

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

Meeting Date: **October 5, 2021** **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 (R2016-1487) with the City of Delray Beach (“City”) to extend the term of the Agreement through October 16, 2026.

Summary: The Interlocal Agreement with the City provides the terms and conditions under which the City can use the County’s microwave system to transport radio signals from the City’s tower to the County’s Master Site. Under the terms of the Interlocal Agreement, the City pays a pro rata share of the operational and maintenance costs associated with the microwave system. The costs for each fiscal year are provided by the County by March 1st annually. The costs for fiscal year 2021 were \$13,062. The existing agreement expires on October 17, 2021 and the City has approved the first renewal option extending the term through October 16, 2026. The Interlocal Agreement provides for four (4) renewal options, each for a period of five (5) years. The Interlocal Agreement may be terminated by either party, with or without cause, upon one (1) years notice. The First Amendment renews the term, and adds standard County nondiscrimination, insurance, applicable law, public records and E-Verify employment provisions. Other than the changes set forth herein, all other terms remain the same. **(ESS) Countywide (MWJ)**

Background and Justification: The Agreement, which provides the terms and conditions under which the City can use the County’s microwave system to transport radio signals from the City’s tower to the County’s Master Site, expires on October 17, 2021. The Agreement provides for four (4) renewals of terms of five (5) years each. After approval of this First Amendment, there will be three (3) renewal options remaining.

Attachments:

First Amendment

Recommended By: MB *Samie C. Royal Cellog* 9/17/2021
Department Director Date

Approved By: *Shonda M. Miller* 9/22/2021
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures					
Operating Costs	<u>\$13,062</u>	<u>\$13,062</u>	<u>\$13,062</u>	<u>\$13,062</u>	<u>\$13,062</u>
External Revenues	<u>(\$13,062)</u>	<u>(\$13,062)</u>	<u>(\$13,062)</u>	<u>(\$13,062)</u>	<u>(\$13,062)</u>
In-Kind Match (County	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$0)</u>	<u>(\$0)</u>	<u>(\$0)</u>	<u>(\$0)</u>	<u>(\$0)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget:	Yes	<u> X </u>	No	_____	
Does this item include the use of Federal funds?	Yes	_____	No	<u> X </u>	

Budget Account

No:

Fund	<u> 0001 </u>	Dept	<u> 410 </u>	Unit	<u> 4150 </u>	Object	<u> 3401 </u>	_____
Fund	<u> 0001 </u>	Dept	<u> 410 </u>	Unit	<u> 4150 </u>	Revenue Source	<u> 4900 </u>	_____

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 costs for the microwave will be provided by the County to the City no later than March 1st annually.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

Steve Martin 9/20/21
OFMB 9-17-21 JA
Parsons account 9/17/21

Angela J. Jordan 9/20/21
Contract Development and Control

B. Legal Sufficiency:
[Signature] 9/21/21
Assistant County Attorney

C. Other Department Review:

Department Director

**FIRST AMENDMENT
TO INTERLOCAL AGREEMENT**

THIS FIRST AMENDMENT to Interlocal Agreement R2016-1487, is made and entered into on _____, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and the City of Delray Beach, a municipal corporation of the State of Florida ("City").

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

1. The term of the Agreement expires on October 17, 2021 and shall be extended through October 16, 2026 pursuant to the exercise of the first five (5) year renewal option.
2. The Agreement is hereby modified to add the following:

SECTION 3A: INSURANCE

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the City represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If CITY is not self-insured, CITY shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

Should CITY purchase excess liability coverage, CITY agrees to include County as an Additional Insured.

The CITY agrees to maintain or to be self-insured for Workers' Compensation Insurance in accordance with Chapter 440, Florida Statutes.

Should CITY contract with a third-party (Contractor) to perform any service related to the AGREEMENT, CITY shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include CITY and COUNTY as Additional Insureds. CITY shall also require that the Contractor include a Waiver of Subrogation against COUNTY.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

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When requested, the CITY shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the CITY of its liability and obligations under this Agreement.

3. Section 9 of the Agreement is deleted in its entirety and replaced with the following:

SECTION 9: APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida.

4. Section 14 of the Agreement is deleted in its entirety and replaced with the following:

Section 14: 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, AT&T 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.

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

Section 15: PUBLIC RECORDS

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the City: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the City shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The City is specifically required to:

- A. Keep and maintain public records required by the County to perform services as provided under this Contract.
- B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The City further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

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- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the City does not transfer the records to the public agency.
- D. Upon completion of the Contract the City shall transfer, at no cost to the County, all public records in possession of the City unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the City transfers all public records to the County upon completion of the Contract, the City shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the City keeps and maintains public records upon completion of the Contract, the City shall meet all applicable requirements for retaining public records. All records stored electronically by the City must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the City to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. City acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

SECTION 16: E-VERIFY-EMPLOYMENT ELIGIBILITY

16.01 City warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the City's contractors and subcontractors performing any duties and obligations of this Agreement are registered with the E-Verify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

16.02 County shall terminate this Agreement if it has a good faith belief that City has knowingly violated Section 448.09(1), Florida Statutes, as may be amended.

- 5. 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 City and the County.

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

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

ATTEST:

JOSEPH ABRUZZO
CLERK OF THE CIRCUIT
COURT & COMPTROLLER

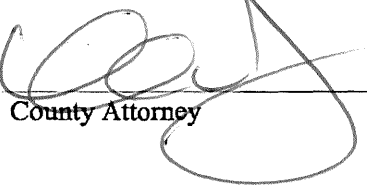
PALM BEACH COUNTY, a political
subdivision of the State of Florida

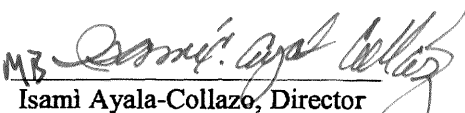
By: _____
Deputy Clerk

By: _____
Dave Kerner, Mayor

APPROVED AS TO
LEGAL SUFFICIENCY:

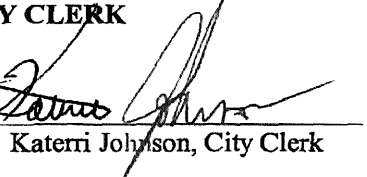
APPROVED AS TO TERMS AND
CONDITIONS:

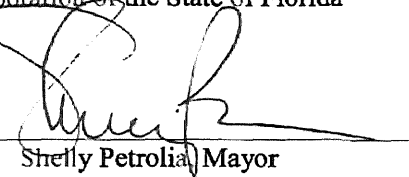
By: 
County Attorney

By: 
Isami Ayala-Collazo, Director
Facilities Development & Operations

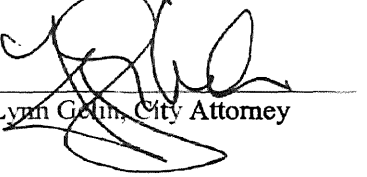
ATTEST:

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

CITY CLERK
By: 
Katerri Johnson, City Clerk

By: 
Shelly Petrolia, Mayor

APPROVED AS TO
LEGAL SUFFICIENCY:

By: 
Lynn Gelin, City Attorney