

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Frank Apicella, Technology Information Management Director  
954/797-1063

**PREPARED BY:** Frank Apicella

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** Townwide

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A THREE YEAR LEASE AGREEMENT WITH GE CAPITAL TO FUND THE COST OF IMPLEMENTING A NEW TELEPHONE SYSTEM FOR THE TOWN AND AUTHORIZINTG THE MAYOR TO EXECUTE A THREE YEAR MAINTENANCE AGREEMENT WITH TELESWITCH TECHNOLOGIES, INC.

**REPORT IN BRIEF:**

The existing Town telephone system is obsolete. The current system does not provide the functionality to employees to efficiently accomplish their job. The system is cumbersome and costly to maintain. As a result of open competitive bidding, Teleswitch Technologies, Inc. was chosen by the Selection Committee and approved by Council by resolution R-2003-159 to provide a state of the art telephone system. Because of the ever rapidly changing technology, the Selection Committee decided it would be in the Town's best interest to lease this equipment rather than purchase so that the Town could maintain state of the art technology.

**PREVIOUS ACTIONS:**

Resolution R-2003-159

**CONCURRENCES:**

All proposals were reviewed and demonstrations attended by the Selection Committee and concur in the decision to award the lease to GE Capital and the maintenance and support to Teleswitch Technologies, Inc.

**FISCAL IMPACT:**

Has request been budgeted?                      yes

If yes, expected cost: \$294,896.00

Account Name: Distributed among all departments Communications Expense excluding Police  
Department

Maintenance and Support portion - \$24,775/year Computer Expense and Maintenance

**RECOMMENDATION(S):**

Motion to approve the resolution

**Attachment(s):**

Resolution                                      Contracts

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A THREE YEAR LEASE AGREEMENT WITH GE CAPITAL TO FUND THE COST OF IMPLEMENTING A NEW TELEPHONE SYSTEM FOR THE TOWN AND AUTHORIZINTG THE MAYOR TO EXECUTE A THREE YEAR MAINTENANCE AGREEMENT WITH TELESWITCH TECHNOLOGIES, INC.

WHEREAS, the Town is in need of a new voice and data communication system and upgraded network infrastructure; and

WHEREAS, the firm of Teleswitch Technologies, Inc. has been selected by means of open competitive bidding to supply, install and maintain the voice and data communication system, and

WHERAS, the Selection Committee has recommended leasing said equipment through the firm of GE Capital; and

WHERAS, The Town Council approved the selection of Teleswitch Technologies, Inc. by Resolution R-2003-159.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby accept the selection of the firm of GE Capital as the firm best qualified to provide the required services and authorizes the Town Mayor to execute an agreement for lease attached hereto as "Exhibit A".

SECTION 2. The Town Council of the Town of Davie does hereby accept the selection of the firm of Teleswitch Technologies, Inc., as the firm best qualified to provide the required maintenance of equipment and services and authorizes the Town Mayor to execute the maintenance agreement attached hereto as "Exhibit B".

SECTION 3. The Town Council of the Town of Davie authorizes the Director of Technology & Information Management to submit progress payments to Teleswitch as negotiated.

SECTION 4. The Town Council of the Town of Davie authorizes the Director of Technology & Information Management to request reimbursement from GE Captal of all progress payments made to Teleswitch.

SECTION 5. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003



**PROFITS OR SAVINGS, LOSS OF USE, OR ANY OTHER DAMAGES (WHETHER BASED ON STRICT LIABILITY OR NEGLIGENCE, WHETHER RESULTING FROM USE OF A SYSTEM OR OTHERWISE) EXCEPT FOR DIRECT, SPECIFIC DAMAGES FOR LESSOR'S BREACH OF A LEASE OR FOR PERSONAL INJURY OR PROPERTY DAMAGE TO THE EXTENT CAUSED BY LESSOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

**LESSEE ACKNOWLEDGES THAT EACH LEASE IS A FINANCE LEASE AS DEFINED IN UCC §2A-103. TO THE EXTENT PERMITTED BY LAW, LESSEE HEREBY WAIVES ANY RIGHTS OR REMEDIES LESSEE MAY HAVE UNDER UCC §§ 2A-508 THROUGH 522 INCLUDING, WITHOUT LIMITATION, RIGHTS OF REJECTION, REVOCATION, CANCELLATION, RETENTION OF SECURITY INTERESTS, AND RECOVERY FOR BREACH OF WARRANTY.**

**10. INSURANCE:** At its expense, Lessee shall keep each System insured against all risks of loss and damage for an amount equal to the installed replacement cost of such System with Lessor named as a loss payee. Lessee shall also maintain comprehensive general liability insurance with Lessor named as an additional insured. All insurance policies shall be with an insurer having a rating of "B+" or better by A.M. Best Company, Inc., and be in such form, amount and deductibles as are reasonably satisfactory to Lessor. Each such policy must state by endorsement that the insurer shall give Lessor not less than thirty (30) days prior written notice of any amendment, renewal or cancellation thereof as it relates to a Lease or a System. Lessee shall, upon request, furnish to Lessor satisfactory evidence that such insurance coverage is in effect. Lessee may self-insure for such coverages only with Lessor's prior written consent.

**11. CASUALTY:** If any System, in whole or in part, is lost, stolen, damaged or destroyed, or is taken in any condemnation or similar proceeding (an "Event of Loss"), Lessee shall notify Lessor in writing within ten (10) days of such Event of Loss. Lessee shall, at its option, (a) promptly place the affected Equipment and Software in good condition and working order, (b) promptly replace the affected item with like equipment or software in good condition and transfer clear title and any sublicense to Lessor, or (c) pay to Lessor, within thirty (30) days of the Event of Loss, an amount equal to the Stipulated Loss Value ("SLV") as defined below, for such affected Equipment or Software plus any other unpaid amounts then due under the Lease. If an Event of Loss occurs as to part of a System for which the SLV is paid, a prorata amount of Rent shall abate from the date the SLV payment is received by Lessor. Upon payment of the SLV, title to the applicable Equipment and the sublicense to the applicable Software shall pass to Lessee with no warranties, subject to the rights, if any, of the insurer.

The SLV shall be an amount equal to all future Rent from the last Rent Payment Date for which Rent has been paid to the end of the Term plus (a) if Lessee selects Purchase Option B, an amount equal to Lessor's reasonable estimate of the installed fair market value of the affected Equipment and/or Software at the end of the applicable Term ("Estimated FMV"), or (b) if Lessee selects Purchase Option C, the percent set forth in the Purchase Option C election in the Schedule times the Price as it may have been adjusted ("Percent Option Amount"). The foregoing amounts shall be discounted to present value at a simple interest rate of (a) five percent (5%) per annum for a Lease for which Lessee has selected Purchase Option B or C, (b) the Lease Rate (as defined in Section 12 of the applicable Schedule) for a Lease for which Lessee has selected Purchase Option A, or (c) if such applicable rate is not permitted by law, then at the lowest permitted rate. If Lessor receives any insurance proceeds and Lessee elects not to repair or replace, Lessor shall apply such proceeds toward the payment of the SLV with any excess proceeds to be delivered to Lessee.

**12. INDEMNITY:** Lessee shall indemnify Lessor against, and hold Lessor harmless from, and covenants to defend Lessor against, any and all losses, claims, liens, encumbrances, suits, damages, and liabilities (and all costs and expenses including, without limitation, reasonable attorneys' fees) related to the Lease including, without limitation, the selection, purchase, delivery, ownership, condition, use, operation of a System, or violation of a Software sublicense, or arising by operation of law (excluding any of the foregoing to the extent caused by the gross negligence or willful misconduct of Lessor). Lessee shall assume full responsibility for or, at Lessor's sole option, reimburse Lessor for the defense thereof. This Section shall survive the termination of the Lease but not longer than the applicable statute of limitations.

**13. TAX INDEMNITY:** If Lessee selects Purchase Option B, the Lease is entered into based upon the assumptions ("Assumptions") that for federal, state, and local income tax purposes, Lessor shall be entitled to deduct, at the highest marginal rate of tax imposed on corporations, the maximum depreciation or cost recovery allowances provided in the Internal Revenue Code of 1986, as amended, and under state and local law in effect on the date Lessee executes the applicable Schedule. If, in its reasonable opinion, Lessor determines that its net after-tax economic yield or after-tax cash flow ("Net Economic Return") has been adversely affected as a result of a change in the Assumptions (a "Loss"), Lessee agrees to pay to Lessor an amount which will cause Lessor's then Net Economic Return to equal the Net Economic Return that Lessor would have received had such Loss not occurred. Lessee shall have no right to inspect the tax returns of Lessor.

**14. DEFAULT:** Any of the following shall constitute an Event of Default: (a) Lessee fails to pay any Rent or other amount when due under a Lease that is not paid within ten (10) days of Lessee's receipt of written notice of nonpayment; (b) Lessee fails to perform any other material term in any Lease or other agreement given in connection with any Lease that continues uncured for twenty (20) days after Lessee's receipt of written notice specifying such failure; (c) the inaccuracy of any material representation or warranty made by Lessee or any guarantor in connection with any Lease and the continuation thereof for thirty (30) days after Lessee's receipt of written notice specifying such inaccuracy; (d) Lessee attempts to make a Transfer (as defined in Section 16) without Lessor's prior written consent; (e) Lessee dissolves or ceases to do business as a going concern; (f) Lessee sells all or substantially all of its assets, merges or consolidates with or into, or reorganizes with, any entity without Lessor's prior written consent; (g) Lessee becomes insolvent, makes an assignment for the benefit of creditors, files a voluntary petition or has an involuntary petition filed or action commenced against it under the United States Bankruptcy Code or any similar federal or state law; (h) Lessee fails to perform its obligations under any other Lease or agreement with Lessor after the expiration of any

applicable cure or grace periods; or (i) any partner or member (if Lessee is a limited liability company) or any guarantor takes any actions described in subsections (e), (f), or (g) above.

**15. REMEDIES:** If an Event of Default has occurred, Lessor shall have the right to exercise one or more of the following remedies. Lessor may (a) terminate and/or declare an Event of Default under any Lease or other agreement with Lessee, (b) recover from Lessee all Rent and any and all amounts then due and unpaid and (c) recover from Lessee all Rent and other amounts to become due under any or all Leases, by acceleration or otherwise (plus, if any System is not returned in accordance with Section 9 of the applicable Schedule, an amount equal to (i) the Estimated FMV if Lessee selects Purchase Option B in the Schedule, or (ii) if Lessee selects Purchase Option C in the Schedule, the Percent Option Amount). The amounts described in subsection (c) shall be present valued using a five percent (5%) simple interest rate per annum or the Lease Rate, as applicable, or, if such rate is not permitted by law, then at the lowest permitted rate. The amounts set forth in subsections (b) and (c) above shall be the agreed upon damages ("Lessor's Loss"). Lessor may also charge Lessee interest on Lessor's Loss from the date of the Event of Default until paid at the rate of one and one-half percent (1½%) per month, but in no event more than the maximum rate permitted by law ("Default Rate"); demand the Lessee return any or all Systems to Lessor in the manner provided in Section 9 of the Schedule; and take possession of, render unusable, or disable any System wherever located, with or without demand or notice or any court order or any process by law.

Upon repossession or return of a System, Lessor shall have the right to sell, lease or otherwise dispose of the System, with or without notice and by public or private sale, and shall apply the proceeds thereof, if any, toward Lessor's Loss but only after deducting from such proceeds (a) in the case of any reletting of the System, the rent due for any period beyond the scheduled expiration of the Lease; (b) in the case of sale, (i) if Lessee has elected Purchase Option B, the Estimated FMV, or (ii) if Lessee has elected Purchase Option C, the Percent Option Amount; and (c) all reasonable expenses incurred by Lessor in repossessing, refurbishing and remarketing of the System and in enforcing any remedy including, without limitation, reasonable attorneys' fees and court costs. If the net proceeds available after the permitted deductions are less than Lessor's Loss, Lessee shall pay Lessor any deficiency. No right or remedy is exclusive of any other provided herein or permitted by law or equity. All rights and remedies shall be cumulative and may be enforced concurrently or individually from time to time.

**16. ASSIGNMENT:** Lessor may, without notice to or the consent of Lessee, sell, assign, grant a security interest in, or pledge its interest in all or a portion of a System and/or a Lease and any amounts payable hereunder to any third party ("Assignee") even if less than all the payments have been assigned. Lessee shall, if directed, pay all Rent and other amounts due to Assignee free from any claim or counterclaim, defense or other right which Lessee may have against Lessor. Lessor shall be relieved of its future obligations under the Lease as a result of such assignment if Lessor assigns to Assignee its interest in the System and Assignee assumes Lessor's future obligations. **WITHOUT LESSOR'S PRIOR WRITTEN CONSENT, LESSEE SHALL NOT ASSIGN, SUBLEASE, TRANSFER, PLEDGE, MORTGAGE OR OTHERWISE ENCUMBER ("TRANSFER") ANY SYSTEM OR ANY LEASE OR ANY OF ITS RIGHTS THEREIN OR OBLIGATIONS THEREUNDER OR PERMIT ANY LEVY, LIEN OR ENCUMBRANCE THEREON.** Any attempted non-consensual Transfer by Lessee shall be void *ab initio*. No Transfer shall relieve Lessee of any of its obligations under a Lease.

**17. JURISDICTION, GOVERNING LAW AND WAIVER OF JURY TRIAL: EACH LEASE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CONNECTICUT. BOTH PARTIES CONSENT TO THE JURISDICTION AND VENUE OF FEDERAL AND STATE COURTS IN CONNECTICUT FOR ALL DISPUTES ARISING UNDER A LEASE AND WAIVE ANY RIGHTS TO A JURY TRIAL IN ANY ACTION ARISING UNDER A LEASE.**

**18. MISCELLANEOUS:** (a) Any failure of Lessor to require strict performance by Lessee, or any waiver by Lessor of any provision of a Lease, shall not be construed as a consent to or waiver of any other breach of the same or of any other provision. (b) If there is more than one Lessee, the obligations of each Lessee are joint and several. (c) Lessee agrees to execute and deliver within ten (10) days of its receipt of a written request therefore, any documents necessary, in Lessor's reasonable opinion, to evidence the intent of a Lease, and/or to protect Lessor's interest in a System. Lessee appoints Lessor and its agents as Lessee's attorney-in-fact for the sole purpose of executing and filing any UCC financing statements and to file financing statements without Lessee's signature. Lessee agrees to pay Lessor's reasonable out-of-pocket costs of filing and recording such documentation. (d) Lessee shall deliver to Lessor such additional financial information as Lessor may reasonably request. (e) If any provision shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired. (f) In the event Lessee fails to pay or perform any obligations under a Lease, upon giving Lessee ten (10) days prior written notice, Lessor may, at its option, pay or perform such obligation. Lessee shall reimburse Lessor for any payment made or expense reasonably incurred by Lessor in connection therewith together with interest thereon accruing until paid at the Default Rate. (g) Time is of the essence in each Lease. (h) Lessee shall pay Lessor all reasonable costs and expenses, including reasonable attorneys' and collection fees, incurred by Lessor in enforcing the terms and conditions of a Lease or in protecting Lessor's rights and interests in a Lease or a System. (i) **LESSOR INTENDS TO COMPLY WITH ALL APPLICABLE LAWS, INCLUDING THOSE CONCERNING THE REGULATION OF INTEREST.** Therefore, no lease charge, late charge, fee or interest, if applicable, is intended to exceed the maximum amount permitted to be charged or collected by applicable law. If one or more of such charges exceed such maximum, then such charges will be reduced to the legally permitted maximum charge and any excess charge will be used to reduce the future Rent and/or the Price of the System or refunded. (j) Each Lease may be executed by one or more of the parties on any number of separate counterparts (which may be originals or copies sent by facsimile transmission), each of which counterparts shall be an original. (k) Unless explicitly otherwise agreed to in a Lease, if Lessee is required to pay Lessor any amount other than Rent or the SLV, Lessee agrees to pay such amounts within ten (10) days of its receipt of an invoice, request and/or demand therefore. (l) Each Lease constitutes the entire agreement between Lessor and Lessee with respect to the subject matter thereof and supersedes all previous writings and understandings between Lessee and Lessor relative to a System and the lease thereof. (m) No agent, employee, or representative of Lessor has any authority to bind Lessor to any representation or warranty concerning any System and, unless such representation or warranty is specifically included in a Lease, it shall not be enforceable by Lessee against Lessor.

Lessor **General Electric Capital Corporation**

# Equipment Schedule

Lessee **Town of Davie, Florida**

Billing Address  
6591 Orange Drive

Attention  
Mr. Bill Underwood

City Davie	County/Province Broward	State/Country FL	Zip Code 33314
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Installation Site 6591 Orange Drive	City Davie	County/Province Broward	State/Country FL	Zip Code 33314
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Supplier Name <b>Teleswitch Technologies Inc.</b>	Advance Payment The Advance Payment shall be applied to the first and last Rent payment(s).
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Agreement No./Schedule No. 7248117-001	Price \$142,157.86	Payment Nos. 36	Lease Rate Factor 0.026966	Rent \$3,833.43
Date of Schedule September 29, 2003	Initial Term (months) 36			
Commitment Date March 22, 2004	Payment Period <input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Other			

### TERMS AND CONDITIONS (*The Reverse side contains Terms and Conditions which are also a part of this Schedule*)

The terms and conditions of the Master Lease Agreement between Lessor and Lessee referenced above are made a part of this Schedule. Lessor and Lessee hereby agree to the terms defined above and further agree as set forth herein.

Purchase Price Payment to the Commencement Date or, if the Lease does not commence, to the date Lessee refunds the Purchase Price Payments to Lessor in accordance with Section 3. In no event will all or any price adjustment(s) exceed any limits imposed by applicable law. The periodic Rent shall be increased as a result of adding to the Price of the System an amount equal to the total price adjustment(s).

**1. ADVANCE PAYMENT:** Lessee shall pay to Lessor, upon the execution and delivery of this Schedule, the advance payment set forth above ("Advance Payment") in consideration of the Lessor holding funds available to purchase the Equipment and obtain the Software and as compensation for Lessor's review of Lessee's credit and document preparation. Upon Lessor's acceptance of the Lease, the Advance Payment shall be applied to the payment of Rent as set forth above. Any Advance Payment shall be non-refundable if Lessee fails to timely provide all documentation or satisfy all conditions required by this Lease.

**3. ACCEPTANCE:** Lessee agrees to accept the System for purposes of this Lease by signing the Acceptance Certificate within ten (10) days after the System has met the acceptance criteria specified in the Supplier Agreement. If Lessee fails or refuses to sign the Acceptance Certificate within such (10) ten day period, Lessor may declare Lessee's assignments and Lessor's agreement to pay the Price set forth in Section 1 of the Agreement and Section 2 of this Schedule to be null and void ab initio and thereupon the Lease shall terminate. Lessor shall then have no obligations under the Lease. Lessee shall, within ten (10) days of a demand therefore, immediately pay to Lessor all Purchase Price Payments and all price adjustment(s) under Section 2 herein as well as Lessor's out-of-pocket expenses.

**2. PURCHASE PRICE PAYMENTS:** Lessee acknowledges that it has signed and received a copy of the Supplier Agreement. If Lessee is required to make payments to Supplier under the Supplier Agreement prior to the Commencement Date ("Purchase Price Payments"), Lessee requests Lessor to pay such payments subject to the following terms and conditions. The Price will be increased by adding a price adjustment for each Purchase Price Payment. Each such price adjustment shall be computed by multiplying the Purchase Price Payment paid by Lessor to Supplier by a rate equal to the "Base Lending Rate" from time to time designated by Citibank N.A., NY, NY in effect on the date Lessor makes the first Purchase Price Payment plus two and one-half percent, divided by 360, and multiplied by the actual number of days elapsed from the date of the

**4. MAINTENANCE, USE, AND OPERATION:** At all times during the Term, at its sole cost and expense, Lessee shall maintain the System in good repair, condition and working order, ordinary wear and tear excepted. Lessee shall use the System and all parts thereof for its designated purpose and in compliance with all applicable laws, shall keep the System in its possession and control and shall not permit the System to be moved from the Installation

### A complete description of the System is set forth on the Equipment and Software Listing attached hereto and made a part hereof.

**General Electric Capital Corporation**

**Town of Davie, Florida**

BY \_\_\_\_\_  
Authorized Representative

BY \_\_\_\_\_  
Authorized Representative

PRINT NAME \_\_\_\_\_

PRINT NAME \_\_\_\_\_

TITLE \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

Site set forth above without Lessor's prior written consent.

**5. PERSONAL PROPERTY:** The System is, and shall at all times remain, personal property even if the Equipment is affixed or attached to real property or any improvements thereon. At Lessor's request, Lessee shall, at no charge, promptly affix to the System any tags, decals, or plates furnished by Lessor indicating Lessor's interest in the System and Lessee shall not permit their removal or concealment. At Lessee's expense, Lessee shall (a) at all times keep the System free and clear of all liens and encumbrances, except those described in Section 6 and those arising through the actions of Lessor, and (b) otherwise cooperate to defend Lessor's interest in the System and to maintain the status of the System and all parts thereof as personal property. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the System from any party having an interest in the real estate or building in which the System is located. Lessor may inspect the System and any related maintenance records at any time during Lessee's normal business hours.

**6. TRUE LEASE; SECURITY INTEREST:** (a) Lessor holds title to the Equipment and the right to use the Software and Lessor shall be entitled to all tax benefits resulting therefrom, (b) Lessee shall have no right, title or interest therein, other than possession and use as a Lessee and non-exclusive sublicensee, and (c) Lessee and Lessor intend the Lease to create a true lease and not a security interest, and the provisions of this Section or the filing of any financing statements with respect to the Lease shall not be deemed evidence of any contrary intent but of an attempt to protect Lessor's rights and title. Without limiting or negating the foregoing sentence, to secure the performance of Lessee's repayment of any Purchase Price Payments, price adjustments and out-of-pocket expenses under Section 3 above until the commencement of the Lease, Lessee hereby grants to Lessor a first priority security interest in Lessee's existing and future right, title and interest in, to and under (i) the System including all additions, attachments, accessions, and leased Modifications and Additions (as defined in Section 7 below) thereto, and replacements therefor, (ii) the applicable Supplier Agreement, and (iii) all products and proceeds of the foregoing including, without limitation, insurance proceeds, rents and all sums due or to become due to Lessee with respect to any of the foregoing, and all monies received in respect thereof.

**7. MODIFICATIONS, ADDITIONS AND ALTERATIONS:** After the Commencement Date of this Lease and without notice to Lessor, Lessee may, at Lessee's expense, alter or modify any item of Equipment with an upgrade, accessory or any other equipment that meets the specifications of the System's manufacturer for use on or in connection with the System ("Modification") or with Software or other associated items or materials that meet the specifications of such manufacturer and are to be used on or in connection with such System ("Addition"). Any other modification or addition ("Alteration") shall be permitted only upon written notice to Lessor and at Lessee's expense and risk, and any such Alteration shall be removed and the System restored to its normal, unaltered condition at Lessee's expense prior to its return to Lessor. If not removed upon return of the System, any Modification or Addition shall become, without charge, the property of Lessor free and clear of all encumbrances. Restoration will include replacement of any parts removed in connection with the installation of an Alteration, Modification or Addition. Any Equipment or Software installed in connection with warranty or maintenance service or manufacturer's upgrades provided at no charge to Lessee shall be the property of Lessor.

**8. LEASES FOR MODIFICATIONS AND ADDITIONS:** During the Term of this Lease, at Lessee's request, Lessor may elect to lease to Lessee Modifications and Additions ("CSO Equipment") subject to the terms of this Lease. While the CSO Equipment shall be added to and become a part of this Lease as of the CSO Commencement Date (as defined below), the CSO Lease Addendum shall be assigned a separate Schedule number. The lease for CSO Equipment shall expire at the same time as this Lease. The applicable Lease Rate Factor shall be Lessor's then-current Lease Rate Factor for similar transactions based upon the remaining length of the Term. The rent for CSO Equipment shall be determined by Lessor who shall adjust the then-current Rent and notify Lessee in writing of such adjustment(s), which shall be effective as of the first day of the month following the date of the notice (or the date of the notice if it is the first day of the month) ("CSO Commencement Date"). Any adjustment notice shall be added to and become a part of this Lease.

CSO Equipment must be ordered by Lessee from the Supplier. On the date any CSO Equipment is delivered to Lessee, Supplier shall pass title to such CSO Equipment (other than any Software which shall be licensed and/or sublicensed) directly to Lessor. Such title shall be good and marketable and free and clear of any and all liens and encumbrances of any nature whatsoever. Lessor shall promptly pay to Supplier the appropriate price of the CSO Equipment after the later of (a) the date the CSO Equipment is installed and functioning, or (b) Lessor's receipt of a full and complete listing of the CSO Equipment and the Supplier's invoice. No interest shall be payable by Lessor to Supplier with respect to such payment. Lessor's agreement to lease any CSO Equipment is subject to the condition that the Price payable to Supplier with respect thereto shall not exceed \$100,000.00 or be less than \$1,000.00, and is subject to satisfactory credit review by Lessor of Lessee's credit at the time of the CSO.

**9. RETURN OF SYSTEM:** At Lessor's request upon the occurrence of an Event of Default, or at the end of the applicable Term, Lessee shall, at its own risk and sole expense, immediately return the System to Lessor by properly removing, disassembling and packing it for shipment, loading it on board a carrier acceptable to Lessor, and shipping the same to a destination in the continental United States specified by Lessor, freight and insurance prepaid. The returned System shall be in the same condition and operating order as existed when received, ordinary wear and tear excepted. If the Lessee does not immediately return the System to Lessor as required, Lessee shall pay to Lessor, on demand, an amount equal to the then-current Rent prorated on a daily basis for each day from and including the termination or expiration date of the Lease through and including the day Lessee ships the System to Lessor in accordance with this Section. Lessee shall pay to Lessor, upon written demand, any amount necessary to place the System in good repair, condition and working order, ordinary wear and tear excepted.

Lessor **General Electric Capital Corporation**

***Equipment and Software Listing***

Lessee **Town of Davie, Florida**

Agreement No./Schedule No.  
7248117001

Lessor and Lessee agree that the following described Equipment and Software are subject to the Master Lease Agreement and Schedule referenced above.

See Equipment Addendum

**STAGE 1****AMOUNT**

ADMIN & TOWN CLERK (BLDG A)	\$	18,007.86
BUDGET & FINANCE (BLDG B)	\$	77,459.46
DEVELOPMENT SERVICES (BLDG C)	\$	31,010.81
SPARE PARTS CRASH KIT	\$	4,949.75
MISCELLANEOUS	\$	10,729.98
<b>SUBTOTAL</b>	<b>\$</b>	<b>142,157.86</b>

**STAGE 2**

RECREATION & FIRE ADMINISTRATION	\$	29,149.98
FIRE STATION 38	\$	10,473.17
PUBLIC WORKS TRAILER, STORAGE & GARAGE	\$	6,876.16
POLICE ATHLETIC LEAGUE BLDG	\$	5,076.80
COMMUNITY REDEVELOPMENT BLDG	\$	5,410.16
OLD DAVIE SCHOOL	\$	2,134.34
BETTY BOOTH PARK	\$	2,091.58
MISCELLANEOUS	\$	26,824.95
<b>SUBTOTAL</b>	<b>\$</b>	<b>88,037.14</b>

**STAGE 3**

UTILITIES WATER PLANT & SATELLITES	\$	7,647.97
FIRE STATION 91 & IVANHOE SCHOOL	\$	4,798.62
FIRE STATION 68	\$	2,674.22
PINE ISLAND MULT BLDG, POOL & SATELLITES	\$	15,539.00
SHENANDOAH PARK & SATELLITES	\$	5,156.31
RODEO	\$	1,231.58
DAVIE POLICE DEPARTMENT LINK	\$	6,193.33
MISCELLANEOUS	\$	21,459.96
<b>SUBTOTAL</b>	<b>\$</b>	<b>64,700.99</b>
<b>TOTAL</b>	<b>\$</b>	<b>294,896.00</b>



		<b>WIRELESS DEVICES AND ANTENNAS</b>						
7	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$486.69	\$3,406.83			
14	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$746.25	\$10,447.50			
3	3CWE490	Omnidirectional Antenna	\$119.00	\$96.69	\$290.07			
18	3CWE498	Sector Panel Antenna	\$159.00	\$129.19	\$2,325.42			
21	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$56.06	\$1,177.26			
		<b>ROUTERS</b>						
11	3C13700	3Com Router 5009	\$1,395.00	\$930.00	\$10,230.00			
1	3C13750	3Com Router 5231S	\$2,495.00	\$1,665.36	\$1,665.36			
10	3C13720	WAN module for Fractal T1 Frame Relay	\$699.00	\$466.00	\$4,660.00			
2	3C13769	Dual T1 WAN/VoIP DTI module	\$1,895.00	\$1,263.33	\$2,526.66			
		<b>BACKUP POWER SUPPLIES</b>						
2	SMART 3000 RM2U	UPS rack mount 2000 watts	\$1,292.50	\$1,292.50	\$2,585.00			
3	SMART2200 RMXL2U	UPS rack mount 1500 watts	\$1,240.00	\$1,240.00	\$3,720.00			
22	BP48V60RT3U	Battery Pack 4 hours	\$873.75	\$873.75	\$19,222.50			
9	3-9U	UPS and Battery Stand	\$51.30	\$51.30	\$461.70			
		<b>SPARE PARTS CRASH KIT</b>						
1	3C10209A	Hard disk Field Replacement	\$1,600.00	\$1,040.00	\$1,040.00			
1	3C10239	Call processor Field Replacement	\$3,665.00	\$2,382.25	\$2,382.25			
1	3C10110	NBX 100 Call Processor	\$1,350.00	\$877.50	\$877.50			
1	3C10119	Hard disk NBX 100 Field Replacement	\$1,000.00	\$650.00	\$650.00			
		<b>TECHNICAL SERVICE, INSTALLATION, PROJECT MANAGEMENT, TRAINING, MISCELLANEOUS</b>						
300	MISCELLANEOUS	Service hours	\$125.00	\$93.75	\$28,125.00			
20	MISCELLANEOUS	Service CDR Call Accounting	\$125.00	\$93.75	\$1,875.00			
800	MISCELLANEOUS	Patch cords 3ft Cat 5e	\$1.20	\$1.20	\$960.00			
110	MISCELLANEOUS	Wireless sites preparation	\$125.00	\$93.75	\$10,312.50			
50	MISCELLANEOUS	Subcontract Wireless Sites Preparation	\$175.00	\$175.00	\$8,750.00			
1	MISCELLANEOUS	Installation materials for wireless sites	\$8,000.00	\$8,000.00	\$8,000.00			
30	3C10223	Power splitters 12 per pack	\$42.00	\$33.08	\$992.40			
		<b>TOTAL AMOUNT</b>						\$294,896.00

QTY.	PART NUMBER	DESCRIPTION	LIST PRICE	TOTAL BID PRICE
		<b>ADMIN &amp; TOWN CLERK (BLDG A)</b>		
6	3C10248B	NBX Base Phone	\$285.00	\$1,325.28
16	3C10226B	NBX SPK Phone	\$435.00	\$4,698.08
1	IP 3000	Polycom Conference Phone	\$795.00	\$795.00
2	3C10120B	ATA SINGLE PORT	\$360.00	\$283.50
1	3C17304	24 port switch + 2x 1GB ports + 2x slots /fiber module	\$920.00	\$736.00
1	3C6BIC91	Single 1GB fiber module	\$495.00	\$396.00
2	3C17205	4400 24 port switch with 24 port Power over Ethernet	\$2,495.00	\$1,620.13
2	3C17220	Switch 4400 1000BASE-T Cable Module	\$495.00	\$396.00
1	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$486.69
1	3CWE498	Sector Panel Antenna	\$159.00	\$129.19
1	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$56.06
1	SMART2200 RMXL2U	UPS rack mount 1500 watts	\$1,240.00	\$1,240.00
4	BP48V60RT3U	Battery Pack 4 hours	\$873.75	\$873.75
1	3-9U	UPS and Battery Stand	\$51.30	\$51.30
		<b>BUDGET &amp; FINANCE (BLDG B)</b>		
34	3C10248B	NBX Base Phone	\$285.00	\$7,509.92
22	3C10226B	NBX SPK Phone	\$435.00	\$6,459.86
2	3C10282	Polycom Conference Licenses	\$100.00	\$150.00
2	3C10200	V6000 CHASSIS	\$1,500.00	\$1,950.00
1	3C10202	V5000 CALL PROCESSOR 250-2PWR	\$9,000.00	\$4,725.00
1	3C10325	CP250 DEVICE UPGRADE	\$24,600.00	\$12,915.00
1	3C10233	MEMORY UPGRADE 512K	\$400.00	\$300.00
1	3C10207	DISK MIRRORING	\$3,500.00	\$1,837.50
4	3C10116C	NBX T1 boards	\$4,700.00	\$12,220.00
1	3C10284	CITEL 16 PORT ANALOG BOARD	\$1,960.00	\$1,960.00
1	15473C16A	CITEL HDST GATEWAY LICENSE	\$12.00	\$12.00
1	3C10117C	ATA Board 4 port	\$1,300.00	\$763.75
1	3C10212	4P-12 PORT UPGRADE Vm	\$5,900.00	\$3,097.50
1	3C10132	IP ON THE FLY	\$2,420.00	\$1,270.50
1	3C10272	VTL 4 PORTS	\$3,000.00	\$1,612.50
1	3C17304	24 port switch + 2x 1GB ports + 2x slots /fiber module	\$920.00	\$736.00
2	3C6BIC91	Single 1GB fiber module	\$495.00	\$792.00
3	3C17205	4400 24 port switch with 24 port Power over Ethernet	\$2,495.00	\$4,860.39
4	3C17220	Switch 4400 1000BASE-T Cable Module	\$495.00	\$1,584.00
1	3C17221	Switch 4400 1000BASE-SX Fiber Module	\$530.00	\$424.00
2	3C13700	3Com Router 5009	\$1,395.00	\$1,860.00
1	3C13750	3Com Router 5231S	\$2,495.00	\$1,665.36
2	3C13720	WAN module for Fractional T1 Frame Relay	\$699.00	\$932.00
1	3C13769	Dual T1 WAN/VoIP DTI module	\$1,895.00	\$1,263.33
1	IP 3000	Polycom Conference Phone	\$795.00	\$795.00
		<b>DESCRIPTION</b>	<b>LIST PRICE</b>	<b>TOTAL BID PRICE</b>
<b>QTY.</b>	<b>PART NUMBER</b>	<b>DESCRIPTION</b>	<b>LIST PRICE</b>	<b>TOTAL BID PRICE</b>

1	SMART 3000 RM2U	UPS rack mount 2000 watts	\$1,292.50	\$1,292.50	\$1,292.50	\$1,292.50
5	BP48V60RT3U	Battery Pack 4 hours	\$873.75	\$873.75	\$873.75	\$4,968.75
2	3-9U	UPS and Battery Stand	\$51.30	\$51.30	\$51.30	\$102.60
	<b>DEVELOPMENT SERVICES (BLDG C)</b>					
18	3C10248B	NBX Base Phone	\$285.00	\$285.00	\$220.88	\$3,975.84
47	3C10226B	NBX SPK Phone	\$435.00	\$435.00	\$293.63	\$13,800.61
1	3C10123A	NBX AUTO ATTENDANT	\$358.00	\$358.00	\$281.93	\$281.93
1	3C10280	COMPLEMENT ATTENDANT SW	\$10.00	\$10.00	\$7.50	\$7.50
2	3C10120B	ATA SINGLE PORT	\$360.00	\$360.00	\$283.50	\$567.00
3	3C17205	4400 24 port switch with 24 port Power over Ethernet	\$2,495.00	\$2,495.00	\$1,620.13	\$4,860.39
4	3C17220	Switch 4400 1000BASE-T Cable Module	\$495.00	\$495.00	\$396.00	\$1,584.00
1	3C17221	Switch 4400 1000BASE-SX Fiber Module	\$530.00	\$530.00	\$424.00	\$424.00
1	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$599.00	\$486.69	\$486.69
1	3CWE498	Sector Panel Antenna	\$159.00	\$159.00	\$129.19	\$129.19
1	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$69.00	\$56.06	\$56.06
1	SMART2200 RMXL2U	UPS rack mount 1500 watts	\$1,240.00	\$1,240.00	\$1,240.00	\$1,240.00
4	BP48V60RT3U	Battery Pack 4 hours	\$873.75	\$873.75	\$873.75	\$3,495.00
2	3-9U	UPS and Battery Stand	\$51.30	\$51.30	\$51.30	\$102.60
	<b>OLD DAVIE SCHOOL</b>					
1	3C10248B	NBX Base Phone	\$285.00	\$285.00	\$220.88	\$220.88
2	3C10226B	NBX SPK Phone	\$435.00	\$435.00	\$293.63	\$587.26
1	3C10120B	ATA SINGLE PORT	\$360.00	\$360.00	\$283.50	\$283.50
1	3C16791	8 port switch	\$139.00	\$139.00	\$111.20	\$111.20
1	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$995.00	\$746.25	\$746.25
1	3CWE498	Sector Panel Antenna	\$159.00	\$159.00	\$129.19	\$129.19
1	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$69.00	\$56.06	\$56.06
	<b>RODEO</b>					
1	3C10248B	NBX Base Phone	\$285.00	\$285.00	\$220.88	\$220.88
1	3C16790	5 port switch	\$99.00	\$99.00	\$79.20	\$79.20
1	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$995.00	\$746.25	\$746.25
1	3CWE498	Sector Panel Antenna	\$159.00	\$159.00	\$129.19	\$129.19
1	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$69.00	\$56.06	\$56.06
	<b>RECREATION &amp; FIRE ADMINISTRATION</b>					
14	3C10248B	NBX Base Phone	\$285.00	\$285.00	\$220.88	\$3,092.32
24	3C10226B	NBX SPK Phone	\$435.00	\$435.00	\$293.63	\$7,047.12
1	3C10123A	NBX AUTO ATTENDANT	\$358.00	\$358.00	\$281.93	\$281.93
1	3C10280	COMPLEMENT ATTENDANT SW	\$10.00	\$10.00	\$7.50	\$7.50
3	3C10120B	ATA SINGLE PORT	\$360.00	\$360.00	\$283.50	\$850.50
<b>QTY.</b>	<b>PART NUMBER</b>	<b>DESCRIPTION</b>	<b>LIST PRICE</b>	<b>LIST PRICE</b>	<b>LIST PRICE</b>	<b>TOTAL BID PRICE</b>

1	3C17304	24 port switch + 2x 1GB ports + 2x slots /fiber module	\$920.00	\$736.00	\$736.00
2	3C6BIC91	Single 1GB fiber module	\$495.00	\$396.00	\$792.00
2	3C17205	4400 24 port switch with 24 port Power over Ethernet	\$2,495.00	\$1,620.13	\$3,240.26
2	3C17220	Switch 4400 1000BASE-T Cable Module	\$495.00	\$396.00	\$792.00
1	3C17221	Switch 4400 1000BASE-SX Fiber Module	\$530.00	\$424.00	\$424.00
1	3C10110	NBX 100 Call Processor	\$1,350.00	\$708.75	\$708.75
1	3C10111	NBX 100 CHASSIS	\$725.00	\$471.25	\$471.25
2	3C10114C	NBX LS/DS Board 4 port	\$1,140.00	\$741.00	\$1,482.00
1	3C10137	VOICE MAIL UPGRADE 4P/4H	\$1,100.00	\$577.50	\$577.50
1	3C10132	IP ON THE FLY	\$2,420.00	\$1,270.50	\$1,270.50
1	3C10272	VTL 4 PORTS	\$3,000.00	\$1,612.50	\$1,612.50
1	SMART 3000 RM2U	UPS rack mount 2000 watts	\$1,292.50	\$1,292.50	\$1,292.50
5	BP48V60RT3U	Battery Pack 4 hours	\$873.75	\$873.75	\$4,368.75
2	3-9U	UPS and Battery Stand	\$51.30	\$51.30	\$102.60
		<b>FIRE STATION 38</b>			
7	3C10248B	NBX Base Phone	\$285.00	\$220.88	\$1,546.16
6	3C10226B	NBX SPK Phone	\$435.00	\$293.63	\$1,761.78
1	3C10120B	ATA SINGLE PORT	\$360.00	\$283.50	\$283.50
1	3C17205	4400 24 port switch with 24 port Power over Ethernet	\$2,495.00	\$1,620.13	\$1,620.13
1	3C17221	Switch 4400 1000BASE-SX Fiber Module	\$530.00	\$424.00	\$424.00
1	SMART2200 RMXL2U	UPS rack mount 1500 watts	\$1,240.00	\$1,240.00	\$1,240.00
4	BP48V60RT3U	Battery Pack 4 hours	\$873.75	\$873.75	\$3,495.00
2	3-9U	UPS and Battery Stand	\$51.30	\$51.30	\$102.60
		<b>PUBLIC WORKS TRAILER, STORAGE &amp; GARAGE</b>			
10	3C10248B	NBX Base Phone	\$285.00	\$220.88	\$2,208.80
4	3C10226B	NBX SPK Phone	\$435.00	\$293.63	\$1,174.52
2	3C10120B	ATA SINGLE PORT	\$360.00	\$283.50	\$567.00
1	3C17304	24 port switch + 2x 1GB ports + 2x slots /fiber module	\$920.00	\$736.00	\$736.00
1	3C6BIC91	Single 1GB fiber module	\$495.00	\$396.00	\$396.00
1	3C16790	5 port switch	\$99.00	\$79.20	\$79.20
1	3C16791	8 port switch	\$139.00	\$111.20	\$111.20
1	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$486.69	\$486.69
1	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$746.25	\$746.25
2	3CWE498	Sector Panel Antenna	\$159.00	\$129.19	\$258.38
2	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$56.06	\$112.12
		<b>PINE ISLAND MULT BLDG, POOL &amp; SATELLITES</b>			
18	3C10248B	NBX Base Phone	\$285.00	\$220.88	\$3,975.84
3	3C10226B	NBX SPK Phone	\$435.00	\$293.63	\$880.89
3	3C10120B	ATA SINGLE PORT	\$360.00	\$283.50	\$850.50
		<b>QTY. PART NUMBER DESCRIPTION LIST PRICE LIST PRICE TOTAL BID PRICE</b>			
1	3C17205	4400 24 port switch with 24 port Power over Ethernet	\$2,495.00	\$1,620.13	\$1,620.13

5	3C16790	5 port switch	\$99.00	\$79.20	\$396.00
1	3C16792	16 port switch	\$239.00	\$191.20	\$191.20
1	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$486.69	\$486.69
6	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$746.25	\$4,477.50
6	3CWE498	Sector Panel Antenna	\$159.00	\$129.19	\$775.14
1	3CWE490	Omni Antenna	\$119.00	\$96.69	\$96.69
7	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$56.06	\$392.42
1	3C13700	3Com Router 5009	\$1,395.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay	\$699.00	\$466.00	\$466.00
<b>UTILITIES WATER PLANT &amp; SATELLITES</b>					
2	3C10248B	NBX Base Phone	\$285.00	\$220.88	\$441.76
9	3C10226B	NBX SPK Phone	\$435.00	\$293.63	\$2,642.67
1	3C10120B	ATA SINGLE PORT	\$360.00	\$283.50	\$283.50
1	3C16790	5 port switch	\$99.00	\$79.20	\$79.20
1	3C16791	8 port switch	\$139.00	\$111.20	\$111.20
1	3C16792	16 port switch	\$239.00	\$191.20	\$191.20
1	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$486.69	\$486.69
2	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$746.25	\$1,492.50
2	3CWE498	Sector Panel Antenna	\$159.00	\$129.19	\$258.38
1	3CWE490	Omni Antenna	\$119.00	\$96.69	\$96.69
3	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$56.06	\$168.18
1	3C13700	3Com Router 5009	\$1,395.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay	\$699.00	\$466.00	\$466.00
<b>SHENANDOAH PARK &amp; SATELLITES</b>					
3	3C10248B	NBX Base Phone	\$285.00	\$220.88	\$662.64
1	3C10226B	NBX SPK Phone	\$435.00	\$293.63	\$293.63
1	3C16790	5 port switch	\$99.00	\$79.20	\$79.20
2	3C16791	8 port switch	\$139.00	\$111.20	\$222.40
1	3CRWE80096A	Wireless LAN Access Point	\$599.00	\$486.69	\$486.69
2	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge	\$995.00	\$746.25	\$1,492.50
2	3CWE498	Sector Panel Antenna	\$159.00	\$129.19	\$258.38
1	3CWE490	Omni Antenna	\$119.00	\$96.69	\$96.69
3	3CWE481	Coax Cable 20' for antennas + power	\$69.00	\$56.06	\$168.18
1	3C13700	3Com Router 5009	\$1,395.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relat	\$699.00	\$466.00	\$466.00
<b>FIRE STATION 91 &amp; IVANHOE SCHOOL</b>					
6	3C10248B	NBX Base Phone	\$285.00	\$220.88	\$1,325.28
0	3C10226B	NBX SPK Phone	\$435.00	\$293.63	\$0.00
<b>QTY.</b>	<b>PART NUMBER</b>	<b>DESCRIPTION</b>	<b>LIST PRICE</b>	<b>LIST PRICE</b>	<b>TOTAL BID PRICE</b>
1	3C10120B	ATA SINGLE PORT	\$360.00	\$283.50	\$283.50
1	3C16790	5 port switch	\$99.00	\$79.20	\$79.20

1	3C16791	8 port switch		\$139.00	\$111.20	\$111.20	\$111.20
1	3CRWE80096A	Wireless LAN Access Point		\$599.00	\$486.69	\$486.69	\$486.69
1	3CRWE91096A	Wireless LAN Bldg-Bldg Bridge		\$995.00	\$746.25	\$746.25	\$746.25
2	3CWE498	Sector Panel Antenna		\$159.00	\$129.19	\$129.19	\$258.38
2	3CWE481	Coax Cable 20' for antennas + power		\$69.00	\$56.06	\$112.12	\$112.12
1	3C13700	3Com Router 5009		\$1,395.00	\$930.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay		\$699.00	\$466.00	\$466.00	\$466.00
		<b>POLICE ATHLETIC LEAGUE BLDG</b>					
8	3C10248B	NBX Base Phone		\$285.00	\$220.88	\$220.88	\$1,767.04
1	3C10226B	NBX SPK Phone		\$435.00	\$293.63	\$293.63	\$293.63
1	3C17205	4400 24 port switch with 24 port Power over Ethernet		\$2,495.00	\$1,620.13	\$1,620.13	\$1,620.13
1	3C13700	3Com Router 5009		\$1,395.00	\$930.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay		\$699.00	\$466.00	\$466.00	\$466.00
		<b>COMMUNITY REDEVELOPMENT BLDG</b>					
3	3C10248B	NBX Base Phone		\$285.00	\$220.88	\$220.88	\$662.64
3	3C10226B	NBX SPK Phone		\$435.00	\$293.63	\$293.63	\$880.89
3	3C10120B	ATA SINGLE PORT		\$360.00	\$283.50	\$283.50	\$850.50
1	3C17205	4400 24 port switch with 24 port Power over Ethernet		\$2,495.00	\$1,620.13	\$1,620.13	\$1,620.13
1	3C13700	3Com Router 5009		\$1,395.00	\$930.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay		\$699.00	\$466.00	\$466.00	\$466.00
		<b>FIRE STATION 68</b>					
4	3C10248B	NBX Base Phone		\$285.00	\$220.88	\$220.88	\$883.52
1	3C10120B	ATA SINGLE PORT		\$360.00	\$283.50	\$283.50	\$283.50
1	3C16791	8 port switch		\$139.00	\$111.20	\$111.20	\$111.20
1	3C13700	3Com Router 5009		\$1,395.00	\$930.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay		\$699.00	\$466.00	\$466.00	\$466.00
		<b>BETTY BOOTH PARK</b>					
1	3C10248B	NBX Base Phone		\$285.00	\$220.88	\$220.88	\$220.88
1	3C10120B	ATA SINGLE PORT		\$360.00	\$283.50	\$283.50	\$283.50
1	3C16792	16 port switch		\$239.00	\$191.20	\$191.20	\$191.20
1	3C13700	3Com Router 5009		\$1,395.00	\$930.00	\$930.00	\$930.00
1	3C13720	WAN module for Fractal T1 Frame Relay		\$699.00	\$466.00	\$466.00	\$466.00
		<b>SPARE PARTS CRASH KIT</b>					
1	3C10209A	Hard disk Field Replacement		\$1,600.00	\$1,040.00	\$1,040.00	\$1,040.00
1	3C10239	Call processor Field Replacement		\$3,665.00	\$2,382.25	\$2,382.25	\$2,382.25
<b>QTY.</b>	<b>PART NUMBER</b>	<b>DESCRIPTION</b>		<b>LIST PRICE</b>	<b>LIST PRICE</b>	<b>LIST PRICE</b>	<b>TOTAL BID PRICE</b>
1	3C10110	NBX 100 Call Processor		\$1,350.00	\$877.50	\$877.50	\$877.50
1	3C10119	Hard disk NBX 100 Field Replacement		\$1,000.00	\$650.00	\$650.00	\$650.00

DAVIE POLICE DEPARTMENT						
1	9C13700	3Com Router 5009	\$1,395.00	\$930.00	\$930.00	\$930.00
1	9C13769	Dual T1 WAN/VoIP DTI module	\$1,895.00	\$1,263.33	\$1,263.33	\$1,263.33
1	NT5D12AD	MERIDIAN TDMI PRI BOARD	\$5,000.00	\$4,000.00	\$4,000.00	\$4,000.00
		<b>TECHNICAL SERVICE, INSTALLATION, PROJECT MANAGEMENT, TRAINING</b>				
300	MISCELLANEOUS	Service hours	\$125.00	\$93.75	\$93.75	\$28,125.00
20	MISCELLANEOUS	Service CDR Call Accounting	\$125.00	\$93.75	\$93.75	\$1,875.00
800	MISCELLANEOUS	Patch cords 3ft Cat 5e	\$1.20	\$1.20	\$1.20	\$960.00
110	MISCELLANEOUS	Wireless sites preparation	\$125.00	\$93.75	\$93.75	\$10,312.50
50	MISCELLANEOUS	Subcontract Wireless Sites Preparation	\$175.00	\$175.00	\$175.00	\$8,750.00
1	MISCELLANEOUS	Installation materials for wireless sites	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
30	9C10223	Power splitters 12 per pack	\$42.00	\$33.08	\$33.08	\$992.40
		<b>TOTAL AMOUNT</b>				<b>\$294,896.00</b>

Lessor **General Electric Capital Corporation**

**Lease Rate Factor Addendum**

Lessee **Town of Davie, Florida**

Agreement No./Schedule No.  
7248117001

Contemporaneously with entering into the Schedule to the Master Lease Agreement referenced above, Lessor and Lessee agree that the Lease Rate Factor set forth in the Schedule shall be adjusted as follows:

The Rent payment is calculated using the Lease Rate Factor set forth above ("Lease Rate Factor") which was quoted to Lessee on 9/1/03 ("Quote Date"). The Lease Rate Factor is calculated, in part, using an interest rate based on the interest rate for swaps (the "Swap Rate") that most closely approximates the Initial Term of the Lease as published in the Federal Reserve Statistical Release H.15 available at <http://www.federalreserve.gov/releases/h15/update/> on the Quote Date. The Lease Rate Factor and the Rent payment may be adjusted if the Swap Rate as reported four (4) business days prior to the Commencement Date is different than the Swap Rate as reported on the Quote Date. For each basis point change in the Swap Rate, the Lease Rate Factor shall be adjusted by .000100. Notwithstanding the foregoing, if Lessee has elected Purchase Option B or C, and the Quote Date is on or before December 31<sup>st</sup> of any calendar year, but the Commencement Date is on or after January 1<sup>st</sup> of the following calendar year, then the Lease Rate Factor and the Rent payment will be adjusted to preserve Lessor's tax economic yields and cash flows and Lessor will notify Lessee of any such adjustments.

General Electric Capital Corporation

Town of Davie, Florida

BY \_\_\_\_\_  
*Authorized Representative*

BY \_\_\_\_\_  
*Authorized Representative*

PRINT NAME \_\_\_\_\_

PRINT NAME \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

# General Electric Capital Corporation

October 23, 2003

10 Riverview Drive  
Danbury, CT 06810

**Subject:** Required Insurance Coverage for Master Lease Agreement No./Schedule No. 7248117001

Dear Customer:

Under the terms of the Lease referenced above, insurance covering the System is required in the amounts and specifics as outlined below:

<u>Insurance</u>	<u>Amount</u>
All Risk Property Insurance	Replacement Cost of System
General Liability	
Bodily Injury	\$1 Million per Occurrence
Property Damage	\$1 Million per Occurrence
OR	
Combined single limit (for bodily injury and property damage)	\$2 Million per Occurrence

Lessor is to be named as Additional Insured and Loss Payee as its interests appear.

Lessor shall be given thirty (30) days written notice of cancellation or any material change in coverage.

Please forward this information to your carrier as soon as possible. **Proof of Insurance must be faxed to 866-640-0117, or are to be sent to the address reflected below prior to your acceptance of the equipment.**

**General Electric Capital Corporation  
10 Riverview Drive  
Danbury, CT 06810**

Thank you for your prompt attention to this matter.

Sincerely,

General Electric Capital Corporation

Lessor **General Electric Capital Corporation**

**Verification Form**

Lessee **Town of Davie, Florida**

Agreement No./Schedule No.

Tax ID No.

7248117001

Fed Tax Id/SS No.

(Federal Tax Id/SS Number Must Be Provided With Signed Documents)

If Lessee's taxing jurisdiction requires Lessor to pay sales tax at the commencement of the Agreement, and Lessee does **NOT** check one of the following boxes, **LESSOR WILL INCLUDE SUCH TAXES AS PART OF THE RENT.**

**DO NOT INCLUDE UPFRONT SALES TAXES IN THE RENT FOR THE FOLLOWING REASON (Select One):**

Invoice Lessee for the entire upfront sales tax on the first invoice after the commencement of the Lease.

The System, the Lease and the Rent are exempt from sales tax.\*

\*Attach the appropriate exemption certificate. (Note: certificates are required for all states in which any portion of the System is located.) Executed certificates (or letter, if state or local government or agency) must be submitted with signed Lease documents, otherwise Lessor will be required to bill Lessee for applicable taxes.

To ensure Lessee is correctly billed, please provide the Billing Address and answer the questions below.

Please complete the Billing Information:

**Billing Address**

\_\_\_\_\_  
\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Billing Contact Name \_\_\_\_\_

Billing Contact Phone No. \_\_\_\_\_

Is the Installation Site in the Equipment Schedule correct?

Yes  No (please complete blanks at right)

**Installation Site**

\_\_\_\_\_  
\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ County \_\_\_\_\_

If applicable, enclose copy of Lessee's Purchase Order.

Purchase Order No. \_\_\_\_\_ Start Date \_\_\_\_\_ Expiration Date \_\_\_\_\_

Please note: If Lessee has elected a \$1 Purchase Option, then Lessee is responsible for promptly reporting and paying personal property taxes to the appropriate local taxing authorities.

Preparer: \_\_\_\_\_

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



Lessor General Electric Capital Corporation

**Florida SLG Addendum  
(continued)**

Lessee Town of Davie, Florida

Agreement No.  
7248117-001

Lessee will take all necessary action to include in its annual budget any funds required to fulfill its obligations for each fiscal year of Lessee during the Term of the Lease. (f) The financial statements, certificates or summaries relating to Lessee's financial condition, fiscal budget of the assessment and collection of taxes delivered by Lessee to Lessor fairly present the activity and position of Lessee as of the stated date(s) and period(s). Since the date of the most recently delivered certificate or summary, there has been no material change in the budget of, and no material adverse change in the financial condition of Lessee. (g) No event which would be defined as a nonappropriation herein has occurred nor is it presently known that any such event will occur under any lease or contract by which Lessee is bound. (h) If requested by Lessor, Lessee will execute and deliver to Lessor in connection with each Lease, a Certificate of Resolutions and Incumbency and/or an Opinion of Counsel in form and substance satisfactory to Lessor."

5. **Section 19. JURISDICTION AND GOVERNING LAW:** The title and text of Section 19 are deleted and the following substituted in lieu thereof:

**"GOVERNING LAW. EACH LEASE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF FLORIDA."**

6. The following two new additional Sections are added to the Agreement:

**"NONAPPROPRIATION:** In the event, notwithstanding Lessee's best efforts and exhaustion of all available administrative appeals, Lessee is not allotted funds for a fiscal period and Lessee has no other funds from non-ad valorem sources legally available to be allocated line item to the payment of its obligations under a Lease, Lessee may terminate the Lease effective on the first day of such fiscal period ("Termination Date"), if Lessor has received written notice from Lessee at least thirty (30) days before the Termination Date. At Lessor's request, Lessee shall promptly provide supplemental documentation as to such nonappropriation. Upon the occurrence of such nonappropriation, Lessee shall not be obligated for payment of any Rent for any fiscal period for which funds have not been so appropriated, and Lessee shall deliver the System to Lessor in accordance with Section 9 of the applicable Schedule. Lessor acknowledges that Rent is payable from sources other than ad valorem taxes.

**LIMITATIONS:** The parties intend that the collection of any damages, the exercise of any remedy, the enforceability of any indemnity, and any requirements of Lessee relative to nonappropriation set forth in a Lease are subject to any limitations imposed by applicable law."

Lessor General Electric Capital Corporation

Form of Certificate of Resolutions and Incumbency

Lessee Town of Davie, Florida

Agreement No./Schedule No. 7248117-001

I, \_\_\_\_\_, do hereby certify that I am the duly elected or appointed, qualified, and acting Secretary/Clerk of the \_\_\_\_\_, a body corporate and politic and a political subdivision duly organized and existing under the laws of the State of \_\_\_\_\_ ("Lessee"), and that the following resolutions have been presented to, and duly adopted by, the Lessee at a meeting convened in accordance with applicable law on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ and that the following resolutions are in full force and effect on the date hereof:

WHEREAS, the governing body of the Lessee has determined that a true and very real need exists for the acquisition of the use of the equipment and associated software licenses (collectively, "System") described in the Master Lease Agreement and related Equipment Schedules thereto between Lessee and Lessor, as each may have been amended (collectively, "Lease") and as described in the contract of purchase ("Supplier Agreement") between the Lessee and \_\_\_\_\_ ("Supplier"); and

WHEREAS, the Lessee has complied with all applicable laws relative to the execution, delivery and performance of the Supplier Agreement and the Lease including, without limitation, laws governing open meetings and bidding requirements.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of Lessee that the terms of the Supplier Agreement and the Lease are in the best interests of Lessee for the acquisition of the use of such System and are approved, and the governing body of Lessee designates and confirms that any of the following persons are authorized to (a) execute and deliver the Supplier Agreement and the Lease and any related documents and instruments as may, in their discretion, be necessary or expedient to the consummation of the transactions contemplated by the Supplier Agreement and the Lease, together with any amendments thereto, their execution to be conclusive evidence of Lessee's approval of such amendment(s) and (b) do any and all such acts as may, in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution.

\_\_\_\_\_  
Title  
\_\_\_\_\_  
Title

I do further certify that the persons whose names, titles, and signatures appear below are duly elected or appointed, qualified, and acting officers of Lessee and hold on the date of this Certificate the offices set forth opposite their respective names, and that the signatures appearing opposite their respective names are the genuine signatures of such officers.

Table with 3 columns: Name of Officer, Title of Officer, Signature of Officer. Two rows of blank lines for entry.

I have duly executed this certificate as the Secretary/Clerk and affixed the seal of the Lessee hereto, if applicable, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

PLEASE NOTE: THE OFFICER WHO WILL EXECUTE THE LEASE DOCUMENTS MUST SIGN IN THE BODY OF THE CERTIFICATE. THE SECRETARY/CLERK CERTIFYING TO THAT SIGNATURE MUST COMPLETE THE REMAINING INFORMATION (BY THE RED CHECKS) AND SIGN AT THE BOTTOM OF THE CERTIFICATE.

Lessor **General Electric Capital Corporation**

**Form of Opinion of Counsel**

Lessee **Town of Davie, Florida**

Agreement No./Schedule No.  
7248117-001

[To be typed on the letterhead of Lessee's Counsel]

**General Electric Capital Corporation**  
501 Corporate Centre Drive, Suite 600  
Franklin, TN 37067

Ladies and Gentlemen:

We are counsel to **Town of Davie, Florida** ("Lessee") and in that capacity we have examined that certain **Master Lease Agreement No. 7248117**, between Lessee and Lessor, associated **Equipment Schedule No. 001** and all other documents executed and delivered by Lessee in connection therewith (collectively, "Lease").

As a result of our examination of the Lease, the proceedings taken by the Lessee to authorize and execute the Lease, and such other examinations as we deemed appropriate, we are of the opinion as follows:

1. Lessee is a duly created and validly existing political subdivision of the State of \_\_\_\_\_, and has the power and authority to enter into the Lease and carry out its obligations thereunder.
2. The execution, delivery, and performance of the Lease by Lessee (a) has been duly and legally authorized, (b) are not in contravention of, and will not result in a breach of, any organizational charter or any other contract, agreement or instrument to which Lessee is a party or under which it is bound, and (c) will not violate any provisions and requirements of any applicable judgment, order, law or regulation.
3. No approval, consent, withholding of objection or other document is required from any other governmental authority with respect to the execution, delivery and performance by Lessee of the Lease and the transactions contemplated thereby.
4. The Lease constitutes a valid, legal, and binding agreement, enforceable in accordance with its terms.
5. There are no actions, suits or proceedings pending or, to our knowledge, threatened against or affecting Lessee in any court or before any governmental commission, board or authority which, if adversely determined, will (a) have a material adverse effect on the ability of the Lessee to perform its obligations under the Lease or (b) directly or indirectly, impair any rights of Lessor under the Lease.

Very truly yours,

Lessor **General Electric Capital Corporation**

**Acceptance Certificate**

Lessee **Town of Davie, Florida**

Agreement No./Schedule No.  
7248117001

This Acceptance Certificate is made with respect to that Master Lease Agreement and Schedule referenced above. Capitalized terms used herein shall have the same meanings assigned to them in the Agreement and the Schedule.

On behalf of Lessee, I hereby certify that all of the System described in the Schedule to the Agreement has been delivered to Lessee and installed at the Installation Site. The System has been examined by the Lessee and is in good operating order and condition and is satisfactory to the Lessee. Therefore, the System is irrevocably accepted by the Lessee for all purposes under the Lease as of:

\_\_\_\_\_  
Insert Date of Acceptance

Town of Davie, Florida

BY \_\_\_\_\_  
Authorized Representative

PRINT NAME \_\_\_\_\_

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

**NOTE:** When you are ready to accept your System, sign and date this form and then:

Fax to: 866-640-0117

**AND**

Mail to: 10 Riverview Drive  
Danbury, CT 06810  
**Attention: Cindy Grant**

EXHIBIT "B"

TELESWITCH TECHNOLOGIES, INC.  
MAINTENANCE AGREEMENT

This Maintenance Agreement dated as of \_\_\_\_\_, 2003, is entered into between TELESWITCH TECHNOLOGIES, Inc., a Florida corporation, whose principal place of business is 8021 NW 14<sup>th</sup> Street, Miami, Florida 33166 ("TELESWITCH TECHNOLOGIES"), and \_\_\_\_\_, located at \_\_\_\_\_ ("Customer").

WHEREAS, TELESWITCH TECHNOLOGIES agrees to provide Customer and Customer agrees to accept from TELESWITCH TECHNOLOGIES maintenance and technical support services under the terms and conditions set forth in this Agreement for the licensed software described in Appendix "A" ("Software") and the machinery, equipment, communications hardware, computer and other peripheral equipment listed in Appendix "A", purchased or leased by Customer for use with the Software (the "Equipment"), all of which are located at the site(s) described in Appendix "A" ("Install Location(s)"). The Equipment and the Software are sometimes referred to collectively as the "System".

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree to the following terms and conditions:

**1. SCOPE OF MAINTENANCE SERVICES**

1.1 TELESWITCH TECHNOLOGIES shall provide basic maintenance services in support of the Software and Equipment during the term of this Agreement. Basic maintenance services (hereinafter referred to as "Maintenance") shall consist of:

- (a) Maintaining a technical support center with a twenty-four hour telephone hot-line that allows Customer to seek assistance in the use of the Equipment and/or Software and to report that the System has malfunctioned or is inoperative;
- (b) Using all reasonable diligence to correct verifiable and reproducible errors to the Software when reported to TELESWITCH TECHNOLOGIES in accordance with TELESWITCH TECHNOLOGIES's standard reporting procedures. Upon verifying that an error is present, TELESWITCH TECHNOLOGIES shall work in such a manner which, in its opinion, is necessary toward development of an error correction;
- (c) Performing repairs as are necessary, in TELESWITCH TECHNOLOGIES's opinion, to maintain the Equipment in good working condition;
- (d) Furnishing parts and materials as are necessary, in TELESWITCH TECHNOLOGIES's opinion, to maintain the Equipment in good working condition, including next day replacement of hardware components upon determination by TELESWITCH TECHNOLOGIES that hardware failure has occurred. Customer shall return the failed component to TELESWITCH TECHNOLOGIES, at its expense, using the packaging and return label provided with the replacement component, within fifteen (15) days of receipt of the replacement component;
- (e) Dispatching Service Staff to the Install Location(s) when necessary as determined by TELESWITCH TECHNOLOGIES in its sole discretion; and
- (f) Provide Customer with one (1) copy of each new Release for each copy of the Software being maintained under this Agreement, together with all documentation issued for or in connection with the use of the new Releases, within thirty (30) days after the initial commercial release of such Releases. Releases shall consist of all officially released modifications, updates, improvements, refinements, minor enhancements, error corrections or other changes to the System which are provided by TELESWITCH TECHNOLOGIES to its customers at no additional charge. TELESWITCH TECHNOLOGIES will provide reasonable remote assistance to help Customer install and operate each new Release provided under this Agreement. Upon Customer's request, TELESWITCH TECHNOLOGIES will install said new Releases for an additional charge at TELESWITCH TECHNOLOGIES's then prevailing hourly rates, plus travel expenses (the term "travel expenses", as used in this Agreement, shall include meals, transportation, lodging and other reasonable living and related expenses) incurred by TELESWITCH TECHNOLOGIES. Since Releases are cumulative, each new Release is useful only if Customer has obtained and installed all prior applicable Releases. TELESWITCH TECHNOLOGIES will not support earlier Releases of the Software ninety (90) days after the new Release has been shipped to Customer. If Customer elects not to install a new Release, then TELESWITCH TECHNOLOGIES's responsibility under this Agreement shall terminate with respect to the Software ninety (90) days after delivery of the new Release to Customer.

1.2 Except for the twenty-four hour telephone hot line, Maintenance services will be available during Normal Service Hours, as defined in Section 2 hereof. Routine service calls will be responded to within twenty-four (24) hours of

notification by Customer. Emergency service (defined as services necessitated by a major failure of the Equipment and/or Software to operate as required in accordance with the published materials supplied by the manufacturer) calls will be responded to within four (4) hours of notice from the Customer, unless prevented by causes beyond TELESWITCH TECHNOLOGIES's control. For the purpose of this Agreement, TELESWITCH TECHNOLOGIES's response to any service calls shall, at its sole discretion, be either remotely or by dispatching its Service Staff.

1.3 If, at Customer's request, Maintenance is performed during Extended Service Hours, as defined in Section 2 hereof, then Customer shall pay an additional charge, at TELESWITCH TECHNOLOGIES's then prevailing hourly rate, plus travel and related expenses. A minimum of four (4) hours will be invoiced if on-site services are required. Maintenance performed during Extended Service Hours at other than Customer's request will not be subject to any surcharge.

1.4 If Customer requests the performance of services that are outside or in addition to the scope of services covered under this Agreement, such services may be furnished by TELESWITCH TECHNOLOGIES on a time and materials basis at TELESWITCH TECHNOLOGIES's prevailing rates then in effect, subject to availability of TELESWITCH TECHNOLOGIES's Service Staff.

## 2. SERVICE HOURS

Normal service hours are 8:30 a.m. to 5:30 p.m., local time of the Install Location, Monday through Friday, excluding TELESWITCH TECHNOLOGIES holidays ("Normal Service Hours"). Customer is required to route all problems, questions and requests for service on any System through TELESWITCH TECHNOLOGIES's technical support center. Extended Service Hours are hours outside of the Normal Services Hours.

## 3. TERM

The initial period of coverage shall commence on the date of installation of the Equipment and/or Software and continue for a period of \_\_\_\_\_ year(s) (the "Initial Term"). Thereafter, the term of this Agreement may be renewed for additional periods of one (1) year or more upon agreement of the parties in writing and receipt of payment by TELESWITCH TECHNOLOGIES for the renewal term(s) prior to each renewal date of the Agreement.

## 4. RATES AND CHARGES

4.1 In consideration of the Maintenance to be provided herein, Customer agrees to pay TELESWITCH TECHNOLOGIES its fees based on the schedule set forth in Appendix "B". TELESWITCH TECHNOLOGIES reserves the right to change the maintenance fees charged under this Agreement upon the expiration of the then-current term, provided that, such change will not be effective until thirty (30) days after TELESWITCH TECHNOLOGIES has given Customer written notice of such change. Customer shall pay all maintenance fees (including fees for renewal terms) annually in advance.

4.2 In the event TELESWITCH TECHNOLOGIES performs Maintenance on a System located at an Install Location that is more than sixty (60) miles from TELESWITCH TECHNOLOGIES's service branch location or at a site other than the Install Location, TELESWITCH TECHNOLOGIES shall have the right to charge Customer for travel time and reasonable travel expenses incurred.

4.3 Any and all additional time and material rates charges, hourly or per diem, other charges and/or reimbursable expenses required to be paid by Customer under this Agreement for additional services or services not covered under this Agreement, shall be invoiced to Customer at the beginning of each month after such services were provided and reimbursable expenses were incurred by TELESWITCH TECHNOLOGIES. Customer shall pay the invoiced amount within thirty (30) days from the date of such invoice.

4.4 With the exception of income taxes which TELESWITCH TECHNOLOGIES may be obligated to pay as the result of payment made by Customer, Customer agrees to pay TELESWITCH TECHNOLOGIES for all other taxes, duties, fees and all other charges which may be levied by any government body as a result of this Agreement.

4.5 TELESWITCH TECHNOLOGIES may suspend the Maintenance services provided hereunder or terminate this Agreement, at its sole option, in the event Customer fails to pay the invoiced amount on or before the invoice due date or if Customer otherwise breaches this Agreement. Termination of this Agreement by TELESWITCH TECHNOLOGIES for failure to pay maintenance fees does not release Customer from its payment obligations as set forth in this Agreement.

4.6 A late charge of 1.5% per month (18% APR) will be added to all invoices for charges that are more than thirty (30) days past due.

## 5. TELESWITCH TECHNOLOGIES'S RESPONSIBILITIES

Initials \_\_\_\_\_ ss TELESWITCH TECHNOLOGIES Maintenance Agreement

10/29/2003

TELESWITCH TECHNOLOGIES shall maintain a trained Service Staff (the term "Service Staff" referred to in this Agreement, shall mean employees, agents or authorized representatives of TELESWITCH TECHNOLOGIES) capable of rendering the Maintenance services set forth in this Agreement.

## 6. CUSTOMER'S RESPONSIBILITIES

Customer is obligated under this Agreement and agrees to:

- (a) provide TELESWITCH TECHNOLOGIES's Service Staff full and free access to the Install Location and the System for the purpose of performing Maintenance during Normal Service Hours;
- (b) provide a safe working environment for TELESWITCH TECHNOLOGIES personnel;
- (c) provide TELESWITCH TECHNOLOGIES, at no charge, access to and use of the System, any machines, attachments and/or communications facilities which, in TELESWITCH TECHNOLOGIES's opinion, are reasonably necessary to facilitate Maintenance;
- (d) maintain and control proper site environmental conditions and perform any routine maintenance procedures as prescribed in TELESWITCH TECHNOLOGIES's operations manual pertaining to the Equipment. With the exception of the routine procedures referenced in this section, Customer shall not attempt to perform, perform or cause to be performed maintenance or repair of the System without the prior approval of TELESWITCH TECHNOLOGIES;
- (e) make available the Install Locations(s) at such time as may be requested by TELESWITCH TECHNOLOGIES for installation of any engineering change order during the term of this Agreement; and
- (f) pay long distance charges for remote access to the System by TELESWITCH TECHNOLOGIES for purposes of performing preventive and diagnostic Maintenance services.

## 7. EXCLUDED MAINTENANCE COVERAGE

7.1 Maintenance to be provided under this Agreement does not include services for repair of damage, replacement of parts or increase of service time attributable to following reasons:

- (a) any problems resulting from the misuse, improper use, abuse, alteration, or damage of the System;
- (b) any problems caused by modifications in any versions of the Software not made or authorized by TELESWITCH TECHNOLOGIES;
- (c) any problems resulting from the combination of the System with such other programming, equipment or materials not supplied by TELESWITCH TECHNOLOGIES or to the extent such combination has not been approved by TELESWITCH TECHNOLOGIES;
- (d) any problems resulting from the use of operation of the System for purposes for which it was not designed;
- (e) errors in any version of the Software other than the most recent release, provided that TELESWITCH TECHNOLOGIES will continue to support superseded releases for a reasonable period, not to exceed thirty (30) days, sufficient for Customer to install the newest release;
- (f) problems resulting from unusual physical or electrical stress, accident, neglect or acts of God, and any other similar causes beyond TELESWITCH TECHNOLOGIES's control; and
- (g) moves, adds and changes requested by Customer.

7.2 When Maintenance is required due to any reason set forth above, services will be provided at TELESWITCH TECHNOLOGIES's then prevailing time and material rates and an invoice will be issued to Customer. TELESWITCH TECHNOLOGIES will not be responsible for delays caused by events or circumstances beyond its reasonable control. If Customer modifies the System or adds foreign devices to the System, then TELESWITCH TECHNOLOGIES may, at its sole option, (i) terminate this Agreement, or (ii) support and service such modifications and foreign devices at its then prevailing rates.

7.3 TELESWITCH TECHNOLOGIES may issue a new Software release that also requires a hardware upgrade in order to utilize new functionalities. Such hardware upgrades are not covered under this Agreement.

## 8. ELIGIBILITY

TELESWITCH TECHNOLOGIES reserves the right at Customer's expense to inspect and qualify for Maintenance under this Agreement any equipment or software which was not subject to TELESWITCH TECHNOLOGIES warranty coverage or a TELESWITCH TECHNOLOGIES Maintenance Agreement immediately prior to the date of this Agreement. TELESWITCH TECHNOLOGIES further reserves the right, at any time, to evaluate any System, including its use and environment, and qualify continuance of Maintenance based upon changes, which, in TELESWITCH TECHNOLOGIES's opinion, are reasonably required for the proper operation of any System and the continuance of Maintenance.

## 9. RELOCATION OF EQUIPMENT

Upon request of Customer, TELESWITCH TECHNOLOGIES will provide a price quotation for effecting the relocation of Equipment to a new site. In the event Equipment is moved or relocated by other than TELESWITCH TECHNOLOGIES personnel, TELESWITCH TECHNOLOGIES shall have the right to evaluate the Equipment and its new site and environmental conditions as a condition for continuing Maintenance on the Equipment and to bill Customer at its then prevailing rates for such inspection and any labor, material and adjustments which, in TELESWITCH TECHNOLOGIES's opinion, are necessary to restore the Equipment to good operating condition.

#### 10. ADDITIONAL EQUIPMENT

Equipment and software acquired by Customer, from TELESWITCH TECHNOLOGIES or from an authorized dealer, reseller or agent of TELESWITCH TECHNOLOGIES, during the term of this Agreement will be automatically added to this Agreement following the installation of the equipment and/or software on a coterminous basis. TELESWITCH TECHNOLOGIES, or its authorized dealer, reseller or agent, shall issue the Customer a Supplement to this Agreement (the "Supplement") which shall specify the equipment and software to be added to the Agreement and the additional maintenance fees for the balance of the current term to be invoiced to the Customer. The Supplement will become a part of this Agreement upon acceptance and execution by an officer of TELESWITCH TECHNOLOGIES.

#### 11. LIMITED WARRANTY

TELESWITCH TECHNOLOGIES shall perform its services hereunder in a workmanlike manner and in accordance with accepted industry practice. TELESWITCH TECHNOLOGIES's obligation to furnish repairs, parts and materials or correct any errors shall be limited to the maintenance terms of this Agreement.

#### 12. LIMITATION OF LIABILITY

##### 12.1

TELESWITCH TECHNOLOGIES'S MAXIMUM LIABILITY AND THE EXCLUSIVE REMEDIES FOR ANY DAMAGES SHALL BE FOR FAILURE TO PERFORM PURSUANT TO SECTION 11 AND FOR THE NEGLIGENCE OF TELESWITCH TECHNOLOGIES. ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION, SHALL NOT IN ANY EVENT EXCEED THE TOTAL AMOUNT OF SERVICE FEES AND CHARGES ACTUALLY PAID BY CUSTOMER TO TELESWITCH TECHNOLOGIES FOR THE THEN CURRENT TERM, *EXCLUDING LOSSES OF PERSONAL INJURY OR DAMAGE TO PROPERTY, OTHER THAN THE PHONE SYSTEM, DIRECTLY CAUSED BY TELESWITCH'S NEGLIGENCE IN CONNECTION WITH THE INSTALLATION OF EQUIPMENT NECESSARY TO MAKE THE PHONE SYSTEM OPERATIONAL.* TELESWITCH WILL ADD THE TOWN OF DAVIE AS AN ADDITIONAL INSURED AND TELESWITCH WILL MAINTAIN NECESSARY LIABILITY INSURANCE IN THE AMOUNT OF \$ 1,000,000.00. THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER HEREUNDER WITH RESPECT TO A DEFECTIVE OR INOPERATIVE SYSTEM IS TO REQUEST MAINTENANCE AS PROVIDED HEREIN.

##### 12.2 DISCLAIMER.

EXCEPT FOR TELESWITCH TECHNOLOGIES'S OBLIGATIONS PURSUANT TO SECTION 11 ABOVE, IN NO EVENT SHALL TELESWITCH TECHNOLOGIES BE LIABLE TO CUSTOMER OR TO ANY OTHER PARTY FOR INDIRECT DAMAGES OR LOSSES, IN CONNECTION WITH OR ARISING OUT OF THE EQUIPMENT, SOFTWARE, OR SERVICES PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO (1) DAMAGES FOR LOST PROFITS, (2) LOST DATA, (3) INCIDENTAL, CONSEQUENTIAL, OR (4) SPECIAL DAMAGES. TELESWITCH TECHNOLOGIES DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SYSTEM COVERED HEREUNDER WILL MEET THE PERFORMANCE REQUIREMENTS OF THE CUSTOMER OR THAT THE OPERATION OF THE SYSTEM WILL BE UNINTERRUPTED OR ERROR FREE.

#### 13. GOVERNING LAW

This Agreement and any transaction pursuant thereto, shall be governed by and construed in accordance with the laws of the State of Florida.

#### 14. NOTICES

All notices provided for in this Agreement shall be given in writing and shall be effective when served by personal delivery or five (5) days after being deposited, postage prepaid, in the mail and addressed to the parties at their respective addresses as set forth in this Agreement or as either party may later specify by written notice to the other.

#### 15. MISCELLANEOUS

15.1 This Agreement constitutes the entire agreement between the parties relative to the subject matter hereof, and supersedes all proposals, written or oral, and all other communications between the parties relating to the subject matter of the Agreement.

15.2 This Agreement may not be amended or modified unless it is in writing and signed by the parties hereto.

15.3 The waiver by either party of any term or condition of this Agreement shall not be deemed to constitute a continuing waiver thereof.

15.4 TELESWITCH TECHNOLOGIES reserves the right to subcontract for the performance of Maintenance and other services to be provided under this Agreement. In such event, however, the rights and obligations of TELESWITCH TECHNOLOGIES and Customer hereunder will not be diminished.

15.5 Customer may not assign any of its obligations, rights or remedies under this Agreement without the prior written consent of TELESWITCH TECHNOLOGIES.

15.6 The invalidity, illegality, or unenforceability of any provision of this Agreement shall in no way affect the validity, legality and enforceability of any other provision.

15.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, heirs and assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as set forth below.

**THIS AGREEMENT IS NOT VALID UNTIL ACCEPTED AND EXECUTED BY AN OFFICER OF TELESWITCH TECHNOLOGIES.**

TELESWITCH TECHNOLOGIES, INC.

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

CUSTOMER:

COMPANY NAME: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**APPENDIX A  
EQUIPMENT, SOFTWARE AND INSTALL LOCATION(S)**

**APPENDIX B  
SCHEDULE OF FEES AND RATES**

**Maintenance Fees:**

**TELESWITCH TECHNOLOGIES's Hourly Rates\*:**

NORMAL SERVICE HOURS	EXTENDED SERVICE HOURS
\$100.00	\$150.00

\*The rates in effect as of the date of this Agreement.

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