

6F-1

Agenda Item #:

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: September 14, 2021 [ ] Consent [X] Regular  
[ ] Ordinance [ ] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a First Amendment (Amendment) to Communication Tower Agreement with the City of West Palm Beach (City).

**Summary:** In 2015, the City constructed a 440-foot guyed communication tower. On May 5, 2015, the County and the City entered into a Communication Tower Agreement (R2015 0573) (Tower Agreement) whereby the County relocated its antenna equipment to the new tower and constructed its own equipment building in order to maintain its public safety and public service communication capabilities. Subsequently, it was determined that the County's share of the Replacement and Renewal Costs were not consistently stated between the Board item, the body of the agreement and the exhibits, as it indicated the monthly contribution, not the annual contribution. In addition, the City permitted another entity to occupy a tower slot reserved for the County, so the County's contributions needed to be reevaluated and the exhibit demonstrating the location of the antenna equipment needed to be updated. This Amendment rectifies these inaccuracies and correctly sets forth the County's annual Replacement and Renewal (R/R) contribution and updates the location of the County's antenna equipment on the tower. The Amendment also sets forth the understanding between the County and the City as to how reserved slots for future use on the tower will be treated if another tower tenant seeks to utilize one of the County's reserved slots for future use. Under said circumstances, the City will be required to ensure that the County is paid an amount equal to 75% of all maintenance and R/R costs paid to date by the County for the reserved slot. Upon execution of this Amendment, the City shall invoice and the County shall pay the amount owed as if County had been assessed the correct Replacement and Renewal cost from the inception of the Tower Agreement. Other than the changes set forth herein, all other terms remain the same. Funding for this Agreement is from the 800 MHz Replacement, Repair & Improvement Fund. (FDO Admin) Countywide/ District 7 (MWJ)

**Background and Policy Issues:** Previously, the City and the Palm Beach County Sheriff's Office (PBSO) had an interlocal agreement for use of the City's communications tower located at 5801 Ernest Street at the City's wastewater treatment plant (WWTP) for public safety radio equipment. The County administered that agreement on behalf of PBSO when the County's public safety radio system became operational. In 2015, the City constructed a new tower at its sole cost and demolished the existing tower to accomplish an expansion of the WWTP. The Tower Agreement replaced the prior interlocal agreement and allowed the County to transfer all existing tower use reservations to the new City tower and to construct a new communications equipment shelter with back-up generator. Under the Tower Agreement, the City agreed to perform all on-going maintenance/repair and the renewal/replacement of the radio tower itself, with County paying a flat user fee (\$10/yr), and a maintenance fee and the renewal/replacement fee based on County's pro rata share of the maintenance and renewal/replacement costs. The term of the Tower Agreement is for thirty (30) years.

**Attachments:**

First Amendment to Communication Tower Agreement

Recommended By: MR. [Signature] 8/18/21  
Department Director Date  
Approved By: [Signature] 9/2/21  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2021	2022	2023	2024	2025
<b>Capital Expenditures</b>					
<b>Operating Costs</b>	(\$213,958)	(\$35,660)	(\$35,660)	(\$35,660)	(\$35,660)
<b>External Revenues</b>					
<b>Program Income (County)</b>					
<b>In-Kind Match (County)</b>					
<b>NET FISCAL IMPACT</b>	(\$213,958)	(\$35,660)	(\$35,660)	(\$35,660)	(\$35,660)
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>					

**Is Item Included in Current Budget:** Yes  No   
**Does this item include the use of federal funds?** Yes  No

Budget Account

No:

Fund	3801	Dept	411	Unit	B209	Object Code	4623	(\$142,521.40)
Fund	3801	Dept	411	Unit	B547	Object code	4907	(\$45,484.00)
Fund	3801	Dept	411	Unit	B548	Object code	4907	(\$25,952.60)

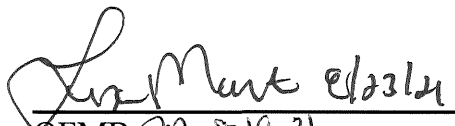
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

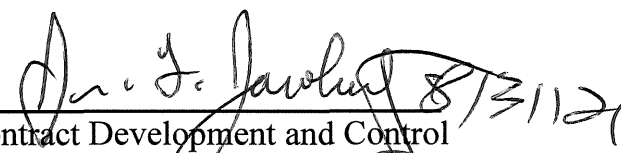
The funding for the Maintenance and R/R Payment is from the 800 MHz Replacement, Repair & Improvement Fund.

**C. Departmental Fiscal Review:** 

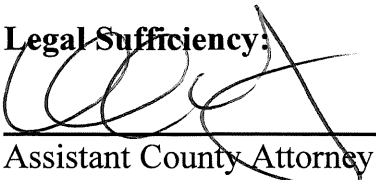
**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

  
 OFMB *JA* 8-19-21 LM 8/23

  
 Contract Development and Control 8/31/21  
 8-30-21 *TD*

**B. Legal Sufficiency:**

  
 Assistant County Attorney 8/31/21

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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

**FIRST AMENDMENT TO  
COMMUNICATION TOWER AGREEMENT**

WPB Contract No. 14580.001

This FIRST AMENDMENT to Communications Tower Agreement is made as of \_\_\_\_\_, 2021, by and between the **CITY OF WEST PALM BEACH**, a municipal corporation of the State of (the "**City**"), and **PALM BEACH COUNTY**, a political subdivision of the State of Florida, ("**County**" or "**Authorized User**");

WHEREAS, the City constructed a new 440-foot guyed communication tower and equipment building area on property located at 5801 Ernest Street, West Palm Beach, FL 33409 to replace City's existing communications tower used by City and by public safety and local government agencies; and

WHEREAS, pursuant to that Communication Tower Agreement, dated May 5, 2015, by and between the City and County (R2015 0573) (the "**Agreement**"), the County relocated its Antenna Equipment to the new tower and constructed its own equipment building and appurtenances on a portion of the tower property in order to maintain its public safety and public service communication capabilities; and

WHEREAS, subsequently, the parties determined that Exhibit C did not accurately reflect the Antenna Equipment actual locations on the tower; and

WHEREAS, subsequently, the parties determined that Section 6.3.3 of the Agreement incorrectly stated the County's share of the Replacement and Renewal Costs ("**R&R Costs**"), as it indicated the monthly calculation, not the annual contribution; and

WHEREAS, the parties desire to amend the Agreement, along with Exhibits C, F & G, to correct the error;

NOW, THEREFORE, in consideration of the agreements contained in this Amendment, along with other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Reservation for Future Use**. The Agreement is hereby modified to add the following:

5.3.1 The City shall exercise good faith efforts to ensure that one Authorized User does not occupy tower space reserved for another Authorized User's future use, as identified in **Exhibit C**. Prior to the City considering another Authorized User's request for a reserved slot, the City shall proceed as follows.

a) City shall advise the Authorized User with the reserved slot (“Reserver”) of the request and identify a replacement slot within 10’ of the reserved slot for the Reserver’s consideration. If the request is for a public safety need that cannot be met at an unreserved slot or another tower, and an equivalent slot exists, as determined by Reserver and City, for the Reserver’s reservation, the City may process an amendment to the Agreement reflecting the new reserved slots. Updates to Exhibit C, along with all structural and intermodulation studies, as required by Section 5.4 of the Agreement, shall be completed through an amendment prior to the requesting Authorized User placing any equipment in or near the originally reserved slot.

b) If no replacement slot exists for the Reserver and the City permits an Authorized User (“Proposer”) to occupy the Reserver’s prior reserved slot, the City shall: 1) calculate maintenance and R&R Costs paid to date by Reserver for the reserved slot; and 2) confirm that the Proposer has paid the Reserver an amount equal to seventy-five percent (75%) of all payments Reserver has made for maintenance and R&R Costs for the reserved slot. Such payment shall be made prior to the Proposer placing any equipment in or near the reserved slot, and not more than 60 days from the City’s approval of the Proposer’s use of the Reserver’s reserved slot.

2. **R&R Cost.** Section 6.3.3 of the Agreement is hereby amended and replaced and shall now read as follows:

6.3.3 As of the date of this Agreement, the County’s annual share of the R&R Costs shall be Thirty-Two Thousand Two Hundred Thirty-Six and 47/100 Dollars (\$32,236.47). City shall invoice County on each anniversary of the date of this Agreement during the Term of this Agreement or any extensions thereof, and payment shall be due within forty-five (45) days of County’s receipt of the invoice.

2. **Exhibits.** Pursuant to Section 16.19 of the Agreement, the Exhibits shall be amended and updated from time to time and such amended and updated Exhibits shall be incorporated and become part of the Agreement. The original Exhibit C, Exhibit F and Exhibit G are hereby amended and replaced by the **Exhibit C** – Antenna Equipment List, **Exhibit F-** Computation of Maintenance Fee and **Exhibit G-** Computation of Renewal and Replacement Fee attached to this Amendment, which are hereby incorporated into the Agreement.

3. **Reimbursement.** The County and City agree that City shall invoice and the County shall pay the amount owed as if County had been assessed the correct R&R cost noted above from the inception of this Agreement.

4. **Defined Terms.** Terms not specifically defined in this Amendment shall have the same meaning as given in the Agreement.

5. **Effect of Amendment.** Except to the extent the Agreement is modified by this Amendment, the terms and provisions of the Agreement shall remain unmodified and in full force and effect. In the event of a conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall govern and prevail.

[Signatures on following page.]

IN WITNESS WHEREOF, County and City have executed or have caused this Amendment, with the revised Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:

JOSEPH ABRUZZO, CLERK OF THE  
CIRCUIT COURT & COMPTROLLER

PALM BEACH COUNTY, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Dave Kerner, Mayor

(SEAL)

Date: \_\_\_\_\_

APPROVED AS TO FORM AND TO  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By: \_\_\_\_\_  
County Attorney

By: \_\_\_\_\_  
Director of Facilities Development &  
Operations

ATTEST:

CITY OF WEST PALM BEACH

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Keith A. James, Mayor

Date: 7/27, 2021

OFFICE OF THE CITY ATTORNEY  
Approved as to form and legality

(SEAL)

By: \_\_\_\_\_

Exhibit C  
City of WPB Tower-2 Equipment List  
(ASR-1294534)

Item #	Hole	Elevation (FT)	Tower Leg	Owner	Antenna Description	Banding / Notes
1	18	435		MPSCC	TTA to BCD-80010	
2	28	435	N	PBC	DB264	1 band orange, one band of red
3	17	435		MPSCC	BCD-80010 to TTA	2 bands of red
4	27	430	SE Face	PBC	DB268	1 band yellow, 1 red
5	16	410	S	MPSCC	BCD-80010	2 bands of white
6		380		PBC	DB420 (future)	RESERVED
7		380		PBC	DB264 (future)	RESERVED
8	26	355	East	Secret Svc	DB264	2 bands of white
9	29	353	S	Amateur	DB224-E	1 band of red
10	13	350	N	WPB	DB264 w/ TTA	7/8" single band of blue (RCV), 1/2" two bands of blue (TEST)
11	14	330	N	WPB	BCD-80010	1 band of white (TX)
12	15	326	N	WPB	BCD-80010	1 band of red (TX)
13		320		PBC	BCD-80010 (future)	RESERVED
14	22-1	280	N	WPB	ANT22OF6	1 band of blue
15	22-2	260	N	WPB	ANT22OF6	1 band of green
16	2	251	N	PBC	8' MW Dish	1 band of yellow
17	3	220	N	PBC	6' MW Dish	1 band of red
18	1	203	N	PBC	4' MW Dish	2 bands of yellow
19	4	195	S	PBC	6' MW Dish	1 band of orange
20	18-2	170	N	PMSCC	6' MW Dish	3 bands of red
21	5	155	S	PBC	6' MW Dish	2 bands of orange
22	20	145	East	WPB	2' MW Dish	no markings
23	18-1	140	S	MPSCC	6' MW Dish	3 bands of white
24	6	123	S	PBC	6' MW Dish	1 band of white
25	21	115	East	WPB	4' MW Dish	no markings
26	23-1	100	NW	WPB	ANT22OF6	1 band of purple
27	25	100	S	PBC	DB222	2 bands of red
28	23-2	80	NW	WPB	ANT22OF2	1 band of yellow
29	24	63	NW	WPB	ANT22OF2	1 band of orange

**EXHIBIT F**

**City of West Palm Beach  
Communication Tower Agreement (Resolution No. 134-15)  
Computation of Estimated Yearly Maintenance Cost and Replacement and Recovery Costs**

<b>Yearly Maintenance Cost for Tower #2</b>	<b>Cost</b>	<b>Yearly Replacement and Recovery Costs for Tower #2</b>	<b>Cost</b>	<b>Total</b>
Inspection	\$ 2,500.00	Original Cost of Tower	929,359.00	
Tower Lighting Repairs	\$ 1,630.00	CPI over 30 years	1,020,034.31	
Plumb and Tension	\$ 900.00	Estimated Tower Replacement Costs	1,949,393.31	
Ground System	\$ 250.00			
Weed Spraying	\$ 1,600.00			
<b>Total Yearly Cost</b>	<b>\$ 6,880.00</b>	Recovery of Cost Annually (over 30years)	64,979.78	71,859.78
<b>Total Monthly Cost</b>	<b>\$ 573.33</b>	Monthly (over 360 months)	5,414.98	5,988.31
<b>Allocation of Costs Per Agreement Schedule F</b>	<b>%</b>	<b>Allocation of Costs Per Agreement Schedule G</b>	<b>%</b>	<b>%</b>
City (WPB)	36.38%	City (WPB)	36.38%	36.38%
Palm Beach County (County)	49.61%	Palm Beach County (County)	49.61%	49.61%
MPSCC	14.01%	MPSCC	14.01%	14.01%
	<u>100.00%</u>		<u>100.00%</u>	<u>100.00%</u>
<b>Allocation of Costs Per Agreement Schedule F</b>	<b>Annually</b>	<b>Allocation of Costs Per Agreement Schedule G</b>	<b>Annually</b>	<b>Annually</b>
City (WPB)	\$ 2,502.94	City (WPB)	\$ 23,639.64	26,142.59
Palm Beach County (County)	\$ 3,413.17	Palm Beach County (County)	\$ 32,236.47	35,649.64
MPSCC	\$ 963.89	MPSCC	\$ 9,103.67	10,067.55
	<u>\$ 6,880.00</u>		<u>\$ 64,979.78</u>	<u>71,859.78</u>
<b>Allocation of Costs Per Agreement Schedule F</b>	<b>Monthly</b>	<b>Allocation of Costs Per Agreement Schedule G</b>	<b>Monthly</b>	<b>Monthly</b>
City (WPB)	\$ 208.58	City (WPB)	\$ 1,969.97	2,178.55
Palm Beach County (County)	\$ 284.43	Palm Beach County (County)	\$ 2,686.37	2,970.80
MPSCC	\$ 80.32	MPSCC	\$ 758.64	838.96
	<u>\$ 573.33</u>		<u>\$ 5,414.98</u>	<u>5,988.31</u>

**City of West Palm Beach**  
**Communication Tower Agreement**  
**EXHIBIT F**  
**Computation of Estimated Yearly Maintenance Cost**

Item	Cost	Notes
Inspection	\$ 2,500.00	(Yearly, 1 climber, 1 ground, 6 hours, 4 hours for sweeps, no travel)
Tower Lighting Repairs	\$ 1,630.00	(Yearly, 1 climber, 1 ground, 3 hours, no travel, estimated \$1,000/parts/year)
Plumb and Tension	\$ 900.00	(Every Five years, \$4,500/5 = \$900)
Ground System	\$ 250.00	
Weed Spraying	\$ 1,600.00	
<b>Total Yearly Cost</b>	<b>\$ 6,880.00</b>	Base maintenance cost shared between WPB, County and MPSCC
<b>Total Monthly Cost</b>	<b>\$ 573.33</b>	
<b>Allocation of Costs Per Agreement Schedule F</b>		<b>%</b>
City (WPB)		36.38%
Palm Beach County (County)		49.61%
MPSCC		14.01%
		<u>100.00%</u>
<b>Allocation of Costs Per Agreement Schedule F</b>		<b>Annually</b>
City (WPB)	\$ 2,502.94	
Palm Beach County (County)	\$ 3,413.17	
MPSCC	\$ 963.89	
	<b>\$ 6,880.00</b>	
<b>Allocation of Costs Per Agreement Schedule F</b>		<b>Monthly</b>
City (WPB)	\$ 208.58	
Palm Beach County (County)	\$ 284.43	
MPSCC	\$ 80.32	
	<b>\$ 573.33</b>	



**City of West Palm Beach  
Communication Tower Agreement**

**EXHIBIT G**

**Computation of Renewal and Replacement Cost**

Item	Cost	Notes	Year	CPI (Amount)	CPI Rate	Dollar Value
Original Cost of Tower	929,359.00		0	2015	-	929,359.00
<i>CPI over 30 years</i>	<u>1,020,034.31</u>	Calculated at 2.5%	1	2016	23,233.98	952,592.98
Estimated Tower Replacement Costs	1,949,393.31		2	2017	23,814.82	976,407.80
			3	2018	24,410.19	1,000,817.99
Recovery of Cost Annually	64,979.78		4	2019	25,020.45	1,025,838.44
Monthly	5,414.98		5	2020	25,645.96	1,051,484.41
			6	2021	26,287.11	1,077,771.52
Allocation of Costs Per Agreement Schedule G	%		7	2022	26,944.29	1,104,715.80
City (WPB)	36.38%		8	2023	27,617.90	1,132,333.70
Palm Beach County (County)	49.61%		9	2024	28,308.34	1,160,642.04
MPSCC	14.01%		10	2025	29,016.05	1,189,658.09
	<u>100.00%</u>		11	2026	29,741.45	1,219,399.54
			12	2027	30,484.99	1,249,884.53
			13	2028	31,247.11	1,281,131.65
Allocation of Costs Per Agreement Schedule G	<b>Annually</b>		14	2029	32,028.29	1,313,159.94
City (WPB)	\$ 23,639.64		15	2030	32,829.00	1,345,988.94
Palm Beach County (County)	\$ 32,236.47		16	2031	33,649.72	1,379,638.66
MPSCC	\$ 9,103.67		17	2032	34,490.97	1,414,129.63
	<u>\$ 64,979.78</u>		18	2033	35,353.24	1,449,482.87
			19	2034	36,237.07	1,485,719.94
			20	2035	37,143.00	1,522,862.94
Allocation of Costs Per Agreement Schedule G	<b>Monthly</b>		21	2036	38,071.57	1,560,934.51
City (WPB)	\$ 1,969.97		22	2037	39,023.36	1,599,957.87
Palm Beach County (County)	\$ 2,686.37		23	2038	39,998.95	1,639,956.82
MPSCC	\$ 758.64		24	2039	40,998.92	1,680,955.74
	<u>\$ 5,414.98</u>		25	2040	42,023.89	1,722,979.63
			26	2041	43,074.49	1,766,054.12
			27	2042	44,151.35	1,810,205.48
			28	2043	45,255.14	1,855,460.61
			29	2044	46,386.52	1,901,847.13
			30	2045	47,546.18	1,949,393.31
					<u>1,020,034.31</u>	

<b><u>Annual Fees</u></b>	<b><u>Amount</u></b>
Annual User Fee	\$ 10.00
Maintenance Fee	\$ 3,413.17
Renewal and Replacement Costs	<u>\$ 32,236.47</u>
Total to be invoiced	<u><u>\$ 35,659.64</u></u>