



Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
OCT 06 2015 JUK/LC

September 16, 2015

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Rafael Mena, Chief Information Officer
Information Systems & Services Division *R. Mena*

SUBJECT: Approval to sign an Interlocal Agreement between
Palm Beach County, Florida and Orange County, Florida

Palm Beach County contacted Orange County for access to the County Regional Computer Center (RCC) to host two racks of equipment supporting their 911 disaster recovery services. This redundant computer equipment will provide Palm Beach County a "hot site" that duplicates their primary system in the event their 911 services are disrupted.

This Interlocal Agreement is structured as a unilateral agreement allowing Orange County access to the Palm Beach data center if the need arises. There is no cost to Orange County since Palm Beach County will be responsible for all their installation and support costs associated with their equipment at the County RCC.

ACTION REQUESTED: **Approval of Interlocal Agreement with Orange County, Florida and Palm Beach County, Florida regarding access to the County's Regional Computer Center for Disaster Recovery at no cost to Orange County.**

RM/ri

c: Eric Gassman, Chief Accountability Officer, Office of Accountability
Rich Steiner, Enterprise Supervisor, Information Systems & Services

OCT 06 2015 *SLK/LC*

R 2015 1155

INTERLOCAL AGREEMENT

with

ORANGE COUNTY, FLORIDA and PALM BEACH COUNTY, FLORIDA

regarding

ACCESS TO THE COUNTY REGIONAL COMPUTER CENTER FOR DISASTER RECOVERY

This Agreement is entered into this 1st day of September, 2015, by and with Orange County, Florida, a charter county and a political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida (hereinafter referred to as the "County"), and Palm Beach County, Florida, a charter county and a political subdivision of the State of Florida, whose address is 301 North Olive Avenue, West Palm Beach, Florida, (hereinafter referred to as "Palm Beach County").

WITNESSETH

WHEREAS, Palm Beach County has a need for a disaster recovery site for its NG911 services with respect to public safety communications;

WHEREAS, the County can enter into a reciprocal agreement with Palm Beach County should the County desire to relocate or expand its disaster recovery site; and

WHEREAS, the parties as herein defined have determined that limited sharing of resources in a shared computer center that will meet the logistical needs of the parties, as well as improve emergency communication, and generally benefit the citizens served by the respective parties; and

WHEREAS, the parties desire to enter into this Agreement to establish basic parameters for sharing services and resources pertaining to the parties' computer centers; and

WHEREAS, this is an Interlocal Agreement entered into pursuant to the Florida Interlocal Cooperation Act of 1969, as set forth in Section 163.01, Florida Statutes, as amended.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, including the above whereas clauses which are hereby incorporated as terms of this Agreement, and other good and valuable consideration, the parties herein agree as follows:

Section 1. ***Definitions.***

A. "Regional Computer Center" or "RCC" shall mean the entirety of the county computer center including network infrastructure, computer operations, electrical power, air conditioning, site security, site generator, user specific items, or the shared resources as specified.

B. "Palm Beach County" shall mean "Palm Beach County, Florida," a political subdivision of the State of Florida.

C. "County" shall mean "Orange County, Florida," a charter county and political subdivision of the State of Florida.

D. "Party" or "Parties" shall mean Palm Beach County and/or Orange County.

E. "Project" shall mean the development and construction of shared computer services.

Section 2. **Respective Computer Equipment.** The Parties agree that the equipment provided by the County and the equipment provided by Palm Beach County shall be separate for the best use by each respective agency.

Section 3. **Ownership of Computer Equipment.** The Parties shall hold all rights to their respective System. Each Party shall be responsible for loss, insurance, damage, or destruction of their own equipment and supplies after same having been delivered.

Section 4. **Project Budget.** Each Party has agreed to pay its own costs in support of their system configuration, telephone company circuits, network costs, and any updates to their systems.

Section 5. **Responsibilities of the Parties.**

A. The County shall:

1. The County shall allow Palm Beach County access to the County's Regional Computer Center and assign space for Palm Beach County to install equipment to support their disaster recovery services.

2. The County shall provide and maintain electrical services to Palm Beach County for their disaster recovery equipment.

3. The County shall provide 24/7 access to Palm Beach County and its assigned vendors.

B. Palm Beach County shall:

1. Palm Beach County shall install equipment related to their disaster recovery services at no cost to the County.

2. Palm Beach County shall install and maintain any network connections at no cost to the County to maintain their system hardware/software for system functionality to remain operational.

3. Palm Beach County shall install any GPS antennas required for network clocks at no cost to the county.

4. Palm Beach County shall provide the County all power requirements, receptacles types, and quantities. These services will be installed by a provider of the County's choice at no cost to the County.

Section 6. ***Indemnification and Insurance.***

A. **Indemnification.** Each Party agrees to defend, indemnify and hold harmless the other Party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying Party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either Party to assume any liability for the acts, omissions and/or negligence of the other Party.

B. **Insurance.** Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, the Parties acknowledge to be self-insured for General Liability and Automobile Liability with coverage limits of as set forth in Section 768.28, Florida Statutes.

The Parties agree to maintain commercial insurance or to be self-insured for Workers' Compensation & Employers' Liability in accordance with Florida Statute 440.

Upon request, the Party shall provide an affidavit or Certificate of Insurance evidencing self-insurance or commercial insurance up to sovereign immunity limits, which the County agrees to find acceptable for the coverage mentioned above.

The County's failure to request proof of insurance or to identify any deficiency in coverage or compliance with the foregoing requirements shall not relieve the Party of its liability and obligations under this Agreement.

The Parties shall require all contractors performing work within the County right-of-way or easement areas to procure and maintain workers' compensation, commercial general liability, business auto liability and contractor's pollution liability coverage. Each Party shall be listed as an additional insured on all general liability policies.

Each Party will insure its own equipment.

Section 7. ***Relationship of the Parties.*** Palm Beach County and the County are each independent government entities and have no authority, express or implied, to bind each other except as may be expressly provided in this Agreement. Where consent or approval of a Party is required hereunder, such Party agrees not to unreasonably withhold or delay the giving of such consent or approval.

Section 8. ***Licenses and Permits.*** The Parties shall possess and maintain, throughout the term of this Agreement, all applicable licenses and permits for its operations in accordance with federal, State, and local laws and regulations.

Section 9. ***Employees.*** The Parties shall require all licensed professionals to have appropriate training and experience in the field in which he/she practices and shall possess and remain in good standing for all required licenses and occupational licenses in accordance with the laws of the State of Florida.

Section 10. ***Term and Termination.***

A. Term.

1. The term of this Agreement shall be from December 1, 2015 to December 31, 2025. The Parties shall provide all contracted services for the entire contract period. Failure to provide services during such time will place either Party in non-compliance with this Section and may result in the Agreement being breached or terminated.

2. This Agreement may be renewed for one (1) additional five-year term at the sole discretion of the County. The County shall notify Palm Beach County of any intent to renew this Agreement no less than sixty (60) days prior to the Agreement termination.

B. Termination.

1. Except as otherwise set forth herein, either Party may terminate this Agreement, without cause, sixty (60) calendar days after receipt of written notice of termination by the other Party. Such notice shall be made in writing and delivered in accordance with the Notice provision of this Agreement.

2. If Palm Beach County breaches any material term of this Agreement, the County may, in its sole discretion and by written notice of breach to Palm Beach County, terminate the whole or any part of this Agreement.

3. Termination as a result of breach of contract shall be upon no less than twenty-four (24) hour notice, and shall be made in writing.

4. After receipt of a notice of termination from a Party, and except as otherwise directed, the other Party shall:

a) Discontinue providing services under the Agreement on the date and to the extent specified in the notice of termination; and

b) Place no further orders or subcontracts for materials, services, or facilities relating to this Agreement; and

c) Terminate all orders and subcontracts to the extent that they relate to the performance of the terminated work; and

d) Handle all property and records as directed by the Party providing the termination notice; and

e) Prepare all necessary reports and documents required under the terms of the Agreement up to the date of termination, including the final report due at the end of the Agreement, if any, without reimbursement for services rendered in completing said reports beyond the termination date; and

f) Take any other reasonable actions as directed in writing.

Section 11. *Notices.*

A. Notice of Default. Notwithstanding anything herein to the contrary, no Party shall be considered in default for failure to perform the terms and conditions hereof, unless said Party shall have first received written notice specifying the nature of such failure, and said Party fails to cure the same within the time specified in such notice, or in the event no such time is provided within sixty (60) days of receipt of such written notice, unless otherwise provided herein.

B. Notices. Any notice required or permitted hereunder shall be delivered by hand delivery, express courier, or certified mail, return receipt requested, and shall be effective upon receipt of the same. Notices shall be delivered to each of the Parties at the following addresses or at such other addresses as specified by written notice in compliance with the terms of this paragraph.

The County: Orange County, Florida
Attention: CIO, Information Systems and Services
P.O. Box 1393
Orlando, Florida 32802-1393

Copy to: Orange County Administrator
P.O. Box 1393
Orlando, Florida 32802-1393

Palm Beach County: Palm Beach County
Attention: Director, Information Systems Services
301 North Olive Avenue, 8th floor
West Palm Beach, Florida 33401

Copy to: County Attorney's Office
Palm Beach County
301 North Olive Avenue, 6th floor
West Palm Beach, FL 33401

Section 12. *Miscellaneous.*

A. Supplies and Services. The Parties shall use its best efforts to obtain all supplies and services for use in the performance of this Agreement at the lowest practicable cost.

B. Venue. All claims, controversies, or disputes arising out of this Agreement shall be settled as required herein or by law in the Ninth Judicial Circuit, Orange County, Florida.

C. No Partnership or Agency. All Palm Beach County personnel shall be considered to be, at all times, the sole employees of Palm Beach County, and not employees or agents of the County. Nothing in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of master/servant, principal/agent, employer/employee, or joint venture partnership between County and Palm Beach County.

D. Severability. If any sentence, phrase, paragraph, provision or portion of the Agreement is held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be considered an independent provision and the finding shall have no effect on the validity of the balance of this Agreement.

E. Entire Agreement. This Agreement constitutes the entire agreement, including terms and conditions, agreed upon by the Parties and shall supersede and replace all prior agreements or understandings, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed, and attached to the original of this Agreement. The Parties agree to renegotiate this Agreement if revisions of any applicable laws or regulations make changes in this Agreement necessary. The Parties agree to renegotiate this Agreement if and when the County requests reciprocity whereby Palm Beach County will make similar space available to the County in our data center. All items incorporated by reference are as though physically attached.

F. Applicable Law. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

G. No provision in this Agreement shall provide to any person not a party to this Agreement any remedy, claim, or cause of action, or create any third-party beneficiary rights against either party. In the event that any one or more of the provisions in this Agreement shall for any reason be held to have no force and effect, this Agreement shall, if possible, be interpreted in a manner so as to effectuate the intention of the parties. Provisions contained in this Agreement that, by their sense and context, are intended to survive the suspension or termination of this Agreement shall so survive. All disputes related to this Agreement shall in the first instance be referred to the appropriate executives of each party for resolution.

IN WITNESS WHEREOF, this Agreement has been fully executed on behalf of the parties hereto by their duly authorized representatives, as of the date first above written.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs, County Mayor

Date: 10.6.15

ATTEST: Martha O. Haynie, County Comptroller
as Clerk to the Board of County Commissioners

By: *Kate Smith*
Deputy Clerk

R 2015 1155

PALM BEACH COUNTY, FLORIDA

By: Board of County Commissioners

By: *Shelley Vana*
Shelley Vana, County Mayor

ATTEST:

Sharon R. Bock, Clerk & Comptroller

By: *Tracy Paul*
Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *Paul F. Jr*
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: *Steve Bordelon*
Information Systems Services