate the services of the Consultant pursuant to the terms of the Consultant contract and the City agrees that it will reimburse the County for all costs relating to the City CSA incurred up to the date of the termination of the Consultant's contract.

12.03 In the event the County receives a City Radio System Election from the City, then thereafter, neither party shall have the right to terminate this Agreement unless the other party is in default of its obligations contained in this Agreement.

Section 13: 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 receipt, as evidenced by the Return Receipt. All notices shall be addressed to the following:

As to the County:

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

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

With a copy to:

County Attorney's Office
301 North Olive Avenue
West Palm Beach, Florida 33401

As to Boynton Beach:

City Manager, City of Boynton Beach
100 E. Boynton Beach Blvd.
Boynton Beach, FL 33425-0310

With a copy to:

Chief of Police
100 East Boynton Beach Blvd.
Boynton Beach, FL 33435

Section 14: 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 15: Filing

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

Section 16: Delegation of Duty

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

Section 17: Time is of the Essence

Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

Section 18: Non-Discrimination

The parties agree that no person shall, on the grounds of age, race, color, sex, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information 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 19: Force Majeure

Any party delayed by a Force Majeure Event, as defined herein, in performing under this Agreement shall use reasonable efforts to remedy the cause or causes of such Force Majeure Event. A delay due to a Force Majeure Event shall serve to toll the time to perform under this Agreement. "Force Majeure Event" shall mean any act of God, fire, flood, earthquake, explosion, hurricane, riot, sabotage, terrorist attack, windstorm, failure of utility service, or labor dispute.

Section 20: Inspector General Audit Requirements

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, 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 21: Construction

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 22: 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 23: Effective Date

This Agreement shall be expressly contingent upon the approval of the City Commission of the City of Boynton Beach which must be followed by the approval of the Palm Beach County Board of County Commissioners and the Agreement shall become effective only when signed by the City Commission of the City of Boynton Beach followed by the signature of the Palm Beach County Board of County Commissioners.

The remainder of this page is left intentionally blank

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

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

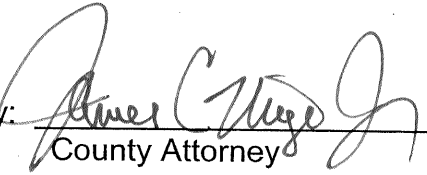
PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED AS TO TERMS AND
CONDITIONS:

By:  _____
County Attorney

By: _____
Audrey Wolf, Director
Facilities Development & Operations

ATTEST:

CITY CLERK

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

By: _____
_____, City Clerk

By: _____
_____, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
_____, City Attorney

INTERLOCAL AGREEMENT

This **INTERLOCAL AGREEMENT** ("Agreement") is made and entered into _____, by and between Palm Beach County, a political subdivision of the State of Florida ("County") and the City of Delray Beach ("City"), a municipal corporation existing under the laws of the State of Florida.

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, 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 initiated a P25 Migration Project pursuant to which the County will replace its existing public safety radio system with one that is APCO P25 compliant; and

WHEREAS, the City has been interoperable with the County's current public safety radio system since 2000 and desires to continue to receive the benefits of interoperability; and

WHEREAS, the City owns a radio system which is connected to the County's public safety radio system through the County's Motorola SmartZone™ Controller; and

WHEREAS, the City wants to replace its City owned system with an APCO P25 compliant system; and

WHEREAS, the County and City concur that it is in both parties' best interests to jointly plan, set performance specifications and participate cooperatively in a single procurement process for the replacement of their individual radio systems; and

WHEREAS, this Interlocal Agreement provides the framework for the City to make the election (or take the actions) specified in this Agreement and for the County to provide the services in relation to the City's P25 migration project as set forth herein.

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

Section 1: Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2: Purpose

The purpose of this Agreement is to define the relationship between the County and the City by setting forth the parameters under which the County will: (1) facilitate the Consultant's preparation of City's Design Criteria Package; (2) prepare an RFP for the P25 Migration Project which includes the City's Design Criteria Package as an Alternate; and (3) at City's election and cost, contract with the Contractor for the design and installation of the City's Radio System. The County will perform project management services for the City. In addition, this Agreement sets forth the City's obligations for funding the County's third party costs and expenses relating to the City's Radio System.

Section 3: Definitions

3.01 Alternate: A portion of the RFP which describes a discrete scope of work for which a response is mandatory, and which work must be performed by the respondent to the RFP, if City in its sole discretion makes the Radio System Election as set forth herein, despite the fact that the respondent will not know whether that discrete scope of work will actually be awarded as part of the P25 Radio System Contract.

3.02 Board: The Palm Beach County Board of County Commissioners.

3.03 CID: The Capital Improvement Division of the FDO Department. CID is responsible for the administration of the Consultant's and Contractor's contracts.

3.04 City: City of Delray Beach, a municipal corporation of the State of Florida.

3.05 City Consultant Services Authorization (City CSA): Written document describing the Consultant's work effort necessary to; 1) prepare the City Design Criteria Package, 2) provide installation administration services, 3) provide project close-out services, and 4) authorize any other work, allowed pursuant to the Consultant contract, requested and approved by the City Representative.

3.06 City Contingency: Ten Percent (10%) of the cost of the City CSA and Ten Percent (10%) of the cost of the City SOW to be transferred to the County by the City; 1) at the time of City Design Criteria Election, and 2) at the time of City Radio System Election. The contingency to be transferred at the time of Radio System Election is equal to 10% of the cost of the City SOW and 10% of the costs of the Consultant's installation administration services. The City Contingency can be used by the City to fund changes made necessary by; 1) requests of the City, and/or 2) errors and/or omissions of the Consultant during the design/implementation phase, and/or 3) unforeseen conditions as defined by the P25 Radio System Contract.

3.07 City Design Criteria Package: The Consultant's work product in response to the City CSA. The City Design Criteria Package will specify performance based criteria for the City Radio System which may include material quality standards, conceptual design, budget restrictions, schedule and other requirements to accurately reflect the required project elements such as conducting field surveys, and performing propagation analyses.

3.08 City Design Criteria Package Election: A written notification which at a minimum contains a; 1) statement that the scope of work for the City CSA is final, 2) certification that the City accepts the Consultant's proposed cost for the City CSA, 3) a monetary transfer in an amount equal to 110% of the cost of the City CSA, 4) identification of the City Project Manager, and 5) certification that the City Representative has the authority to make the City Design Criteria Package Election.

3.09 City Project Manager: The Chief of Police, or his designee, that is the primary City point of contact for the County Project Manager with respect to the administration of the City CSA and the City SOW. This person shall act on behalf of the City and be responsible for making timely decisions, approvals (either approving or securing City approval), processing accounting approvals, and authorizing City initiated change orders and funding transfers. The City Project Manager shall not directly communicate with the Consultant or the Contractor but instead shall communicate with the County Project Manager unless otherwise authorized by the County Project Manager.

3.10 City Radio System: A City owned and operated P25 compliant public safety radio system.

3.11 City Radio System Budget: The total of the City CSA plus 10% contingency, the City SOW plus 10%, and any other funding that may be required by the County to complete the City's CSA or City SOW, approved by the City and transferred to the County from time to time.

3.12 City Radio System Election: A written notification which at a minimum contains a; 1) statement that the City concurs with the County's selection of a Contractor, 2) certification that the City accepts the scope, terms, conditions and costs of the City SOW, 3) certification that the City accepts the costs of the Consultant's cost for construction administration, 4) monetary transfer in an amount equal to 110% of the cost of the City SOW plus 110% of the Consultant's installation administration services, and 5) certification that the City Representative has the authority to make the City Radio System Election.

3.13 City Representative: The City Manager or designee who has the authority of the City to obligate the City pursuant to this Agreement, after adhering to City adopted policies and procedures.

3.14 City Statement of Work (SOW): The specific scope of work for the City Radio System which is negotiated with the selected Contractor and, at a minimum, includes provisions describing the responsibilities of the Contractor, defining the conditions of sale, delivery, installation and acceptance testing, detailing the system parameters, identifying unit quantities, detailing the cut-over plan and containing the price and schedule for the proposed City Radio System.

3.15 Consultant: RCC Consultants Inc., a professional engineering firm awarded a continuing services agreement by the County.

3.16 Consultant Services Authorization (CSA): A written task order issued against the Consultant contract which describes the scope of services to be performed, the cost for services and the timeframe for completion.

3.17 Contractor: The properly licensed vendor awarded a contract by the County for the P25 Migration Project.

3.18 County: Palm Beach County, a political subdivision of the State of Florida.

3.19 County Project Manager: The Capital Improvement Division Director, or his designee, that is responsible for the management of the Consultant contract and the P25 Radio System Contract.

3.20 County Representative: The FDO Director, who is given the authority to obligate the County in accordance to County adopted policies and procedures.

3.21 Electronic Services and Security Division (ESS): The division of FDO responsible for administration and management of the County's Radio Systems.

3.22 Facilities Development & Operations Department (FDO): The County Department responsible for oversight of ESS and the design, construction, management and operation of County electronic systems under the jurisdiction of the Board.

3.23 P25 Migration Project: The replacement of County's existing public safety radio system (in whole or in part) to a system which is compliant with the Association of Public-Safety Communications Officials (APCO) P25 standards which includes fixed transmitting and receiving equipment, a microwave system for communications between sites, remote and prime site control and management equipment, dispatch consoles and related equipment.

3.24 P25 Radio System Contract: A binding agreement between the County and the Contractor which sets forth the requirements for the P25 Migration Project including the cost thereof.

3.25 RFP: County issued request for proposals for a P25 Migration Project which will, upon City election, include the City Design Criteria Package as an Alternate.

3.26 SmartZone™ Controller: The Motorola SmartZone™ Controller is the central computer that currently manages and controls the operation of the County's and City's Public Safety Trunked Radio Systems. The SmartZone™ Controller manages access to system features, functions, individual radio users and talk-groups.

Section 4: Project Management Services

4.01 The County shall provide project management services throughout all phases of the P25 Migration Project. The County shall also provide project management services related to the City CSA and the City SOW.

4.02 The County shall have the full authority to take all actions and make all decisions necessary to prosecute the work associated with awarded contracts including on those portions of the work undertaken on the City's sole behalf. In such capacity, the County shall use its best professional judgment in determining which matters are of a nature and magnitude where consultation and approval of the City Project Manager must be obtained prior to authorizing an action. In general, matters which are routinely addressed with, or require approval of ESS, will require the approval of the City Project Manager. Matters which are routinely addressed with or require the approval of the Director, Facilities Development & Operations, will require the approval of the City Representative. However, when a specific provision of this Agreement requires City approval or consultation prior to the County taking action, such specific provision shall be applied to that specific approval requirement.

4.03 Pursuant to the requirements of Section 287.055, Florida Statutes (the Consultants' Competitive Negotiation Act), the County has selected RCC Communications, Inc. for a continuing contract related to the County's Public Safety Radio System, which includes the preparation of the design criteria package for the County's migration of its current public safety radio system to one that is in compliance with APCO P25 compliance standards.

4.04 The County shall cause the Consultant to create a vendor neutral design criteria package that will form the basis of a competitive Request for Proposals (RFP) for a contractor to implement the P25 Migration Project. The County shall conduct the RFP pursuant to County code, policies and procedures.

4.05 The County shall use its standard form contract for design and construction service authorizations and/or work orders which incorporates all provisions required by state statute, local laws or policies, including but not limited to, payment and performance bonds and insurance requirements.

4.06 The County shall negotiate the fees associated with the Consultant and/or Contractor contract and pay each Consultant and/or Contractor from the funds provided by the City for that purpose pursuant to Section 9 of the Agreement.

Section 5: Design Criteria Phase

5.01 The City Project Manager and the Consultant shall develop a scope of work by which the Consultant can develop the City Design Criteria Package sufficient to allow a design-build contractor to respond to the RFP. Using the scope of work identified by the City, the County Project Manager shall negotiate the Consultant's costs, which together comprise the City CSA. When the City is satisfied with the proposed City CSA, it shall provide the County with the City Design Criteria Election. The City must make the City Design Criteria Election no later than 30 days after the Effective Date of this Agreement. Upon receiving the City Design Criteria Election, the County shall enter into a City CSA on behalf of the City.

5.02 Upon County execution of the City CSA, the County and Consultant will diligently begin work on the City CSA.

5.03 The Consultant will concurrently provide the City and County Project Managers with copies of all deliverables and submittals required by the City CSA for review and comment. The County Project Manager shall meet with the City Project Manager and Consultant(s), if necessary, to review the deliverables and submittals. The Consultant shall provide the County and the Project Managers with written reports containing all comments resulting from all submittal reviews. The County and the City Project Manager shall review the written reports to ensure that the Consultant addresses each comment and incorporates changes approved by the City into the work product.

5.04 The City may make changes to the City CSA by having the City Representative request that the County Representative amend the City CSA and providing the same notification with regard to the change request as the City provided for the City Design Criteria Election. Upon receipt of the City's request to change, the County shall enter into an amendment to the City CSA. Funding for any City CSA amendment will be as described in Section 9.

5.05 The County Project Manager shall administer the City CSA in accordance with the Consultant Contract and the City CSA. In the event of a conflict between the Consultant Contract and the City CSA, the terms of the Consultant Contract shall prevail.

5.06 At any time during the term of this Agreement, the City may request that the County cause the Consultant to perform service provided for in the Consultant's contract other than those provided for in the City CSA. The City's request for other

services shall be in the same format and content as the City Design Criteria Package Election.

5.07 If the City terminates this Agreement after the Consultant has delivered the Design Criteria Package to County, then the County shall provide the City Design Criteria Package to the City.

Section 6: Request for Proposals (RFP)

6.01 The County shall prepare a RFP for a Contractor which includes an Alternate encompassing the City's Design Criteria Package and which may be awarded to the Contractor, at the City's election. The RFP shall contain language clearly indicating that the City's Design Criteria Package is a mandatory component, which may or may not be awarded in the City's sole discretion, and that the unit or component prices included in the Alternate shall be identical to those unit or component prices included in the bid for the County's P25 Migration Project. The City Radio System Election may, or may not be made by the City, in its sole discretion, and the proposer will be bound by its responses to the County portion of the RFP regardless of whether the City chooses to make the City Radio System Election.

6.02 The City shall be invited and encouraged to participate in all aspects of the RFP and the selection of a Contractor, but shall not have a representative sit as a voting member of the final selection committee. If the City does not concur with the results of the County's selection of a Contractor, the City may terminate this Agreement.

6.03 Despite not having a representative of the City as a voting member of the final selection committee for the Contractor, elected officials of the City shall comply with Sec. 2-355, Palm Beach County Code of Ordinances with regard to communication with respondents to the RFP. The County Representative shall provide to the City's elected officials the same notifications with regard to the cone of silence to City elected officials as he/she does to the Board. Employees of the City shall comply with the terms of the RFP with respect to directing communications to and from potential respondents about the RFP.

6.04 After the selection committee's recommendation has been considered by the Board, the Board may direct County Representative to begin negotiations with the selected contractor. Within 30 calendar days of the Board's direction to County staff to commence negotiations, the City Representative shall advise the County Representative as to whether the City desires that the County negotiate the selected contractor's City SOW.

6.05 The County Project Manager and Consultant shall negotiate the City SOW according to the City Design Criteria Package and the Contractor's proposal. The County Project Manager shall coordinate the negotiations with the City Project Manager so that the City can reasonably participate in the negotiations.

6.06 Upon completion of the negotiations with the selected contractor for the City SOW, the County will transmit a copy of the proposed City SOW to the City for review and final comment. Concurrent with the transmittal of the City SOW, the County shall also transmit the terms pursuant to which the County will allow the City to use assets of the County's P25 Radio System on an on-going basis. The City shall have no more than sixty (60) calendar days from the receipt of the transmittal for the City to provide the County with the City Radio System Election. If the City chooses not to make the City Radio System Election within 60 calendar days, the County shall have the right to terminate this Agreement.

Section 7: Design and Installation Phase

7.01 The County Project Manager shall conduct a pre-work conference for attendance by the Consultant, City Project Manager, the Contractor and all other interested parties.

7.02 The County Project Manager and the Consultant shall provide installation administration services described in the City CSA and the City SOW. Examples of such services are: 1) reviewing and commenting on shop drawings; 2) administering coordination meetings; 3) making recommendations on change orders; 4) measuring, estimating and calculating quantities of work and certifying estimates and vendor/installer payments; 5) performing and reporting on field testing of materials and equipment; 6) identifying and resolving technical problems encountered during implementation; 7) conducting on-site inspections of all facilities and equipment installations, certification of equipment operating parameters, verification of system integration and integration with existing systems and equipment; 8) participating in site acceptance testing, reviewing and verifying all test data to determine whether site and equipment performance is in compliance with the City SOW; and 9) participating at system acceptance testing including staging at the manufacturer's facilities and in the City after its installation.

7.03 The County Project Manager shall review the payment applications submitted by the Contractor for completeness and conformance with contract requirements. Certification of the amount(s) to be paid shall be determined with the Consultant after consultation with and approval by the City Project Manager. Copies of the applications for payment shall be sent to the City Project Manager after County approval of payment application.

7.04 The City may make changes to the City SOW by having the City Representative request that the County Representative amend the City SOW and providing the same notification with regard to the change request as the City provided for the City Radio System Election. Upon receipt of the City's request to change; the County shall enter into a change order to the City SOW. Funding for any amendment to the City SOW will be as described in Section 9.

Section 8: Project Close-Out

8.01 The County Project Manager and the Consultant shall provide project close-out services in accordance with the City CSA and City SOW. Examples of those services are: 1) review of general accuracy of information submitted and certified by the Contractor; 2) preparation of electronic Auto CAD 2013 record drawings based on information furnished, including significant changes in the work made during implementation; 3) during final inspection assist in the development of the list of items to be completed; 4) assist with acceptance testing, system certifications and inspections to verify final completion of the list of items and the work; and 5) obtain and compile all required close-out documentation including but not limited to record drawings, approved final permits, certificates of occupancy, certificates of completion, product and contractor warranties, training material and user manuals etc.

8.02 No earlier than the successful completion of the City Radio System acceptance testing and no later than concurrent with the closeout of the P25 Radio System Contract, the County will: 1) convey, via bill of sale to the City, all assets that are the subject of the City SOW; and 2) assign all warranties to the City that are the subject of the City SOW. The exact time for conveyance and assignment will be agreed upon by the County Representative and City Representative.

8.03 The sole responsibility for maintenance of the City Radio System, and the costs thereto, shall pass to the City concurrent with the conveyance of the assets and assignment of warranties described above.

8.04 The City and the County will create a separate agreement, or amend the existing agreement, for the City's ongoing use of any County P25 Radio System assets.

Section 9: Project Funding, Payments and Change Management

9.01 The City shall be responsible for all costs associated with the City CSA(s) and City SOW. City's funding responsibilities shall include, but not be limited to, all procurement costs, the costs of frequency management services, application and permit fees to governmental entities, surveys, geotechnical investigations, field coverage testing, utility connection charges, out of pocket costs and expenses incurred by the County in the performance of, or directly related to, this Agreement, and all expenses, fees or costs that are reasonably incurred by County and/or required to complete the City CSA and City SOW.

9.02 The County is solely responsible for funding all costs or services associated with; 1) the County's staff and County program management services, and 2) litigation with Consultant or Contractor resulting from the County's administration of the City CSA and City SOW, provided however that the litigation is not the result of any action of the City.

9.03 All funds sent by the City to the County will be placed in a separate unit within the County's budget entitled "Delray Beach Radio System" which will become the City Radio System Budget. All funds transferred by the City to the City Radio System Budget must not be the subject of any contractual obligations, express or implied.

9.04 All expenditures authorized by the City pursuant to this Agreement will be made from the City Radio System Budget. City Radio System Budget shall not be used for expenses pursuant to Section 9.02.

9.05 Although contingency funding will be transferred at different times throughout the Agreement, the City contingency funds are cumulative and maintained as a single contingency until the City Radio System is completed.

9.06 City acknowledges that the County will not contribute any funds to the City CSA and City Radio System, and as a result, the City is encouraged to allocate sufficient funds to allow the City to maintain its own contingency account in the event that the costs exceed the City Radio System Budget. The County Representative will immediately notify the City Representative by email at any time that the costs of the City Radio System are projected to exceed the City Radio System Budget for City approval of scope reductions or increases to the City Radio System Budget.

9.07 Change requests approved by the City which do not impact the cost of the City SOW, may be authorized by the County Project Manager on the signature of the City Project Manager. Change requests approved by the City which impact the cost of the City SOW, but which can be addressed through the use of the City Contingency, shall be authorized by the County upon the signature of the City Representative.

9.08 Change requests approved by the City which cannot be funded from the contingency and will require additional contributions from the City, shall require County email notice to the City Representative and City Project Manager along with options, if any, for resolution of the change request along with the estimated costs. The City shall select, and approve by return email to County, an option within seven (7) business days of County's email notice, or 24 hours prior or the date a critical path will be impacted, whichever is shorter. If the scope of the change requires an increase in the City Radio System Budget, City shall within twenty (20) days provide its approval of the change constituting agreement to increase the City Radio System Budget, which must be accompanied by a transfer of funds sufficient for the change order and an additional 10%.

9.09 The Director of FDO shall have the authority to execute all documents pertaining to the City Radio System, without further Contract Review Committee or Board of County Commissioner review, after receiving City approval to execute the documents pursuant to this Agreement. However, all such documents shall be reviewed for legal sufficiency prior to execution by the Director of FDO.

9.10 One hundred (100%) of any funds remaining in the City Radio System Budget will be refunded to the City within thirty (30) days of; (1) the date of the termination of this Agreement, or (2) the date of the close-out of the P25 Radio System project, whichever is earlier.

9.11 In the event that the Contractor fails to comply with the P25 Radio System Contract requirements and County relies on the Contractor's surety bond to cure the default, County agrees to hold City harmless from any cost beyond that which was contemplated by the scope of the City SOW at the time of default.

Section 10: Liability and Insurance

10.01 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. Furthermore, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

10.02 Without waiving the right to sovereign immunity as provided by Florida Statutes Section 768.28, the parties acknowledge that they are each self-insured for general liability under Florida sovereign immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may be established by the Florida legislature.

Section 11: Term

The term of this Agreement shall commence upon execution of the Agreement by the County (Effective Date) and shall extend for three (3) years or until the completion of the City Radio System, whichever is longer, unless terminated pursuant to Section 12 of this Agreement. The City and County can mutually agree to extend this Agreement for any duration acceptable to both parties.

Section 12: Termination

12.01 The City and County may unilaterally terminate this Agreement as provided in other sections of this Agreement. At any time prior to the County's receipt of the City's Radio System Election, the City may, for any reason, terminate this Agreement. In the event the City terminates the Agreement, the City shall provide written notice to the County. Within 5 business days of County's receipt of notice, the County shall terminate the services of the Consultant pursuant to the terms of the Consultant contract and the City agrees that it will reimburse the County for all costs incurred up to the date of the termination of the Consultant's contract.

12.02 At any time prior to the County's receipt of the City's Radio System Election, the County may, for any reason, terminate this Agreement by providing written notice to the City which shall be effective immediately upon receipt. The County shall

terminate the services of the Consultant pursuant to the terms of the Consultant contract and the City agrees that it will reimburse the County for all costs relating to the City CSA incurred up to the date of the termination of the Consultant's contract.

12.03 In the event the County receives a City Radio System Election from the City, then thereafter, neither party shall have the right to terminate this Agreement unless the other party is in default of its obligations contained in this Agreement.

Section 13: 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 receipt, as evidenced by the Return Receipt. All notices shall be addressed to the following:

As to the County:

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

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

With a copy to:

County Attorney's Office
301 North Olive Avenue
West Palm Beach, Florida 33401

As to Delray Beach:

City Manager, City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL 33444

With copy to:

Chief of Police
300 W Atlantic Avenue
Delray Beach, FL 33444

Section 14: 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 15: Filing

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

Section 16: Delegation of Duty

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

Section 17: Time is of the Essence

Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

Section 18: Non-Discrimination

The parties agree that no person shall, on the grounds of age, race, color, sex, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information 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 19: Force Majeure

Any party delayed by a Force Majeure Event, as defined herein, in performing under this Agreement shall use reasonable efforts to remedy the cause or causes of such Force Majeure Event. A delay due to a Force Majeure Event shall serve to toll the time to perform under this Agreement. "Force Majeure Event" shall mean any act of God, fire, flood, earthquake, explosion, hurricane, riot, sabotage, terrorist attack, windstorm, failure of utility service, or labor dispute.

Section 20: Inspector General Audit Requirements

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, 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 21: Construction

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 22: 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 23: Effective Date

This Agreement shall be expressly contingent upon the approval of the City Commission of the City of Delray Beach which must be followed by the approval of the Palm Beach County Board of County Commissioners, and the Agreement shall become effective only when signed by the City Commission of the City of Delray Beach followed by the signature of the Palm Beach County Board of County Commissioners.

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

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

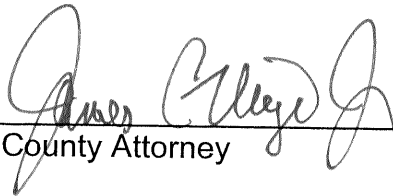
PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED AS TO TERMS AND
CONDITIONS:

By:  _____
County Attorney

By: _____
Audrey Wolf, Director
Facilities Development & Operations

ATTEST:

CITY CLERK

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

By: _____
_____, City Clerk

By: _____
_____, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
_____, City Attorney