

Interlocal Agreement with City of Hollywood

Overview of Timeline & Key Terms

Key Dates (assuming no agreed extensions)

Date	Description
Effective Date	Date executed by all parties, provided conditions of Section 1 met. (County meeting 6/18; City meeting 6/19) (§ 1)
June 19, 2019	City must approve reconsideration of Site Plan Application denial or ILA null and void (§ 1)
June 29, 2019	Independent Expert must be identified (10 days after ED; may be extended by mutual agreement) (§ 2.1)
July 3, 2019	City must approve Site Plan Application or ILA null and void (§ 1)
July 19, 2019	Independent Expert retainer agreement executed (15 business days after identification) (§ 2.2)
July 26, 2019	Right to provide notice of termination in 10 days if expert retainer agreement not executed (§ 2.2)

Key Dates (assuming no agreed extensions)

Date	Description
September 2, 2019	Independent Expert Report issued (assuming retained by 7/19/19) (45 days after retention) (§ 2.3)
September 17, 2019	City must provide City Election Notice (assuming expert report of 9/2/19) (15 days after report) (§ 2.6)
Est. October 2019	Circ Lease must be executed (15 days after complete design provided to Circ) (§ 2.7)
Est. March 2020	Construction and installation at chosen P25 site completed (120 days after approval of all required permits) (§ 3.1)

Key Terms

- Binding Report. The Independent Expert report is binding on the parties.
- WLP Site Plan Application. City's approval of WLP Site Plan Application must occur by July 3, 2019, or ILA null and void.
- Conditions to City Election:
 - If **Circ Conditions** are met, then subject to **Circ lease** being timely executed, City can opt for Circ installation.
 - If **Circ Conditions** are not met, or **Circ lease** is not timely executed, City required to cooperate with County on WLP Tower (including with regard to third-party challenges).

Key Terms

5

- Financial Conditions: City pays difference in costs to County between WLP and Circ (see subsequent slide).
- Restrictive Covenant. If Circ Site is installed, upon Final Acceptance of the P25 System, County shall reinstate the restrictive covenant on the WLP Site that was modified by Broward County Resolution No. 2019-264 on May 7, 2019, to the same state and scope as was in effect prior to the adoption of that Resolution.

Expert Report Calculations

6

Row	Comparison	Column A (WLP)	Column B (Circ)
1	Capital cost comparison	Expert's WLP Capital Cost Estimate (estimate of <u>reasonable</u> cost of constructing WLP tower)	Expert's Circ Capital Cost Estimate (estimate of <u>reasonable</u> cost of constructing Circ System)
2	Operating cost comparison	Expert's Base Annual Nonrent Operations Cost Estimate (adjusted for WLP based upon average annual operating cost of free standing towers)	Expert's Annual Circ Nonrent Operations Cost Estimate (adjusted for Circ based upon average annual operating cost of rooftop installations)
3	Feasibility & "equal or better" comparison	<ul style="list-style-type: none">• Comparison of radio coverage and level of service• Determination of whether Circ meets P25 Agreement standards and whether Circ would be equal or better in protecting public than WLP considering all relevant factors ("Circ Conditions")	

City Financial Obligations

7

- **Capital cost differential:** Difference between WLP estimated capital cost and Circ estimated capital cost.
- **Operating cost differential:** Annually, the difference between WLP estimated operating costs and actual Circ operating costs.
- **Rent differential:** Annually, the amount by which Circ rent exceeds average rooftop rent (\$4,809/month).
- **Supplemental work/services:** Any additional equipment or services (e.g., repeaters) that Motorola and Independent Expert agree are necessary.
- **Independent Expert costs:** Shared 50/50 between City and County.
- **Circ Site owner costs:** Shared 50/50 between City and County.

Conclusion

8

- Motion A approves the ILA and authorizes County Administration to negotiate any nonmaterial changes.
- Motion B approves a Resolution addressing certain anticipated arguments under Chapter 164 if immediate litigation is necessary to preserve rights regarding the denial of the Site Plan Application.
- **New Motion C** to authorize the County Administrator to negotiate and execute any necessary agreements and take any necessary action to effectuate the Board's June 11, 2019 vote to site the P25 tower at the City's wastewater plant, if elected by the City.

New Changes (6/18/2019 9 a.m.)

**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND
CITY OF HOLLYWOOD REGARDING P25 SYSTEM**

RECITALS

C. On August 21, 2018, County submitted an application to City for approval of a site plan (“Site Plan Application”) for a tower located at the WLP Site (“WLP Tower”). County represents that the WLP Tower would meet all P25 Agreement Standards (as defined below). City represents that on September 6, 2018, City’s Planning and Urban Design Division staff issued its report recommending that the City Commission approve the Site Plan Application. City further asserts that on September 6, 2018, the City’s Planning and Development Board considered . . .

1. Effective Date; Required Conditions. This Agreement shall be effective on the date it is fully executed by the Parties (“Effective Date”), provided that this Agreement shall be null and void and of no force or effect unless: (i) at City’s meeting on June 19, 2019, City approves reconsideration of its vote of June 5, 2019, denying the Site Plan Application, said June 19 vote having the effect of rescinding City’s denial of the Site Plan Application; (ii) City votes to unconditionally (with the sole exception being that such approval may contain the condition outlined in Section 4 below), and to the full extent permissible under applicable law irrevocably, approve the Site Plan Application ~~(which approval may contain the condition outlined in Section 4 below)~~ on or before July 3, 2019; and (iii) this Agreement is fully executed by the Parties (with executed copies emailed to the County Administrator and the County Attorney, or the City Manager and the City Attorney, as applicable) no later than June 20, 2019.

2. Independent Expert Analysis.

2.2. Independent Expert Engagement. . . . If the Parties are unable to enter into the retainer agreement with the Independent Expert within fifteen (15) business days after such identification (the County Administrator and City Manager are authorized to enter into the retainer agreement on behalf of their respective entities), as same may be deemed extended as provided above, either Party may declare in writing (acting though the County Administrator or the City Manager, as applicable) that it is . . .

2.3. Independent Expert Report.

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Capital Cost Estimates:

- (b) The Independent Expert's estimate of the total reasonable cost of constructing and installing an operational system at the Circ Site (the "Circ System") (including all hard and soft costs and all associated equipment e.g., shelter/environmentally controlled room, 100 kw generator, etc.) after consideration of County's and City's estimates, and in accordance with the P25 Agreement Standards ("**Expert's Circ Capital Cost Estimate**") (the Parties stipulate that such reasonable costs shall include but not be limited to expenditures required to maintain Motorola's applicable system performance guarantee(s)).

Comparison/Feasibility:

- (e) A comparison, based on the best available information (as determined by the Independent Expert), between (i) the radio coverage and level of service that would reasonably be expected to be provided by the Circ System, in accordance with the P25 Agreement Standards, and (ii) the radio coverage and level of service that would reasonably be expected to be provided by the WLP Tower, in accordance with the P25 Agreement Standards; and
- (f) The Independent Expert's conclusion as to whether (i) the Circ System would meet or exceed the minimum P25 Agreement Standards (including for signal reliability); and (ii) on balance, considering all of the relevant factors including those referenced in this Agreement, other than the overall cost of each option, whether the Circ System would be equal to or better than the WLP Tower in terms of reliably protecting public health, safety, and welfare for the useful life of the P25 System (items (f)(i) and (f)(ii) are the "**Circ Conditions**").

In considering items (a) through (f), except as otherwise expressly provided in the Agreement, the Independent Expert shall consider any and all cost, timing, and other factors he or she determines to be material including, as applicable, any or all of the following (as applicable to either or both Site(s)):

3.3. Supplemental Work. If, upon completion of installation of the Circ System

Such supplemental goods and/or services shall include any determined to be required due to currently planned development for which an application ~~permit~~ has been submitted to the City in the vicinity of the Circ Site as of the Effective Date, and from any other likely development known to the City (which City shall disclose with the City Election Notice). County may contract for such supplemental goods and/or services, in which case City shall reimburse the full amounts paid by County for all supplemental goods and/or services as to which the Independent Expert concurs in writing no later than thirty (30) days after demand by County (and each subsequent determination and demand, as applicable). If access to any private property is required to ensure adequate service, City shall exert its best efforts and -take all reasonably-required steps to promptly obtain and secure such access on County's behalf and pay any costs reasonably associated therewith.

4. Site Plan Application. Notwithstanding City's approval of the Site Plan Application as set forth in Section 1, County agrees not to seek any permits or commence any construction for the WLP Tower if the Circ Conditions and the Lease Condition are met and City timely provides the City Election Notice and fulfills its obligations related to the Circ System as set forth in Section 3 (this is the condition referenced in Section 1(ii)). City acknowledges that County has asserted that the Site Plan Application is already deemed approved pursuant to Section 365.172(13)(d), Florida Statutes, and nothing herein shall prejudice or preclude County's right to judicially assert that at any time it deems required. Additionally, if City approves the Site Plan Application (as stated in Section 1(ii) above), and any person or entity challenges such Site Plan Approval, and provided County is not then in breach of its obligations under this Agreement, for purposes of defending against such challenge City stipulates that the Site Plan Application is also deemed approved pursuant to Section 365.172(13)(d), Florida Statutes, and County may proceed with placement of the WLP Tower at the WLP Site without interference or penalty by City (subject to County's agreement not to proceed as set forth in this paragraph's first sentence). The Parties shall jointly and severally use best efforts to cooperatively defend against any legal action(s) brought by any third party naming City as a defendant/respondent (or City and County as defendants/respondents) (or as to which action(s) City or City and County become a party or parties) related to City's approval of the Site Plan Application, ~~whether filed against County and/or City,~~ and shall provide counsel and other professionals as reasonably necessary to vigorously defend against such challenge. If County chooses to appeal, County shall provide for the reconsideration and/or modification of the Agreement, and County shall not be held liable for any costs from taking any action to appeal the approval (or a modification of the Agreement) or any option within this Agreement, and County shall not be held liable for any costs (including attorney's fees) if County chooses to appeal) to terminate this Agreement, in which event neither Party shall have any further rights or obligations hereunder. Furthermore, County commits that, if the WLP Site is utilized to house the required communications tower, County commits not to permit any commercial utilization of the WLP Tower.

Exhibit A

Specific tasks the Independent Expert shall complete include:

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- Independent coverage modeling of the Circ System and the WLP Tower to validate whether coverage complies with the P25 Agreement Standards, including a guaranteed ninety-five percent (95%) portable roundtrip coverage for a hip-mounted portable radio inside a building with 25 dB of attenuation, with ninety-five percent (95%) reliability and all other quantitative and qualitative standards stated in the P25 Agreement.
- Development and provision of a written report that evaluates the strengths and weaknesses of each location with regard to the criteria defined
- Written conclusions as expressly required under this Agreement