

**RESOLUTION NO. 73-12-06**

**A RESOLUTION BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE ACCESS CHANNEL SERVICES AND SUPPORT AGREEMENT, ADDENDUM AND AMENDMENT TO AGREEMENT WITH TELVUE CORPORATION, A DELAWARE CORPORATION AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on June 21, 2006 the Town Commission of the Town of Lake Park, Florida ("Town") agreed to enter into an Agreement with Telvue Corporation to run the Town's Government Access Channel on Adelphia Cable Channel 18 at no cost to the Town as set forth in the Access Channel Services and Support Agreement" and the Addendum and Amendment thereto ("Contract") attached hereto as composite **Exhibit "A"**; and

**WHEREAS**, at the time of approval of the services agreement, the Contract was not presented to or executed by the Town and the Agreement is now being presented to the Commission for execution by the Mayor.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The foregoing recitals are incorporated herein as true and correct findings of the Town Commission.

**Section 2.** The Mayor is hereby authorized and directed to execute the Contract attached hereto as **Exhibit "A"** including the Addendum and Amendment thereto, and all other necessary documents to effectuate the Contract.


**Section 3.** This Resolution shall be effective upon adoption.

The foregoing Resolution was offered by Commissioner Balius, who moved its adoption. The motion was seconded by Commissioner Carey, and upon being put to a roll call vote, the vote was as follows:

|                                | AYE      | NAY |
|--------------------------------|----------|-----|
| MAYOR PAUL W. CASTRO           | <u>X</u> | ___ |
| VICE-MAYOR ED DALY             | <u>X</u> | ___ |
| COMMISSIONER CHUCK BALIUS      | <u>X</u> | ___ |
| COMMISSIONER JEFF CAREY        | <u>X</u> | ___ |
| COMMISSIONER PATRICIA OSTERMAN | <u>X</u> | ___ |

The Town Commission thereupon declared the foregoing Resolution NO. 73-120-6 duly passed and adopted this 20 day of December, 2006.

TOWN OF LAKE PARK, FLORIDA


BY:   
PAUL W. CASTRO  
MAYOR

ATTEST:

  
Vivian Mendez  
TOWN CLERK



Approved as to form and legal sufficiency:

BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY

**ACCESS CHANNEL SERVICE AND SUPPORT AGREEMENT  
(Sponsorship)**

This Access Channel Service and Support Agreement (Sponsorship) (“Agreement”) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between TelVue Corporation, a Delaware corporation with its principal place of business at 16000 Horizon Way, Suite 500, Mt. Laurel, NJ 08054 (“TelVue”), and Town of Lake Park, a Florida municipality, with its principal place of administration located at 535 Park Avenue, Lake Park, FL 33403 (“Customer”).

**WHEREAS,**

- A. TelVue has developed a proprietary system (the “System”, as further defined herein) to assist municipalities, school districts and others in remotely organizing, updating and maintaining the content of their cable television access channel(s); and  
Customer desires to have TelVue supply the System and its TelVue Virtual Television Network Service (together, the “Services”), and TelVue desires to supply the Services to Customer at no charge to Customer for an initial two (2)-year period; and
- C. TelVue and Customer believe that the costs of the Services may be supplied to TelVue through sponsorships (“Sponsorships”) by third party sponsors (each, a “Sponsor”) to be carried on customer’s access channel(s) as part of the Services.

**NOW, THEREFORE,** in consideration of the premises set forth above and the mutual covenants contained herein, and intending to be legally bound hereby, TelVue and Customer agree as follows:

1) **Provision of Services.**

- a) There shall be no charge by TelVue to Customer for the Services for the first two (2) years of this Agreement. Thereafter, a charge for the Services may be made, but only if TelVue determines that revenues from Sponsorships are insufficient to cover its normal charges for the Services, and Customer agrees to pay for the Services, all as more fully provided hereafter in this Agreement.
- b) During the term hereof, Customer shall have a license to use the Services solely in connection with the designated access channel(s) (“License”). The Services will remain at all times the property of TelVue, and nothing herein shall be deemed to grant to Customer any right, title or interest in or to the Services, or any portion thereof, other than the License.

- c) Customer may not give, sell, lease, assign copy, sublicense or otherwise transfer, in whole or in part, this Agreement, the License, the Services, other TelVue-provided materials, or any licenses or rights granted hereunder, except as approved by TelVue in writing.

**2) Customer Obligations.**

- a) Customer shall provide TelVue with access to Customer's technical personnel, facilities, systems, databases and information as necessary or appropriate for TelVue to perform its obligations under this Agreement.
- b) Customer shall appoint a Coordinator to act as liaison between Customer and TelVue. If there is equipment to be located at the Customer location, Customer shall provide and maintain a suitable installation site for such equipment, and shall provide all necessary electrical, cable and modem connections to such location(s). Except as otherwise expressly provided herein, Customer and its users shall have sole responsibility for acquiring and maintaining their own technology environment, including without limitation PC's, laptops, operating systems, servers, Internet access, local area networks and wide area networks (collectively, the "Customer Environment"). Customer hereby represents and warrants to TelVue that the Customer Environment will meet or exceed the minimum requirements for same set forth on Exhibit C hereto. Except as otherwise provided herein, Customer shall be responsible for making any necessary modifications to the Customer Environment, including without limitation all firewalls, proxy servers and other hardware and software, necessary to access or use the System.
- c) The License granted hereunder is for the object code version of the Software and TelVue-Provided Content only. Customer has no rights to the source code for the Software or the TelVue-Provided Content. Customer shall not permit anyone under Customer's direction or control to, reverse engineer, disassemble, de-compile or remove any identifying mark of TelVue or its Licensors from the Software or the TelVue-Provided Content or attempt to do so. Customer may not modify, adapt, translate or create derivative works of the Software or the TelVue-Provided Content without TelVue's express written consent. The System is licensed as a single product. The Software and the TelVue-Provided Content may be used only in conjunction with the System.
- d) Customer shall be solely responsible for all content supplied by Customer. Customer represents and warrants to TelVue that such content will not

violate or infringe any copyright, patent, trademark, trade secret, confidentiality or other proprietary right of any third part.

- e) Customer hereby represents and warrants to TelVue as follows: (i) Customer has the full power and authority to make, execute, deliver and perform this Agreement, and such execution, delivery and performance have been duly authorized by all necessary action on the part of Customer; (ii) the execution, delivery and performance of this Agreement by Customer does not contravene or conflict with, or constitute a breach of, any agreement to which Customer is a party.

3) **Trademark and Customer Content License.**

- a) Customer hereby grants TelVue a license to use and modify content supplied by Customer as necessary or appropriate in performing the Services hereunder and/or in marketing and advertising materials describing the Services.

4) **Implementation, Value-Added and Additional Services.**

- a) In connection with establishing connectivity to the System, TelVue shall provide Customer the implementation, installation, training and other services set forth on Exhibit D hereto (collectively, the "Implementation Services").
- b) From time-to-time during the term hereof, Customer may desire to have TelVue perform certain additional services ("Additional Services"). TelVue shall perform such Additional Services as agreed in writing by the parties subject to the terms and conditions hereof.

5) **Support Services.**

- a) During the term of this Agreement, TelVue will furnish Customer support services in connection with the Software (the "Support Services") in accordance with TelVue's then-current support policies and procedures. Any services requested by Customer and provided by TelVue outside the scope of the Support Services shall be billable on a time and materials basis at TelVue's then-current rates.

6) **Sponsorship Services.**

- a) TelVue shall have the exclusive rights to sell Sponsorships to be carried on the access channel(s) that carries the Services. Sponsorships shall be strictly limited to those Sponsors that qualify under the guidelines of the Public

Broadcasting stations as shown on Exhibit G. All fees paid for the Sponsorships shall be paid to TelVue. Customer shall not invoice for or collect Sponsorship fees, and shall promptly (but in any event within five (5) days after receipt) remit to TelVue any Sponsorship fees received by Customer.

- b) From time to time a Corporate Sponsor may conduct or support a local event and may wish to notify the public about these events. Customer agrees to approve and air such announcements.

**7) Term and Termination.**

- a) The initial term of this Agreement shall be for five (5) years commencing on the launch date of the Service (the "Initial Term"). Thereafter, this Agreement shall automatically renew for addition one (1) year period (each a "Renewal Term") unless and until either party notifies the other in writing of its intention not to renew this Agreement not less than ninety(90) days prior to the expiration of the Initial Term or any then-current Renewal Term, as applicable.
- b) Notwithstanding, this Agreement may be terminated as follows:
  - i) The intent of the parties is that the Services will be provided with no charge to Customer and supported by Sponsorship revenues received by TelVue and no charge shall be made to Customer for the Services for the first two (2) years of this Agreement. However, if at any time after the first two (2) years of this Agreement TelVue determines that Sponsorship revenue is insufficient to cover its normal charge for the Services supplied Customer, TelVue may, by ninety (90)-days' prior written notice, provide Customer with the option of paying fees specified by TelVue for continuation of the Services or terminate the Agreement. Failure of Customer to respond to the option within the ninety (90)-day period shall be deemed to be an election by Customer to continue the Agreement and pay the specified fees for the Services.
  - ii) By either party, in the event of a material breach hereof by the other party, which breach remains uncured thirty (30) days after written notice thereof is given to the breaching party; or
  - iii) By TelVue, in whole or in part, immediately if TelVue ceases providing the Services to its customers generally.

8) **Proprietary Rights; Confidentiality.**

- a) As between TelVue and Customer, TelVue and its Licensors shall own all right, title and interest (including without limitation all Proprietary Rights) in and to the System and the TelVue-Provided Content and all components, reproductions, modifications or derivative works thereof, in whole or in part.
- b) Customer acknowledges and agrees that the Software shall constitute Confidential Information of TelVue for all purposes hereof. Confidential Information shall not include any information which (i) is or becomes available to the public other than as the consequence of a breach of any obligation of confidentiality; (ii) is actually known to or in the possession of Recipient without any limitation on use or disclosure prior to receipt from Disclosing Party' (iii) is rightfully received from a third party in possession of such information who is not under obligation to the Disclosing Party not to disclose the information; or (iv) is independently developed by Recipient without access to the Confidential Information.

9) **Limited Warranty.**

- a) TelVue will use commercially reasonable efforts to correct any error or defect in the Services (each, an "Error"), provided that Customer timely reports such Error to TelVue in writing and assists TelVue in documenting or replicating such Error. In the event that TelVue determines that any reported Error was not caused by the Services, but was the result of a cause within Customer's control, TelVue shall be entitled to reimbursement from Customer for time and materials expended by TelVue in identifying and rectifying such Error.
- b) TelVue does not warrant that operation of the Services shall be uninterrupted, error free or that TelVue will be able to correct all Errors. To the extent that data is being transmitted over the Internet hereunder, Customer acknowledges that TelVue has no control over the functioning of the Internet and TelVue makes no representations or warranties of any kind regarding the performance of the Internet. TelVue has no responsibility for the accuracy, appropriateness, continuity or availability of TelVue-Provided Content.

10) **Indemnification.**

- a) TelVue shall defend, indemnify and hold Customer harmless from and against any and all claims (including any claim or action brought by Customer's cable television operator), liabilities, damages, demands, penalties and expenses (including, without limitation, court costs and attorneys' fees) arising out of or in connection with (a) access to and/or use of the System by TelVue or the TelVue-Provided Content, including Sponsorships, (b) any claim that the

System infringes on the Proprietary Rights of any Third Party, or (c) any breach by TelVue of any representation, warranty or covenant of TelVue hereunder. Customer shall, to the same extent, defend, indemnify, and hold TelVue harmless from any use of the System by Customer.

11) **Miscellaneous.**

a) This Agreement is made under and shall be governed by construed in accordance with the laws of the States of New Jersey.

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, executed this Agreement as of the date first above-written.

TELVUE CORPORATION ("TelVue"):

TOWN OF LAKE PARK("Customer"):

By: \_\_\_\_\_

By: Paul Cost

Title: \_\_\_\_\_

Title: Mayor

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

Date: December 20, 2006



*Access Channel Service and Support Agreement (Sponsorship)*  
*by and between TelVue Corporation and the TOWN OF LAKE PARK*  
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Exhibit List:

- A. Channel
- B. Hardware and Software
- C. Minimum Requirements of Customer Environment
- D. Implementation Services
- E. Value-Added Services
- F. Fees
- G. TVTN Sponsorship Guidelines

*Access Channel Service and Support Agreement (Sponsorship)*  
*by and between TelVue Corporation and the TOWN OF LAKE PARK*  
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Exhibit A

Channel

- Channel Number: 18
- Access Type: Government
- Cable Operator:
- Exclusive or (shared with): Shared

Exhibit B  
Hardware and Software  
(Sponsorship Model)

- Switching Hardware will be installed on the feed to the Cable Operator for recognizing the switching between the TVTN Feed and alternate sources of video, so that Sponsor Acknowledgment verification can be performed.
- Equipment capable of “playing proprietary multi-media program screens and digital video movies, as well as receive text messages from remote locations and display those messages.
- Information Screens (screens that contain programming codes that will display a multi-media presentation that can contain: Photographic backgrounds, foreground photographic images, text, animations, voice-over narration, short digital video clips.)
- Design and production of video screen templates comprised of photographic background, logos and text. Some containing voice over announcements describing their contents.
- Remote access capability for updating text message pages using TVTN’s proprietary Internet based WEBUS<sup>R</sup> system. Users can post text community announcements or trusted users can generate emergency announcements.
- Local emergency screens and related WEBUS<sup>R</sup> connectivity.
- School emergency closing screens and related WEBUS<sup>R</sup> connectivity.
- Weather screens that can be updated remotely from a weather service to be provided as part of the monthly support program.
- Local traffic conditions screen that can be updated from local traffic cameras (if the data is available in your area).
- Store and archive video (MPEG) on the TVTN Media Player.
- Contain a program wheel.
- Scans of photographs for production of templates and program wheel.
- Full motion video based station breaks and channel IDs.
- Audio library of screen setups and generic announcements.
- Firewall device for installation on High-Speed Internet access connection.

Exhibit C  
Minimum Requirements When  
Installed at Customer's Location

**Site Preparation:**

- Secure, adequate desktop or equipment rack space (minimum 4 U), in an environmentally controlled space, to accommodate the TVTN Media Player within 100 feet of the Cable Operator supplied Channel Modulator.
- Uninterruptible AC power source to accommodate up to a quantity of 4, 115 volt-20 amp receptacles
- An operational High-Speed Internet Access connection (minimum 768K down, 128K up or better), with an IP address, and open access to the Internet so that TelVue may install its Firewall/VPN equipment.
- Calibrated Video Signal for each channel(s) supplied from the serving Cable Operator's Channel Modulator.
- Customer extends a coax cable connection from the Channel Modulator, and a Category 5, 5e or 6 network connection from a High-Speed Access demarcation, each not to exceed 100 feet, and each to terminate where the TVTN supplied Media Player will be located.
- Minimum of one WEBUS<sup>R</sup> capable desktop or laptop.
- A site survey conducted by TVTN personnel or their agents may determine that more minimum requirements may be required, based on the customer's facility.

**Implementation Phase:**

- Access to and support from technically proficient individuals familiar with the Cable Operator Channel Modulator connectivity and the customer managed WAN and LAN connectivity during the Implementation Phase.
- Minimum of one customer-designated individual for the on-site training and WEBUS<sup>R</sup> testing.

Exhibit C  
Minimum Requirements When  
Installed at Customer's Location

**Site Preparation:**

- Secure, adequate desktop or equipment rack space (minimum 4 U), in an environmentally controlled space, to accommodate the TVTN Media Player within 100 feet of the Cable Operator supplied Channel Modulator.
- Uninterruptible AC power source to accommodate up to a quantity of 4, 115 volt-20 amp receptacles
- An operational High-Speed Internet Access connection (minimum 768K down, 128K up or better), with an IP address, and open access to the Internet so that TelVue may install its Firewall/VPN equipment.
- Calibrated Video Signal for each channel(s) supplied from the serving Cable Operator's Channel Modulator.
- Customer extends a coax cable connection from the Channel Modulator, and a Category 5, 5e or 6 network connection from a High-Speed Access demarcation, each not to exceed 100 feet, and each to terminate where the TVTN supplied Media Player will be located.
- Minimum of one WEBUS<sup>R</sup> capable desktop or laptop.
- A site survey conducted by TVTN personnel or their agents may determine that more minimum requirements may be required, based on the customer's facility.

**Implementation Phase:**

- Access to and support from technically proficient individuals familiar with the Cable Operator Channel Modulator connectivity and the customer managed WAN and LAN connectivity during the Implementation Phase.
- Minimum of one customer-designated individual for the on-site training and WEBUS<sup>R</sup> testing.

Exhibit D  
Implementation Services

TelVue shall implement within \_\_\_\_ days of the execution of this agreement or by \_\_\_\_\_, \_\_\_\_\_ 20\_\_\_\_, whichever is later, complete system capable of activation on the customer's Cable Access Channel, and includes the following features.

- Installation and use of the hardware and software for the designated contract.
- Setup of content for the initial program wheel.
- Scans of up to twenty five (25) photographs provided by Customer for production of templates and program wheel.
- Record up to twenty five (25) generic Audio Announcement Library messages.
- Develop up to twenty (20) category Templates for WEBUS<sup>R</sup> Screens.
- Create up to ten (10) category Bumper Screens with Audio.
- Create up to four (4) local Emergency Alert Templates with "Instant Insertion".
- Setup of school closing screens one (1) with "Instant Insertion".
- Production of up to two (2) full motion video based station break channel ID. From video provided by Customer.
- Setup of a series of Weather screens that can be updated remotely from a weather service to be provided as part of the monthly support program.
- Setup of local traffic condition screen that can be updated from FLDOT (if the data is available from them).
- Setup for one administrator and up to five (5) users (either "trusted" or "moderated" in any combination Customer selects). Users can post text community announcements or trusted users can generate emergency announcements.
- Development of Network Content Templates.

Exhibit D  
Implementation Services

TelVue shall implement within \_\_\_\_ days of the execution of this agreement or by \_\_\_\_\_, \_\_\_\_\_ 20\_\_\_\_, whichever is later, complete system capable of activation on the customer's Cable Access Channel, and includes the following features.

- Installation and use of the hardware and software for the designated contract.
- Setup of content for the initial program wheel.
- Scans of up to twenty five (25) photographs provided by Customer for production of templates and program wheel.
- Record up to twenty five (25) generic Audio Announcement Library messages.
- Develop up to twenty (20) category Templates for WEBUS<sup>R</sup> Screens.
- Create up to ten (10) category Bumper Screens with Audio.
- Create up to four (4) local Emergency Alert Templates with "Instant Insertion".
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- Setup of a series of Weather screens that can be updated remotely from a weather service to be provided as part of the monthly support program.
- Setup of local traffic condition screen that can be updated from FLDOT (if the data is available from them).
- Setup for one administrator and up to five (5) users (either "trusted" or "moderated" in any combination Customer selects). Users can post text community announcements or trusted users can generate emergency announcements.
- Development of Network Content Templates.

Exhibit E  
Value-added Services

During the term of this agreement, TelVue will provide to the customer in consideration for the monthly support fee:

Monthly Services Include:

- Use of the TVTN Media Player.
- Maintenance and repair of all TVTN provided equipment and software at Installed location.
- Emergency equipment replacement or repair.
- Twenty-four hour, seven-days a week remote monitoring of TVTN equipment with the ability to diagnose hardware and software problems, repair them and reboot the player.
- Distribution and scheduling management of up to two hundred (200) total channel screens.
- Capability to display up to twenty (20) High Production Screens
- Delivery of TVTN formatted information and programming from third party governmental and educational sources.
- Licensing and server support for ten (10) WEBUS<sup>R</sup> users (remote access).
- Production of up to four (4) "highly produced" screens (Photos, video clips, headlines, animations, graphics and audio voiceover) for special events, from materials and copy provided by Customer, or Superuser status. TVTN superuser status allows a user to create their own High Production Screens.
- As needed Program Wheel Screen Position adjustments.
- Up to included Video to MPEG Conversion (:30 seconds per conversion).
- Weather forecasting licensing service to run on the weather screen.
- Real Time Traffic (if available).
- TVTN County, State & Federal Network (if available).
- PSA-Public Service Announcements.



Exhibit F

Fees

(First two years waived under Sponsorship Plan)

Start-Up Charge: \$12,000.00

Monthly Service Fee: \$ 500.00

Billing Information

Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Purchase Order or File #: \_\_\_\_\_

Quarterly Billing   or    Annual Billing

Exhibit G

TVTN Sponsorship Guidelines

In order to meet non-commercial requirements TVTN has set out guidelines that are followed Public Broadcasting Stations:

**Sponsorship Acknowledgment Guidelines (PBS-like):**

**Permissible:**

Name of product(s) and/or service(s)

1. Up to :15 seconds of acknowledgement
2. Name of product(s) and/or service(s)
3. Company location
4. Number of years in business
5. E-mail address or website (preferably visually depicted)
6. Telephone number
7. Non-promotional, value-neutral descriptions of products or services
8. Use of well-known mottos or slogans that are non-promotional in nature
9. Signature music or appropriate sound effects as a means of enhancing visual and voice-over that are non-promotional in nature

**Non-Permissible:**

1. Overt promotion of products or services
2. Price reference
3. Call to action or inducement to buy
4. Comparative or qualitative descriptions of products or services
5. Third-party reviews (from newspapers, magazines, etc.)

**Standards and Practices:**

Sponsorships will not be accepted from the following:

1. Liquor stores or bars or other establishments whose primary business is the sale of alcohol. (Restaurants that serve alcohol excluded, provided alcohol is not mentioned in the acknowledgement).
2. Any manufacturer or distributor of beer, alcohol or tobacco.
3. Any entity that promotes the use or sale of illegal drugs or drug paraphernalia.
4. Adult bookstores, adult movie houses and video dealers or strip clubs or any other entity that provides adult oriented content or products by mail-order or through the internet.
5. Political parties, lobbying groups, political action committees or cause based organizations.

6. Direct Broadcast Satellite services or competitive media.
7. Any illegal or off shore gambling entity or entity that provides information that enables or can be associated with illegal gambling.
8. Manufacturers or sellers of firearms, ammunition, gun repairs, accessories, targets, stun guns, tear or pepper gas dispensers, and rifle and pistol ranges. Retailers who sell other products not firearm related can be sponsors provided they do not promote firearm related products (for example, department stores and sporting goods stores).

## **CONTRACT AMENDMENT AND ADDENDUM**

THIS CONTRACT AMENDMENT AND ADDENDUM, made and entered into this \_\_\_ day of \_\_\_\_\_, 2006 by and between **TOWN OF LAKE PARK**, (hereinafter referred to as "CUSTOMER") and **TELVUE CORPORATION**, a Delaware corporation licensed and authorized to do business in the State of Florida, (hereinafter referred to as "TELVUE"). This Amendment and Addendum amends the "ACCESS CHANNEL SERVICE AND SUPPORT AGREEMENT" (hereinafter referred to as the "Contract" or the "Agreement") which was entered into by the parties of the same date as provided herein.

### **WITNESSETH:**

IN CONSIDERATION of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

### **AMENDMENTS TO CONTRACT:**

#### **Paragraph 7. ("Term and Termination") is hereby amended to read as follows:**

7(b)(i) The intent of the parties is that the Services will be provided at no charge to Customer and supported by Sponsorship revenues receive by TELVUE and no charge shall be made to Customer for the services for the first two (2) years of this Agreement. However, if at any time after the first two (2) years of this Agreement, TELVUE determines that Sponsorship Revenue is insufficient to cover its normal charge for the Services supplied Customer, TELVUE shall provide written notice of such insufficiency to the Customer immediately upon TELVUE's determination of the insufficiency, and the Customer shall have sixty (60) days from the date of receipt of TELVUE's notice within which to elect either to terminate this Agreement without any liability to TELVUE under this Contract, or to continue this Agreement and pay an agreed upon fee for any further services provide by TELVUE to Customer.

#### **Paragraph 10 ("Indemnification") as set forth in the Agreement is deleted in its entirety and replaced with the following new Paragraph 11:**

### **10. INDEMNIFICATION**

To the fullest extent permitted by laws and regulations, TELVUE shall indemnify, defend, save and hold harmless, the CUSTOMER, its officers, agents and employees from any and all claims, damages, losses, liabilities and expenses, direct indirect or consequential (without limitation and including attorney's fees and costs) arising out of, in connection with, or in consequence of the services furnished by, or the operations of TELVUE, or its subcontractor's, agents, officers, employees or independent contractors pursuant to the performance of the Contract. TELVUE also agrees to indemnify, defend, save and hold harmless the CUSTOMER, its officers, agents, and employees, from all claims, damages, losses, liabilities and expenses arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property, or other

work in connection with the performance of the Contract. TELVUE shall pay all losses, claims, liens, settlements, or judgments of any nature whatsoever in connection with the foregoing indemnification, including but not limited to, reasonable attorney's fees (including appellate attorneys' fees and costs). CUSTOMER reserves the right to select its own counsel to conduct any defense in any such proceedings and all costs and fees associated therewith shall be the responsibility of TELVUE under the indemnification agreement set forth herein. Nothing contained herein is intended nor shall it be construed to waive CUSTOMER's rights and immunities under the common law or Florida Statute 768.28, as amended from time to time.

**Paragraph 11 is hereby amended to read as follows:**

**11. MISCELLANEOUS.** This Agreement is made under and shall be governed by and construed in accordance with the laws of the State of Florida. In the event it is necessary for either party to initiate legal action regarding this Contract, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justifiable in federal court.

**ADDENDUM TO CONTRACT:**

The following provisions are added to the Contract between the parties:

**12. INSURANCE**

12.1 TELVUE shall secure and maintain, at its own expense and keep in effect during the full period of the Contract, a policy or policies of insurance, which must include the following coverages and minimum limits of liability:

(a) **Workers Compensation and Employer's Liability Insurance** for all employees of TELVUE engaged to work under the Contract in accordance with the laws of the State of Florida. TELVUE agrees to be responsible for the employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

(b) **Comprehensive General Liability Insurance** with the following minimum limits of liability:

**\$1,000,000** Combined Single Limits, Bodily Injury and Property Damage Liability Per Occurrence.

Coverage shall specifically include the following minimum limits and not less than those required for Bodily Injury Liability and Property Damage:

**\$1,000,000** Combined Single Limits, Bodily Injury and Property damage Liability per Occurrence.

- (1) Premise and Operations;
- (2) Independent Contractor's;
- (3) Products and Completed Operations;
- (4) Broad Form Property Damage;

- (5) Broad Form Contractual Coverage applicable to the Contract and specifically confirming the indemnification and hold harmless agreement in the Contract.
- (6) Personal Injury with employment and contractual exclusions removed and deleted.
- (c) **Comprehensive Automobile Liability Insurance** for owned, non-owned and hired automobiles and other vehicles used by TELVUE in the performance of the work and with the following minimum limits of liability:
  - \$1,000,000** Combined Single Limits, Bodily Injury and Property damage Liability per Occurrence.

**12.2 ALL LIABILITY INSURANCE POLICIES SHALL SPECIFICALLY PROVIDE THAT THE TOWN OF LAKE PARK IS AN ADDITIONAL NAMED INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND THE OPERATIONS OF TELVUE UNDER THE CONTRACT.** Insurance companies selected must be acceptable to the CUSTOMER. All policies of insurance shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the CUSTOMER by certified mail.

12.3 The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.

12.4 All required insurance shall preclude any underwriter's rights of recovery or subrogation against the CUSTOMER with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.

12.5 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as they appear in any policy of insurance in which the CUSTOMER is named as an additional insured shall not apply to CUSTOMER. TELVUE shall not commence work under the Contract until it has obtained all of the minimum insurance required herein.

12.6 Violation of the terms of this Paragraph and its sub-parts shall constitute a material breach of the Contract by TELVUE and the CUSTOMER, at its sole discretion, may cancel the Contract and all rights, title and interest of TELVUE shall thereupon cease and terminate.

### **13. NONDISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT**

During the performance of the Contract, TELVUE shall not discriminate against any

employee or applicant for employment because of race, religion, color, sex or national origin. TELVUE shall take affirmative action to ensure that employees are treated without regard to their race, color, creed, sex, or national origin.

#### **14. TERMINATION FOR CONVENIENCE OF CUSTOMER**

Upon seven (7) calendar days written notice, delivered by certified mail, return receipt requested to the TELVUE, the CUSTOMER may, without cause and without prejudice to any other right or remedy, terminate the contract for the CUSTOMER'S convenience whenever the CUSTOMER determines that such termination is in the best interest of the CUSTOMER. Where the Contract is terminated for the convenience of the CUSTOMER, the notice of termination must state that the Contract is being terminated for the convenience of the CUSTOMER under the termination clause and the extent of the termination. Upon receipt of the notice of termination, the TELVUE shall promptly discontinue all work at the time.

#### **15. NON-EXCLUSIVITY**

The Award of this Contract shall not impose any obligation on the CUSTOMER to utilize the TELVUE for all work of this type, which may develop during the contract period. The CUSTOMER specifically reserves the right to concurrently contract with other companies for similar work if it deems such action to be in the CUSTOMER's best interest.

#### **15. FUNDING**

In the event that sufficient budgeted funds are not available for a new fiscal period, the CUSTOMER shall notify the TELVUE of such occurrence and the Contract shall terminate on the last day of the current fiscal period without penalty or expense to the CUSTOMER.

#### **16. RIGHT TO AUDIT**

The CUSTOMER reserves the right to audit TELVUE's records as such records relate to the services and the Contract between the CUSTOMER and the TELVUE. All records shall kept in a way so as to permit inspection pursuant to Chapter 119, Florida Statutes. The records of the TELVUE shall be retained for three years from the date of final payment.

#### **17. ATTORNEY'S FEES**

In the event that legal action is taken to enforce this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees, including attorney's fees at all appellate levels, and other costs and disbursements, in addition to any other relief to which the prevailing party is entitled.

#### **18. NOTICE.**

All notices to the customer shall be sent to the following address:

Town of Lake Park  
Attention: Town Manager  
535 Park Avenue  
Lake Park, FL 33403

All notices to TELVUE shall be sent to the following address:

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

**19. MISCELLANEOUS PROVISIONS**

19.1 Should any part, term or provision of this Agreement be by the courts decided to be invalid, illegal or in conflict with any law of the State, the validity of the remaining portion or provision shall not be affected thereby.

19.2 TELVUE shall not assign or transfer the Contract or its rights, title or interests therein without CUSTOMER'S prior written approval. The obligations undertaken by TELVUE pursuant to the Contract shall not be delegated or assigned to any other person or firm unless CUSTOMER shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by TELVUE and the CUSTOMER may, at its discretion, cancel the Contract and all rights, title and interest of TELVUE shall thereupon cease and terminate.

19.2 Should the performance of this Agreement by either party be prevented or delayed by act of God, war, terrorist act, civil insurrection, fire, flood, storms, strikes, lock-outs, or any order of federal, state, county or local authority. That party's performance shall be excused to the extent it is prevented or delayed. Each party shall promptly give notice of any event it claims to be an event of force majeure.

19.3 TELVUE is an independent contractor and is not an employee or agent of the CUSTOMER. Nothing in this Contract shall be interpreted to establish any relationship other than that of an independent contractor, between the CUSTOMER and TELVUE, its employees, agents, subcontractors, or assigns, during or after the performance of this Contract. The TELVUE is free to provide similar services to others.

19.4 TELVUE warrants to CUSTOMER that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind, which would have an adverse effect on its ability to perform its obligations under the Contract.



TELVUE further warrants to the CUSTOMER that the consummation of the work provided for in the Contract will not result in the breach of any term of provision of, or constitute a default under any indenture, mortgage, contract, or agreement to which the TELVUE is a party. TELVUE warrants that there has been no violation of copyrights or patent rights, either in the United States of America or in foreign countries in connection with the work of the Contract.

19.5 TELVUE, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Contract. The CUSTOMER undertakes no duty to ensure such compliance, but will attempt to advise TELVUE, upon request as to such laws of which it has present knowledge.

**IN WITNESS WHEREOF, CUSTOMER and TELVUE** has signed this Contract in triplicate.

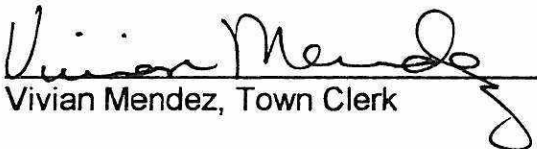
THIS AGREEMENT will be effective on December 20 2006.

**TOWN OF LAKE PARK, FLORIDA**



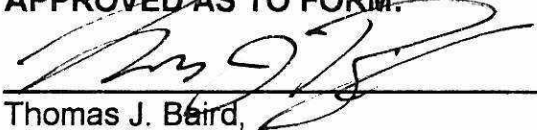
Paul Castro, Mayor

**ATTEST:**



Vivian Mendez, Town Clerk

**APPROVED AS TO FORM:**



Thomas J. Baird,  
Town Attorney

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me, the undersigned Notary Public in and for the State of Florida, on this, the 20th day of December, 2006, by Vivian Mendez and Paul Castro, Town Clerk and Mayor, respectively.



Jessica J. Shepherd  
Notary Public, State of Florida

NOTARY PUBLIC  
SEAL OF OFFICE

Printed, typed or stamped name of Notary Public exactly as commissioned. Individuals who signed are:

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(type of identification produced)

**TELVUE**

By: \_\_\_\_\_ for  
TELVUE CORPORATION

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this, the \_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned Notary Public of the State of \_\_\_\_\_, the foregoing instrument was acknowledged by \_\_\_\_\_ (name of corporate officer), \_\_\_\_\_ (title), of \_\_\_\_\_ (name of corporation), a \_\_\_\_\_ (state of corporation) corporation, on behalf of the corporation.

WITNESS my hand  
and official seal

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
Printed, typed or stamped name of Notary Public exactly as commissioned

- Personally known to me, or
- Produced identification:

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(type of identification produced)