

Interlocal Agreement

R 2011-1531

This Interlocal Agreement ("Agreement") for the Shared Use of the Palm Beach County Fiber Network is entered into this _____ day of OCT 04 2011, 2011, with the City of Riviera Beach, Florida, (the "City"), and Palm Beach County (the "County").

WITNESSES THAT:

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies as defined herein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the City and the County have recognized the need for the City to connect to the County's Network ("Network") for the purpose of utilizing the County as the City's Internet Service Provider and the ability to gain access to the Florida LambdaRail network resources. Specific services to be provided and responsibilities of the parties are set forth in Exhibit "A"; and

WHEREAS, the City and the County have recognized the need for the County to provide Network services to the City and to allow the County to provide other Network related services as the County may deem desirable; and

WHEREAS, the County and City have demonstrated needs for Network connectivity, and both parties are supported by local tax dollars, are stewards of public funds, and are therefore responsible for taking steps to control costs and maximize the potential use of technology in their respective organizations; and

WHEREAS, more effective, efficient, and reliable public services will result from the County and the City utilizing a common network infrastructure rather than duplicating facilities and increasing the cost burden borne by both the County and City taxpayers; and

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WHEREAS, the parties believe that additional advanced networking initiatives will come to fruition through the synergies of the County and the City working in unison; and

WHEREAS, in recognizing these facts, the City and the County desire to enter into such an agreement which provides for the joint use of such Network assets and establishes policies for its use by each organization.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the parties do mutually agree as follows:

AGREEMENT

Section 1 Purpose

The purpose of this Agreement is to interconnect the City to the County's Network for the purposes described in Exhibit "A". The County's Network equipment is further defined as the cable, associated fibers, splice enclosures (including hubs, routers switches), wireless router units, radio antenna, electrical cable, supporting hardware and any other devices necessary to deliver County Network services to the prescribed areas of the City.

Section 2 Approval

The County approves of the City's participation in the use of the County's wide area Network and any other services as specified in Exhibit "A". This Agreement shall become effective upon its execution by both parties and upon receipt of the first payment as outlined in Exhibit A, Section VII. B.

Section 3 Term

The term of this Agreement, unless terminated as provided herein, is for a period of one (1) year. This Agreement shall automatically be renewed annually unless either party gives written notice of termination of this Agreement as provided for in Section 11 herein.

Section 4 Network Connection

The City will be provided with a fiber optic cable connection and 100 Mbps bandwidth capacity to meet the City's network service requirements as specified in the Service Level Agreement (Exhibit "A"). The City shall pay all related connection costs, including the drop from the

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Network to the City Hall building, all equipment necessary to utilize the Network for the intended purposes of the City, all associated labor costs to connect to the City's facility, and the monthly service charge, all of which are set forth in Exhibit "A".

Section 5 Resale of Network Services

The City shall not share or resell any portion of the County's Network or services in any manner not approved of in this Agreement or without explicit written consent from Palm Beach County, which consent shall not be unreasonably withheld.

Section 6 County's Responsibilities for Network Management

The County shall be responsible for the routine, day-to-day management of the County Network. Each party shall be responsible for day-to-day administration of the Network routes which they individually own.

The County shall be responsible for maintaining the Primary Network and all auxiliary components of the Network which exclusively serve County facilities. The County shall also maintain auxiliary portions of the Network which service both County and City facilities. The City shall maintain that portion of its own Network which exclusively serves its facilities.

The Palm Beach County ISS Network Services Division (ISS) shall monitor bandwidth utilization on any Network link between the County and the City. The County shall provide the City with access to the County's Network on a best-effort basis and as otherwise provided for herein. The County agrees to share its Network monitoring tools to provide the City's technical staff with the capability to monitor its portions of the Network, and perform local troubleshooting routines prior to escalating any service issue to ISS.

Should the County perform repair and maintenance functions on behalf of the City, it is with the understanding that the County's responsibility extends only to the City's demarcation point. The demarcation point is the location which defines where issues of maintenance responsibilities begin and end, considered to be the County-owned Network equipment inside each of the City's buildings or facilities connected to the Palm Beach County Network (hereinafter referred to as "Demarcation Point"). Palm Beach County ISS will be responsible for maintaining all Network infrastructure to the point of the Network equipment connection to the City's Demarcation Point(s). Entrance facilities at the City's locations from road to Demarcation Point belong to the City whereas the fiber within may belong to the County.

Maintenance and restoration work provided by the County shall be limited to the fiber optic cable and service drops, the individual fibers within the cable and service drops, and the County routers installed at each City site. The County shall have no obligation or right to perform maintenance or restoration on any electronics or other equipment owned by the City or any third party. Notwithstanding the foregoing, should the need arise for maintenance or restoration, the parties hereto may agree to an amendment to this Agreement permitting the County to perform maintenance or restoration on the City's electronics or other equipment.

The County shall provide maintenance to County owned and operated equipment on a 7-day/24-hour basis and may contract for repair services when deemed necessary. The County shall abide by agreed upon security requirements of the City. In the event that an outside contractor is needed, the County shall select, supervise, and coordinate with the contractor to complete the repair.

Section 7 Service Level Agreement

Roles and responsibilities of the County and City are described in the Service Level Agreement (SLA) attached hereto as Exhibit "A", and made a part hereof. The SLA also sets forth an issue communication, escalation and resolution process, as well as methodologies for billing and paying the quarterly service charges for Network connectivity.

Section 8 Network Equipment Ownership

The County shall own all of its Network equipment and assets. The City shall continue to maintain ownership of its current network assets. Only the County is permitted to connect, expand, or otherwise routinely modify its Network components. Furthermore, any and all technological changes relative to the Network will be implemented at the discretion of the County. Notwithstanding the foregoing, the County agrees to use its best efforts to keep pace with technological changes.

Should the City receive grant funds to assist with the construction or maintenance of the Network, any provisions, limitations, or restrictions associated with the grant(s) shall not affect or apply to the County, and vice versa.

Section 9 Modifications to Network

If the City proposes a modification or connection of a new building to the Network, it shall notify and submit any applicable construction documents to the County at least 30 calendar days prior to the date construction activities are expected to commence. Should the planned activities of the City require the Network to be upgraded, the City shall be solely responsible for payment of all costs associated with such modifications, unless there is prior agreement by the County to participate in a cost-sharing arrangement for the modification.

The County shall review the modification proposals as soon as practicable and will render recommendations with regard to the proposed modification. Any modifications or connections to the Network that may cause disruption or interference of service to any Network users shall be coordinated with the appropriate technical staff of both the City and the County. The County agrees to perform such work at a time and in a manner to minimize disruption and interference to the Network users.

When either the City or the County enters into a contract with an outside contractor for Network-related services which benefit only that party, the contracting party shall be individually responsible for remitting payment to the contractor performing work on the Network, and the non-contracting party shall not be responsible or held liable for such payment. However, proposed changes to the Network must be communicated in writing to the County for review and approval. The parties however agree to comply with Network security provisions.

Section 10 Network Interferences

The County shall have no requirement to purchase, install, operate, or maintain any equipment on the premises of the City. However, should any equipment owned by the City render any harmful interference to the County's Network equipment, County may disconnect any or all City Network connections after informing the City's designated technical Point of Contact (POC) of the underlying reasons for the planned action to disconnect the City Network facilities. Immediate efforts will focus on attempting to resolve or remove the threat conditions. The County shall be the sole party to determine if harmful interference has impacted the County Network. County will utilize its best efforts to prevent any unanticipated Network outages should interferences be noted.

Section 11 Termination for Convenience

Either party may terminate its participation in this Agreement upon 90 days written notice to the other party. Notwithstanding the foregoing, each party shall endeavor to provide the other party with as much advance notice as practicable if it contemplates that it might desire to terminate this Agreement, so as to allow the non-terminating party the maximum amount of time to make alternative plans to replace the lost services/revenue. In such event, the terminating party shall pay all sums due through the effective date of the termination. Termination of this Agreement by either party may also be contingent upon the annual appropriation for these services by the party's governing body.

Section 12 Indemnification

The City and the County recognize their respective liability for certain tortuous acts of its agents, officers, employees, and invitees, and agree to be responsible, respectively, for all claims, liability, losses, and/or causes of action that may arise from any negligent act or omission due to the acts of its agents, servants, or employees. Such liability is subject to the provisions of law, including the limits included in Section 768.28, Florida Statutes, which sets forth the partial waiver of sovereign immunity to which governmental entities are subject. It is expressly understood that this provision shall not be construed as a waiver of any right or defense that the parties have under Section 768.28 or any other statute.

Section 13 Insurance

Each party agrees to maintain sufficient professional, general liability, and workers' compensation coverage, unless self-insured, regarding its respective liability throughout the term of this Agreement. This Agreement does not provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege, except the provisions hereof involving indemnification or limitation of liability of the City and the County.

The parties to this Agreement acknowledge the potential of unlawful hacking to gain surreptitious access into confidential systems. ISS has implemented reasonable steps and safeguards as part of a Network security program, but these systems may not be able to defeat every attempt to gain unlawful access to applications or data. Each party is responsible for protecting its own applications, databases, and servers. Each party however shall review each other's security procedures and notify each other with reasonable promptness of concerns or issues regarding the same.

Section 14 Damage Caused by Disasters

Should the County's Network equipment be damaged or destroyed by a natural or man-made event to the extent that the cost to repair or replace the equipment exceeds 50% of the original installation costs, this Interlocal Agreement is automatically terminated unless the governing bodies of both the City and County authorize its continuation and associated funding to repair or restore the affected area(s). Should the Network sustain damage to an Auxiliary Route used only by either the City or the County, the owning party shall determine if the cable will be repaired or replaced.

Section 15 Miscellaneous

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. This Agreement is the subject of negotiation between the parties and should not be interpreted more favorably toward one party over the other.

Section 16 Notice

Any notice, request, instruction, demand, consent, or other communication required or permitted to be given under this Agreement shall be in writing and shall be delivered either by hand or by certified mail, postage prepaid, and certified return receipt requested to the following addresses or such other addresses as the parties may provide to each other in writing:

To: **City:** Ruth C. Jones, City Manager
 City of Riviera Beach
 Room C234
 600 West Blue Heron Blvd
 Riviera Beach, FL 33404
 561-845-4010

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With a copy to: Pamala Hanna Ryan, City Attorney
City of Riviera Beach
Room C234
600 West Blue Heron Blvd
Riviera Beach, FL 33404
561-845-4069

To: **COUNTY:** Robert Weisman, County Administrator
Palm Beach County Board of County Commissioners
301 N. Olive Avenue, 11th FL
West Palm Beach, FL 33401
Telephone: 561-355-2712

With a copy to: County Attorney's Office
Palm Beach County Board of County Commissioners
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401
Telephone: 561-355-2225

Section 17 Entire Agreement

This Agreement represents the entire agreement between the City and the County and supersedes all prior agreements or representations, whether written or oral, with respect to the subject matter hereof. No provision of this Agreement may be changed or amended except by written agreement signed by both Agencies. This Agreement shall be binding upon the City and the County and their respective successors and assigns.

Section 18 Filing

This Agreement will become effective upon filing a copy of the signed Agreement with the Palm Beach County Clerk & Comptroller's Office.

Section 19 Participation

This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have participated in drafting the same.

Section 20 Venue for Dispute Resolution

This Agreement shall be construed in accordance with the laws of the State of Florida. Should any litigation arise from this Agreement, venue shall lie in Palm Beach County, Florida.

Section 21 Binding Agreement

This Agreement is binding upon the parties hereto, their heirs, successors, and assigns.

Section 22 Subject to Funding

The County's performance and obligations for subsequent fiscal years are contingent upon annual appropriations for its purpose by the Board of County Commissioners.

Section 23 Nondiscrimination

Palm Beach County warrants and represents that 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 and expression.

Section 24 Access and Audits

Palm Beach County has established the Office of the Inspector General in Ordinance 2009-049, as may be amended, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor, and inspect the activities of Palm Beach County, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

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Section 25 Signatories to the Agreement

ATTEST:

Sharon R. Bock, Clerk & Comptroller

By:



Deputy Clerk



2011-1531 OCT 04 2011

**Palm Beach County, Florida, By Its
Board of County Commissioners**

By:


Karen T. Marcus, Chair

(SEAL)

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By:


County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By:



Steve Bordelon, Director, ISS

ATTEST: City of Riviera Beach

By:



Thomas A. Masters, Mayor

By:


Carl Chandler, IS Manager

ATTEST:

By:


Carrie E. Ward, City Clerk

Reviewed and Approved for Execution

By:


Ruth C. Jones, City Manager

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By:

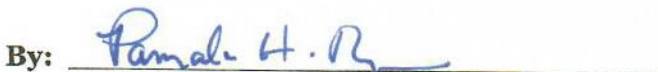

Pamala Hanna Ryan, City Attorney

EXHIBIT A

PALM BEACH COUNTY INFORMATION SYSTEMS SERVICES (ISS) SERVICE LEVEL AGREEMENT

The purpose of this Service Level Agreement is to identify the roles and responsibilities of the County (ISS) and the City in carrying out the terms of the Interlocal Agreement regarding: Interconnection of the City to the Palm Beach County Fiber Network. This Service Level Agreement delineates the services to be provided by ISS, establishes a problem resolution and escalation procedure, and describes the associated costs and payment requirements.

I. Annual Planning and Service Level Agreement Review

There will be an annual review of this Service Level Agreement (SLA). The SLA will document the types of Network services to be provided under the Agreement, as well as the annual cost of these services, and the roles and responsibilities of each Agency.

Connection to the Network must be approved by both the County and the City if said connection affects the entire Network. However, all Network connections must meet the agreed-upon technical specifications.

II. Description of Services

A. Baseline services from ISS will include:

1. Ongoing maintenance of connectivity to the demarcation point(s);
2. Central Network security will be maintained by ISS at the ISS router port that feeds the City's network router connection. If necessary, security may shut down the City's entire building feed to protect the networked systems from computer worms and viruses;
3. Network design;
4. Acquisition and management of Network assets;
5. Installation or relocation of Network connections, wiring upgrades, installation of bandwidth upgrades, or other specialized services;
6. Network equipment installation and maintenance;

7. Network security on ISS side of the demarcation point;
8. Monitoring of Network performance;
9. Trouble reporting and tracking;
10. Maintenance of the environmental factors in the County's facilities and closets housing equipment crucial to the health and stability of the Network, including air conditioning, power conditioning, and UPS equipment, and;
11. Disaster recovery protection, system reliability, and stability during power outages.

B. City Responsibilities

1. All intra-building Network maintenance and security within the C124 Network room of the City Hall building;
2. Ensuring that back-door connectivity behind the building router is prohibited;
3. Provisioning of its Dynamic Host Configuration Protocol (DHCP) services;
4. Building infrastructure connectivity;
5. All grid (jack), wiring identification, and tracking for City-owned facilities;
6. Provide, where possible, Network engineers or technicians to assist with all portions of Network equipment attachments, from provisioning to troubleshooting. Initial diagnostic actions will ideally be performed by City technical staff to evaluate whether the cause of any system problem is associated with factors under the control of the City; and
7. The City shall ensure that Network security hardware and software is installed in order to minimize the risk of a virus and surreptitious or otherwise inappropriate Network entry. The City will ensure that security procedures, hardware, and software are in place to prevent unauthorized access to the County Network from the City Network property.
8. The City may request changes in Network equipment attachments services. Requests for changes shall be submitted to the County ISS Director, or designee, for action. The City shall be advised of the disposition of the request within thirty (30) calendar days of submission. Such request shall

include extension of Network services to additional sites indentified by the City. The City shall be responsible for all reasonable costs associated with requested changes to Network services approved by the County, which approval shall not be unreasonably withheld.

9. The City will provide, at its expense, the following equipment and facilities at each City building (if required):
 - An environmentally stable and secure area large enough to accommodate a 19"-wide rack with a height up to 7 feet. This area shall contain two (2) dedicated electrical circuits for providing power to the switching equipment;
 - Air conditioning units which deliver a capacity of BTUs to the equipment room as specified by the manufacturer of equipment installed at the City's site; and the City shall periodically monitor to ensure temperatures are within acceptable limits.
10. The City shall adhere to a documented plan of security strategies deployed to prevent unauthorized access into the physical location(s) where Network access could be gained. Further, the City shall ensure that it has robust and efficient security software and procedures in place to prevent unauthorized access to the Network.
11. The City shall promptly pay for the County's reasonable charges, such charges being set out in Section VII of this Exhibit A, which will be invoiced quarterly.

III. Availability of the County Network Services

The County will provide the City with access to the County's Network on a best-effort basis. The County's goal will be to provide 99.9% availability. The County reserves the right to prioritize its maintenance and recovery efforts, while at the same time providing availability to the City.

In the event that Network availability is documented by the County and declared by the City to be less than 99.9% for two (2) consecutive months, the City shall not be liable for service charges beyond the date of said declaration of non-performance until service is satisfactorily restored. The reduction of previously paid or dismissal of unpaid service fees will be calculated on a pro-rata basis.

The County will monitor the City's utilization of the Network to ensure sufficient capacity. Should the sustained Network usage exceed 60% for a period of 30 days or more, the County will initiate a bandwidth upgrade. Estimated upgrade completion time is within 60 days.

IV. Protocol for Reporting Network Service Problems

All service issues should be reported to the City's IT support staff. If the City's initial diagnosis of the reported problem indicates that it is related to Network connectivity (e.g., connection lost, slow response time) rather than a problem at the application, server, or desktop computer level, the IT technician should immediately report the service problem to the ISS Network Operations Center at 561-355-6700. All service problems reported by the City will be recorded and tracked in the County's Automated Help Desk System until problem resolution and service restoration. Response time service levels are established at the time the call is reported based on the severity of the issue. The service level target for problem diagnosis and response to the City is within one (1) hour of the reported problem. The County also employs an escalation process for problems which are not resolved according to the established standards.

V. Access for Network Service and Maintenance

The County shall coordinate with and obtain prior written approval from the City's designee as to the time of any planned maintenance, repair, or installation work. However, the City shall provide the County with access to its equipment on a 24-hour/7-day per week basis. During normal business hours, the County shall ensure that all ISS personnel or contractors representing the County sign in prior to commencing any work, and sign out prior to leaving the facility. On weekends, holidays, or after normal business hours, the County's representative shall call the City to report any emergency that requires access to any City facility. The City shall make reasonable efforts to arrange for access of County's personnel as quickly as possible.

The County shall supply the City with a list of authorized ISS employees who will carry in their possession badges for identification purposes. All individuals permitted access to the City by the County must be fingerprinted and shall be subjected to a "background check". All of the County's contractors' employees, agents, contractors, and subcontractors must undergo a background check and fingerprinting in accordance with FBI CJIS security policies.

The County represents that it has verified, prior to entering into this Agreement, that neither the County or County's contractors, nor any of their respective employees, agents, or representatives

who have been convicted or who are currently under investigation for a crime delineated in Florida Statutes §435.04 shall have access to the City buildings under the Agreement.

VI. Problem Escalation Contacts:

Palm Beach County ISS

Palm Beach County 24x7 Network Services Help Desk: 561-355-6700

Michael Butler, Director of ISS Network Services:

561-355-4601 (office)

561-722-0850 (cell)

Phil Davidson, Deputy Director of ISS Operations:

561-355-3956 (office)

561-722-3349 (cell)

Steve Bordelon, Director of ISS:

561-355-2394 (office)

561-386-6239 (cell)

City of Riviera Beach Information Services

Carl Chandler, Information Systems Manager:

561-845-4028 (office)

561-719-6050 (cell)

Tariq Iqbal, Systems Administrator:

561-845-4184 (office)

561-312-9103 (cell)

Jim Wood, Systems Administrator (Public Safety):

561-845-4192 (Office)

561-719-6075 (Cell)

VII. Fees and Charges for Network Connectivity and Related Services

One of the goals of this Agreement is to establish the lowest competitive pricing for the County's Network Services provided to the City.

Palm Beach County ISS will serve as project manager and incur all costs associated with the installation and connection of the Network and Network equipment at the City Hall building. The City will be responsible for reimbursement to the County of said costs, estimated at the time of contract to be \$8,600, as described in Table 1 below.

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Service charges will be assessed on a monthly basis, and the County will invoice the City quarterly as shown in Table 1 below.

Table 1				
Schedule of City of Riviera Beach Network Charges				
Service Category: First Network Connection				
Installation Address: 600 West Blue Heron Blvd, Riviera Beach, FL 33404				
Estimated Service Start Date: 12/1/2011				
Service Category	One Time Installation	Monthly Network 100 MB Service Charge	Quarterly Billing	First Year Billing Total
First Network Connection		\$700	\$2,100	\$8,400
One Time Installation	\$8,600*			\$8,600*
TOTALS	\$8,600*	\$700	\$2,100	\$17,000
* This is an estimated cost. The actual final cost for this installation will be billed to the customer as a one-time invoice based on (1) a billing statement from the vendor for this work and (2) the actual cost to PBC ISS of any equipment installed. The total one-time construction and installation costs, however, will not exceed \$9,999.				

An additional service charge of \$100 per month will be added for connectivity to the Northwest Regional Data Center (NWRDC) located in Tallahassee, FL if the City chooses to use the NWRDC for hosting services. The City may contract directly with NWRDC for hosting services or may use PBC provided hosting at NWRDC. If the City chooses to utilize PBC provided hosting, a separate fee schedule for Network hosting services will be provided. Charges shall be assessed on a quarterly basis, and the County will invoice the City quarterly.

A. Cost Components

A portion of the monthly fee identified above includes direct costs incurred by Palm Beach County to connect to the Florida LambdaRail. In the event the Board of Directors of the Florida LambdaRail institute a pricing change, Palm Beach County agrees to review the financial impact and make appropriate rate adjustments on an annual basis.

B. Billing and Payment

Upon the City's prior approval or request for assistance, the ISS Director may, at his/her discretion, permit staff resources to assist the City in the execution of certain Information Technology responsibilities and City agrees to fully reimburse the County for all reasonable costs associated with the rendering of ISS staff assistance. Reasonable costs include the staff's hourly salary rate, fringe benefits, overtime (if applicable), travel, and administrative overhead. These components have all been factored into the standard hourly billing rate and will be subject to modification on an annual basis.

The County shall submit quarterly invoices, in advance, to the City which shall include a reference to the Agreement and identify the amounts due and payable to the County. The City will pay such invoices within 30 days of presentation by the County. If the City in good faith disputes any portion of a charge, the County shall be provided with written notice of the billing dispute within 30 days thereafter. Dispute resolution between the County and the City shall be in accordance with Florida law.