

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 4, 2019

Consent

Regular

Ordinance

Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a First Amendment to Interlocal Agreement (R2013-1796) with the U.S. Fish & Wildlife Service -Arthur R. Marshall Loxahatchee National Wildlife Refuge- ("Participant") to retroactively extend the term of the Agreement allowing for direct access to the County's Public Safety Radio System ("System") through December 15, 2022.

Summary: The Agreement, which provides the terms and conditions under which the Participant can directly access the System, expired on December 16, 2018. The Agreement provides for two (2) renewal options, each for a period of four (4) years. The Participant has approved a renewal to retroactively extend the term of the Agreement through December 15, 2022 and the renewal now requires the Board approval. The terms of this Agreement are standard and have been offered to all municipalities and local branches of State/Federal agencies where connection through an established municipal hub is not technically feasible. The Participant has been interoperable with the County's System since 2002. The annual fees are consistent with those being charged to the County Departments. In addition, the Participant is required to pay all costs associated with Participant's subscriber units and to comply with the established operating procedures for the System. The Agreement may be terminated by either party, with or without cause on October 1st of any year, with a minimum of six months' notice. The First Amendment renews the term, updates the number of transmit & receive sites, modifies the indemnification and liability language, adds standard County nondiscrimination, assignment, severability, counterparts and effective date provisions and replaces Attachment I . (ESS) Countywide (LDC)

Background and Justification: The Agreement, which provides the terms and conditions under which the Participant can directly access the County's 800 MHz Radio System, expired on December 16, 2018. The Agreement provided for two (2) renewal for terms of four (4) years each. After approval of this First Amendment, there will be one (1) remaining renewal option.

Attachments:

First Amendment to Interlocal Agreement

| | | |
|------------------------|-----------------------------|---------------|
| Recommended By: | <i>MB Army Wolf</i> | <i>5/6/19</i> |
| | Department Director | Date |
| Approved By: | <i>CR Baker</i> | <i>5/</i> |
| | County Administrator | Date |

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2019 | 2020 | 2021 | 2022 | 2023 |
|--|------------------|------------------|------------------|------------------|-------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | (\$3,070) | (\$3,070) | (\$3,070) | (\$3,070) | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | <u>(\$3,070)</u> | <u>(\$3,070)</u> | <u>(\$3,070)</u> | <u>(\$3,070)</u> | _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |

Is Item Included in Current Budget: Yes No

Does this item include the use of federal funds? Yes No

Budget Account

No:

| | | | | | | | | |
|------|-------------|------|------------|------|-------------|----------------|-------------|------------------|
| Fund | <u>0001</u> | Dept | <u>410</u> | Unit | <u>4150</u> | Revenue Source | <u>4901</u> | <u>(\$1,061)</u> |
| Fund | <u>3801</u> | Dept | <u>411</u> | Unit | <u>B209</u> | Revenue Source | <u>3728</u> | <u>(\$2,009)</u> |

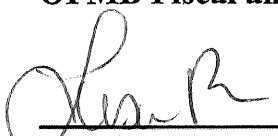
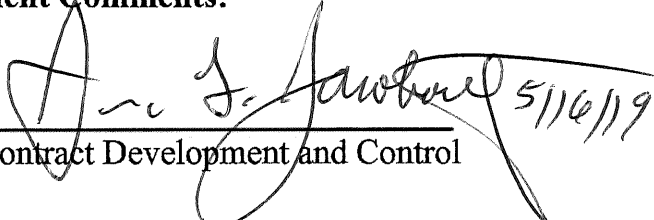
B. Recommended Sources of Funds/Summary of Fiscal Impact:

Revenue is based on the annual maintenance fee (\$176.72/radio) and renewal and replacement fee (\$334.88/radio) for six radios.

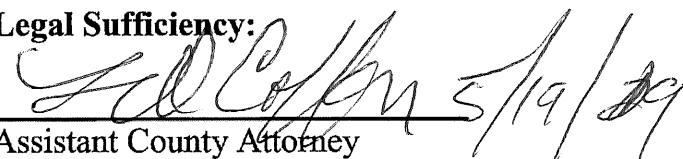
C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

| | | | |
|--|----------------|---|----------------|
| <u></u> OFMB | <u>5/16/19</u> | <u></u> Contract Development and Control | <u>5/16/19</u> |
|--|----------------|---|----------------|

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

Department Director

**FIRST AMENDMENT
TO INTERLOCAL AGREEMENT**

THIS FIRST AMENDMENT to Interlocal Agreement R2013-1796, (“Agreement”), is made and entered into on _____, by and between Palm Beach County, a political subdivision of the State of Florida (“County”), and the U.S. Fish & Wildlife Service (Arthur R. Marshall Loxahatchee National Wildlife Refuge), an office of the United States Department of the Interior (“Participant”).

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

1. The term of the Agreement expired on December 16, 2018 and shall be retroactively extended through December 15, 2022 pursuant to the exercise of the first of two (2) four (4) year renewal options.
2. Section 3.01 of the Agreement is deleted in its entirety and replaced with the following:

County The County System consists of eleven (11) transmit and receive sites with co-located microwave equipment and three (3) microwave only sites that provide network connectivity as well as the SmartZone Controller.

3. Paragraphs one and two of section 10 of the Agreement are deleted in its entirety and replaced with the following:

The County makes no representations about the design or capabilities of the County’s System. The Participant has decided to enter into this Agreement and use the County’s System based on its review of the System design, System coverage, manufacturing and installation details contained in the County’s contract with Motorola R2015-1673, dated 11/17/15 and review of any subsequent field measurements and testing data as may exist. The County agrees to use its best efforts to provide the Participant with the use of the System described in the Agreement, but makes no guarantee as to the continual, uninterrupted use of the System, or its fitness for the communication needs of the Participant.

Participant shall, to the extent permitted by Florida law and subject to the limits of liability set forth in Section 768.28, Florida Statutes, indemnify, defend and save County harmless from and against any and all claims, actions, damages, liability and expense in connection with: (i) loss of life, personal injury and/or damage to or destruction of property arising from or out of any use or lack thereof, of the County’s System; (ii) use by Participant, or (iii) any act or omission of Participant, its agents, contractors, employees or invitees. In case County shall be made a party to any litigation commenced against Participant or by Participant against any third party, Participant shall to the extent

permitted by Florida law protect, defend and hold harmless and pay all costs and attorneys fees incurred by County in connection with such litigation, and any appeals thereof.

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

SECTION 23: NON-DISCRIMINATION

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

SECTION 21: ASSIGNMENT

Participant may not assign, mortgage, pledge, or encumber this Agreement in whole or in part, without prior written consent of County, which may be granted or withheld at the County's absolute discretion. This provision shall be construed to include a prohibition against an assignment, mortgage, pledge, encumbrance or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

SECTION 22: SEVERABILITY

If any term of the Agreement or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24: COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

SECTION 29: 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.

5. Attachment 1 to the Agreement is hereby deleted in its entirety and is hereby replaced by Attachment 1 attached hereto and made a part hereof.
6. Except as modified by this First Amendment, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof and is hereby ratified and confirmed by the Participant and the County.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

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

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

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

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

**APPROVED AS TO TERMS AND
CONDITIONS:**

By: _____
County Attorney

By: MB Audrey Wolf
Audrey Wolf, Director
Facilities Development & Operations

WITNESS:

U.S. Fish & Wildlife Service (Arthur R
Marshall Loxahatchee National Wildlife
Refuge)

By: _____
Signature of Witness
Nelson Crawford
Printed Name of Witness

By: _____
Signature
Steve Sponaugle, Chief-APO
Print Name and Title

Attachment I

PALM BEACH COUNTY PUBLIC SAFETY RADIO SYSTEM POLICIES AND PROCEDURES

Policy / Procedure Title

1. Countywide Use of 800 MHz System (O.P. # I-01)
2. Countywide Use of 800 MHz System Talk Groups (O.P. # I-04)
3. Monitoring and Evaluation of Public Safety Radio System Talk Groups (O.P. # I-05)
4. Emergency Medical Communications (O.P. # I-06)
5. Reporting of Problems and Modifications of the Public Safety Radio System (O.P. # I-07)
6. Countywide Use of Public Safety Radio System During Times of Catastrophic Failure which result in non-trunking “conventional” operation (O.P. # I-10)
7. Network Maintenance and Administration Plan