



## Town Council Agenda Report

**SUBJECT:** Resolution

**CONTACT PERSON/NUMBER:** Herb Hyman-(954) 797-1016

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PRO-TELE SYSTEMS, INC. TO PROVIDE COIN OPERATED TELEPHONES IN LOCATIONS DESIGNATED BY THE TOWN.

**REPORT IN BRIEF:**

Contractor installs and maintains coin operated telephones at locations selected by the Town. The installation and maintenance of telephones is done at no cost to the Town. The Town will receive a commission of 20% of net revenues produced per phone. The initial contract is a two (2) year agreement with an option to renew for one (1) additional year by mutual agreement of the parties. Extensions, if appropriate, will be handled administratively by staff.

**PREVIOUS ACTIONS:**

The Town locates pay telephones at all facilities for public safety reasons. All pay phones have been provided by BellSouth. Historically, these phones have generated limited use. Recently, BellSouth advised the Town that if pay phones did not meet its newly created minimum usage criteria, they could no longer offer the maintenance at no cost. The Town had to decide whether to pay \$37.92 per month per telephone or have the phone removed. Toward that end, the Town solicited proposals from qualified companies for the installation and maintenance of pay phones. The Town received no responses to this RFP. Subsequent to the RFP due date, Pro-Tele Systems, Inc. presented the Town with the attached contractual offering which has been reviewed by the Town's Attorney.

**CONCURRENCES:**

The contract has been reviewed and approved by the Procurement Manager, the Budget & Finance Director and the Town Attorney.

**FISCAL IMPACT:**

Is appropriation required? Not applicable

Additional Comments: No cost to Town to install and maintain phones. Town will receive 20% commissions on net revenues generated by each phone.

**RECOMMENDATION(S):**

Motion to approve the resolution.

**Attachment(s):**

Resolution  
Contract document w/addendum

Item No.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PRO-TELE SYSTEMS, INC. TO PROVIDE COIN OPERATED TELEPHONES IN LOCATIONS DESIGNATED BY THE TOWN.

WHEREAS, the Town is in need to coin operated telephones at various Town operated facilities for public safety reasons; and

WHEREAS, the usage of the Town's existing telephones does not meet BellSouth's new criteria to qualify for free maintenance; and

WHEREAS, Pro-Tele Systems, Inc. is willing to install and maintain coin operated phones at no cost to the Town; and

WHEREAS, it is beneficial to execute a contract for these services.

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

SECTION 1. The Town Council hereby authorizes the Mayor to execute a contract with Pro-Tele Systems, Inc. to install and maintain coin operated telephones at designated locations which is attached hereto and identified as Attachment "A".

SECTION 2. The initial contract term is two (2) years with an option to extend the contract for one (1) additional year by mutual agreement of the parties. Contract extensions, if appropriate, will be handled administratively by staff.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999

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

Attest:

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

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999

**PRO-TELE SYSTEMS, INC.**  
"A Payphone Management & Installation Co."

P.O. Box 640160 • Miami, FL 33164-0160  
Office (305) 621-0076 • Fax (305) 621-0204  
Toll Free 1-800-519-3201

**AGREEMENT**

A Florida Corp.

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, by and between PRO-TELE SYSTEMS, INC. (hereinafter sometimes referred to as "COMPANY" and following "PROPRIETOR":

PROPRIETOR NAME: TOWN OF DAVIE

ADDRESS: 6591 S.W. 45th Street

CITY, STATE: DAVIE, FLORIDA 33314 TELEPHONE: 954-797-1016

WHEREAS, the COMPANY is in the business of owning, operating, and maintaining coin operated telephones; and  
WHEREAS, PROPRIETOR operates a place of business or other facility at:

SEE ATTACHED LOCATIONS ("PREMISES LOCATION"),

and anticipates that patrons and other visitors would utilize coin operated telephone service if the same were available to them; and  
WHEREAS, the parties desire to make coin operated telephone service available to Proprietor's patrons and other visitors and to derive revenue as a result of the use of the service by such persons;

NOW, THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars, each to the other in hand paid in cash and other good and valuable consideration as herein set forth, the parties hereto agree as follows:

1. PROPRIETOR represents and warrants to the COMPANY that the PROPRIETOR is the owner of the aforementioned business/property, and/or is authorized and empowered to enter into this AGREEMENT; that said business is duly and properly licensed by all required authorities.

2. COMPANY will install coin and/or credit card operated telephone(s) and related equipment and enclosures (hereafter sometimes referred to as "PHONES" at the PREMISES LOCATION. PROPRIETOR shall allow reasonable access to such phone(s) by patrons and others visiting the PREMISES LOCATION.

3. It is understood and agreed that the COMPANY shall have the exclusive right to install, operate, service and maintain coin operated PHONES at the PREMISES LOCATION. COMPANY shall have the exclusive right to open, adjust, remove, disconnect, repair, replace, update, modify, connect, and alter PHONES which are reasonably necessary to the successful operation of the phone equipment.

4. The term of this agreement is seven (7) years from the date of the acceptance by COMPANY. This contract will automatically renew for one (1) additional seven (7) year period unless notification is received from PROPRIETOR thirty (30) days prior to the anniversary date of the contract via Certified Mail, Return Receipt Requested, advising COMPANY that the contract shall terminate.

5. ~~That COMPANY shall have no liability for the interruption of any telephone service for whatever reason, and makes no warranty, expressed or implied, with respect to the telephones, equipment or the respective operation. Pending regulatory approvals and other developments, no representations as to installation date can be made. In no event will COMPANY have any liability nor may this AGREEMENT be terminated for any delay in installation or interruption of service for whatever reasons.~~

6. COMPANY retains the right to remove all PHONES in its discretion, due to vandalism or lack of profitability. (See)

7. COMPANY may, at any time, sell or assign its rights under this AGREEMENT, without limitation.

8. PROPRIETOR agrees that during the term of this AGREEMENT or any renewal hereof, it will not enter into an agreement with another company for the installation or operation of coin and/or credit card operated telephones at the PREMISES LOCATION. In the event that the PREMISES LOCATION is a shopping center and the PROPRIETOR has control over the common areas of the shopping center, COMPANY shall have the exclusive right to provide PHONES in the common areas.

9. PROPRIETOR agrees to cause any purchaser of its business or property, whether through purchase of assets, stock or otherwise, to assume all obligations of this AGREEMENT.

10. COMPANY shall not be responsible for ordinary holes or similar claimed damage, when necessary for installation or removal of PHONES.

11. COMPANY shall, on a monthly basis, pay proprietor twenty percent (20%) of the net revenue produced per phone. Net revenue is the total amount of coins collected on the use of the phone, less the telephone line charges and all personal property and gross receipts tax assessed against the telephone or use thereof.

12. DEFAULT PROPRIETOR shall notify COMPANY by Certified Mail, Return Receipt Requested, addressed to the principal office of the COMPANY, of any deficiencies in the equipment, failure of service, failure to remit amounts due, or any other failure to perform any of the covenants contained herein. COMPANY shall have thirty (30) days upon receipt of said notification to cure any of the deficiencies described in the PROPRIETOR's notification; provided, however, COMPANY shall have additional time to cure any deficiencies if the failure to cure is caused by the acts or omissions of the Local Exchange Carrier (LEC).

13. ~~In the event PROPRIETOR shall disconnect these PHONES, or cause its removal, or permit the installation of another phone not owned or operated by COMPANY, or shall otherwise fail promptly to perform any of the terms, covenants and conditions of this AGREEMENT, or any renewal thereof, then and in such an event, the parties agree that it would be impossible to ascertain the COMPANY's damages, since they are uncertain and not readily ascertainable at the time of contract, and the parties agree that COMPANY shall be entitled to recover from PROPRIETOR as liquidated damages a sum of money equal to the number of weeks remaining under the terms of the contract, multiplied by the average weekly income received by COMPANY. This clause is in no way intended to constitute a penalty or forfeiture, but is strictly in the nature of agreed upon and liquidated damages.~~

14. PROPRIETOR grants COMPANY the right of first refusal to enter into a renewal of this AGREEMENT and/or a new agreement. If at the end of the term of this AGREEMENT or any renewal thereof PROPRIETOR receives a bona fide offer from another company to provide similar services at the PREMISES LOCATION, PROPRIETOR shall give prompt, written notice of said offer to COMPANY, setting forth the specific terms of the proposed offer from other phone company. COMPANY shall have the right of first refusal to enter into an agreement upon the same terms and conditions as the said bona fide offer. COMPANY shall exercise its right of first refusal by giving PROPRIETOR written notice no later than five (5) days, excluding Saturday, Sunday, or Holiday, after receipt of said written notice of the bona fide offer. If COMPANY refuses to enter into an agreement upon the same terms and conditions as the bona fide offer from the other phone company, then PROPRIETOR is free to enter into an agreement accepting the said bona fide offer.

15. It is understood and agreed by the PROPRIETOR that the equipment herein specified will remain the COMPANY's property at all times and the PROPRIETOR shall at no time pledge the machines and equipment, or in any manner interfere with the COMPANY's ownership. The PROPRIETOR will not remove the said equipment from the PREMISES LOCATION without first obtaining written permission from the COMPANY to do so. It is agreed that the PHONES and equipment, and the contents thereof are and shall continue to be the sole property of the COMPANY.

16. In the event any clause or condition of this AGREEMENT shall be declared unenforceable or void, then same shall not impair the legality or enforcement of this AGREEMENT otherwise.

17. This AGREEMENT contains the entire agreement between the parties relating to the subject matter herein contained, and no change or modification of any of its terms or provisions shall be effective if unless made in writing and signed by both parties.

18. PROPRIETOR agrees that it will protect said PHONES against damage, vandalism, or destruction, and agrees not to take any action which will prevent or adversely affect the use or maintenance of the telephone equipment.

19. Nothing herein shall be deemed to grant either party a lease, license, or any other interest in real or personal property of the other party, or to constitute either party an agent of the other.

20. With regard to any disputes arising out of or related to this AGREEMENT, the parties agree that same shall be settled by binding arbitration under the rules of the American Arbitration Association.

21. This AGREEMENT shall be interpreted in accordance with and governed by the laws of the State of Florida.

22. This AGREEMENT shall be binding upon and shall inure to benefit of PROPRIETOR and COMPANY and their respective successors and assigns.

PROPRIETOR NAME:

Print Name:

By:

Title:

Date:

PRO-TELE SYSTEMS, INC.

Print Name:

By:

Title:

Date:

STIMON COHEN

ACCT. REPRESENTATIVE



## ***Pro-Tele Systems, Inc.***

*A Payphone Management & Installation Company*

P.O. Box 640160 Miami, FL 33164-0160 Office 305-945-7887 Fax 305-945-7856

### ***This is an Addendum to PRO-TELE Systems, Inc Agreement***

1. Albert J. Susi, President and sole officer of PRO-TELE Systems, Inc, Owns 100% of stock in PRO-TELE Systems, Inc. Albert J. Susi is a certified Independent Pay Phone Provider in the State of Florida, Certificate number 3276 valid since 1993.
2. The term of this agreement is (2) two years from the date of acceptance by Company. This Contract will automatically renew for an additional (1) year unless notification is received from the Town of Davie (30) thirty days prior to anniversary of contract via Certified Mail, Return Receipt Requested, Advising Company that the contract shall terminate.
3. Paragraph 5 will be omitted as per Memorandum from Town Attorney.
4. PRO-TELE Systems, Inc will not remove its phones due to lack of profitability or vandalism as stated in paragraph 6, for the term of Agreement.
5. PRO-TELE Systems, Inc may at any time, sell or assign its rights under this Agreement limited to assignments for which the Town has provided written consent.
6. Paragraph 9 will be omitted as per Memorandum from Town Attorney.
7. PRO-TELE Systems, Inc will take responsibility for ordinary holes when necessary, from removals or installation of phones.
8. Paragraph 13 will be omitted as per Memorandum from Town Attorney. PRO-TELE Systems, Inc will pay City of Davie 20% of the net revenue as stated in paragraph 11.
9. Paragraph 14 will be omitted as per Memorandum from Town Attorney.
10. Paragraph 18 will be omitted as per Memorandum from Town Attorney.
11. Paragraph 20 will be omitted and any disputes to contract would be litigated in Broward County, Florida and that the prevailing party in any such action would be entitled to recoupment of reasonable attorney's fees from the non-prevailing party.
12. PRO-TELE Systems, Inc. will provide pay telephones per the attached list.



***Pro-Tele Systems, Inc.***  
*A Payphone Management & Installation Company*

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P.O. Box 640160 Miami, FL 33164-0160 Office 305-945-7887 Fax 305-945-7856

13. In addition to the above list, the Town anticipates the need for coin-operated telephones at other park locations as developments dictates. Additional locations may be proposed by the selected vendor. Additionally, the vendor shall install any future telephones requested by the Town. The Town reserves the right to approve or reject any additional site locations for coin-operated telephones. All telephones shall comply with the requirements of the Americans Disabilities Act. All telephone enclosures shall be uniform. Advertising shall be permitted on the telephone enclosure provided that such advertising is in compliance with the Town of Davie Code. The town reserves the right to approve the final design of the enclosure. All service maintenance shall be performed within 72 hours of notification. Should PRO-TELE Systems, Inc fail to meet these requirements the Town of Davie reserves the right to cancel this contract pursuant to paragraph 12 of the contract.

## LOCATION OF TELEPHONES

At a minimum, the selected vendor must maintain service at the locations listed below:

Town Hall (visitors parking lot)	6591 Orange Drive
Town Hall (Main parking lot)	6591 Orange Drive
Bergeron Park	1900 S. Nob hill Rd.
Berman Park	5801 SW 58th Ave
Bill Gessner Sports Complex	7099 SW 39th Street
Davie Arena (North)	4201 SW 65th Way
Davie Comm. Services Dept.	6901 Orange Drive
Davie Police Department (2 phones-1 inside, 1 outside)	1230 Nob Hill Rd.
Driftwood Estates Park	3300 NW 77th Ave.
Eastside Comm. Hall	4300 SW 55 Ave.
Oakhill Equestrian Park	3100 SW 130th Ave.
Orange Park	841 SW 133rd Ave.
Pine Island Park (Lobby)	3800 SW 92nd Ave.
Pine Island Park (Pool)	3800 SW 92nd Ave.
Potter Park	4300 SW 57th Terrace
Robbins Lodge	4005 Hiatus Rd.
Robert H. Bamford Park	3800 SW 92nd Ave.
Shenandoah Park	14601 SW 14th Street
The Park at Waverly	6625 Hawkes Bluff Ave.
Waterford Park	15090 S. Waterford Drive
Wolf Lake Park	5400 SW 76 Ave.