

## **FIFTH AMENDMENT TO SERVICE & ACCESS AGREEMENT**

### **(City of Clearwater)**

This Fifth Amendment to Service & Access Agreement (this “Fifth Amendment”) is entered into as of this \_\_\_\_ day of March 2023 (the date this Fifth Amendment is last signed by a Party, the “Effective Date”) by and between the **CITY OF CLEARWATER, FLORIDA**, a municipal corporation of the State of Florida (the “City”) and **L3HARRIS TECHNOLOGIES, INC.**, a Delaware corporation and successor-in-interest to M/A-COM Private Radio Systems, Inc. (“M/A-COM”) and formerly known as Harris Corporation (“L3Harris”). The City and L3Harris shall sometimes hereinafter be referred to in this Fifth Amendment individually as a “Party” and collectively as the “Parties”.

### **RECITALS**

**WHEREAS** the City and M/A-COM originally entered into the Service & Access Agreement dated July 1, 2002 (the “Original Agreement”). Pursuant to the terms of the Original Agreement, M/A-COM provided the Communications System described in the Original Agreement and was required to maintain the Communications System as set forth in the Original Agreement. Pursuant to the terms of the Original Agreement, M/A-COM leased two towers from the City pursuant to the terms of a Tower Agreement set forth in **Schedule D** to the Original Agreement. The two towers leased to M/A-COM by the City in the Tower Agreement were: (a) the Communication Tower located on the grounds of the City’s Northeast Water Pollution Control Plant (the “Dunedin Tower”); and (b) the Communication Tower located on Missouri Road in the City (the “Missouri Road Tower”) (the Dunedin Tower and the Missouri Road Tower shall sometimes hereinafter be collectively referred to as the “City Towers”). Revenues from the subleasing of the City Towers are shared with the City as provided in the Original Agreement. Space on the Dunedin Tower is also used for antennas and other equipment that is operated and maintained by L3Harris as part of the State of Florida Statewide Law Enforcement Radio System (“SLERS”). Capitalized terms used in this Fifth Amendment shall have the meanings set forth in the Agreement unless such terms are expressly defined in this Fifth Amendment; and

**WHEREAS** the City and M/A-COM previously entered into that certain First Amendment to Service & Access Agreement dated November 8, 2005 (the “First Amendment”) and

**WHEREAS** Harris Corporation, a Delaware corporation (“Harris”), purchased the assets of M/A-COM on May 29, 2009, including all of the rights and obligations of M/A-COM under the Original Agreement as amended by the First Amendment; and

**WHEREAS** the City and Harris previously entered into that certain Second Amendment to Service & Access Agreement dated September 14, 2015 (the “Second Amendment”). (The Original Agreement, as amended by the First Amendment and the Second Amendment, shall hereinafter be collectively referred to as the “Agreement”); and

**WHEREAS**, L3 Technologies was merged into Harris on June 30, 2019, and Harris was renamed “L3Harris Technologies, Inc.”. L3Harris has all of the rights of Harris under the Agreement and is fully responsible for the performance of all obligations of Harris under the Agreement; and

**WHEREAS**, pursuant to the terms of the Partial Assignment and Amendment of Site License Agreement entered into in January 2022 (the “Partial Assignment”), L3Harris assigned its rights as a tenant for the use of the Dunedin Tower to the State of Florida, Department of Management Services (the “State”) with the City’s consent; and

**WHEREAS** the City and the State are entering into a separate site license agreement for the use of the Dunedin Tower which is included in **Attachment B** to this Fifth Amendment (the “Dunedin Tower Site License Agreement”) and L3Harris and the City are entering into a separate site license agreement for the use of the Missouri Road Tower which is included in **Attachment C** to this Fifth Amendment (the “Missouri Road Tower Site License Agreement”); and

**WHEREAS**, the City and L3Harris entered into that certain: (i) Third Amendment to Service & Access Agreement dated September 19, 2022 (“Third Amendment”) to extend the Term of the Agreement for three (3) months from September 30, 2022 until December 31, 2022; and that certain (ii) Fourth Amendment to Service & Access Agreement dated December 21, 2022 (“Fourth Amendment”) to extend the Term of the Agreement for three (3) months from December 31, 2022 until March 31, 2023 for: (a) the City and L3Harris to finalize the revisions to the Agreement; and (b) the City and the State to finalize the terms of the Dunedin Tower Site License Agreement; and (c) the City and L3Harris to finalize the terms of the Missouri Road Tower Site License Agreement. (The Agreement, as amended by the Third Amendment and the Fourth Amendment, shall hereinafter be collectively referred to as the “Extended Agreement”); and

**WHEREAS** the City and L3Harris are entering into this Fifth Amendment to amend certain terms and conditions of the Extended Agreement including, but not limited to, the extension of the term of the Extended Agreement through September 30, 2027, as set forth in this Fifth Amendment.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and L3Harris amend the Extended Agreement as follows:

1. **Recitals** – The above Recitals are incorporated herein by reference.
2. **Communications System** – The equipment in the Communications System has been upgraded from EDACS technology to P25 technology. The definition of “Communications System” in Section 1.1 of the Extended Agreement, including the communication equipment in **Schedule A** to the Extended Agreement, is therefore deleted. The new definition of “Communications System” shall be all of the P25 infrastructure communication equipment that is owned by the City and shown in the System Drawings of the City’s communications system included in **Attachment A** to this Fifth Amendment provided, however, that the definition of Communications System does not include microwave system equipment owned by Pinellas County and the logging recorder owned by Pinellas County.

3. **Tower Agreement** – The Tower Agreement set forth in **Schedule D** to the Original Agreement and entered into in 2002 by the City and M/A-COM is terminated in its entirety and replaced with the Dunedin Tower Site License Agreement and the Missouri Road Tower Site License Agreement (the Dunedin Tower Site License Agreement and the Missouri Road Tower Site License Agreement shall sometimes be collectively referred to as the “New Tower Agreements”).

4. **Parties’ Addresses** – The addresses for delivery of notices to the Parties in Section 1.4 of the Agreement is deleted in its entirety and replaced with the following addresses for delivery of notices to the Parties:

If to the City:

City of Clearwater  
P.O. Box 4748  
Clearwater, Florida 33758-4748  
Attn: City Manager  
Tel: (727) 562-4040

With a copy of all City Notices to go to:

City of Clearwater  
One Clearwater Tower, 6th Floor  
600 Cleveland St.  
Clearwater, FL 33756  
Attn: City Manager  
Tel: (727) 562-4040

and

City of Clearwater  
P.O. Box 4748  
Clearwater, FL 33758-4748  
Attn: City Attorney  
Tel: (727) 562-4010

If to L3Harris:

L3Harris Technologies, Inc.  
3800 Esplanade Way  
Suite 190  
Tallahassee, FL 32311  
Attn: Steven A. Williams, Sr., Director  
L3Harris Florida Statewide Law Enforcement Radio System (SLERS) Program  
Tel: 407-595-5910

With a copy of all L3Harris notices to go to:

L3Harris Technologies, Inc.  
7022 TPC Drive  
Orlando, FL 32822  
Attn: Steven A. Williams, Sr., Director  
L3Harris Florida Statewide Law Enforcement Radio System (SLERS) Program  
Tel: 407-581-3782

and to:

L3Harris Technologies, Inc.  
221 Jefferson Ridge Parkway  
Lynchburg, VA 24501  
Attn: Legal Department  
Tel: 434-455-6600

In addition to the methods set forth in the Agreement for delivery of notices to the Parties, notices may also be delivered by a Party through the use of a nationally recognized overnight courier service.

5. **Term** - Section 2.2 of the Extended Agreement is amended to extend the Term of the Extended Agreement for one (1) additional fifty-four (54) month period starting on April 1, 2023, and ending on September 30, 2027.

6. **Third Party Tower Tenants Revenue** – The last sentence of Section 8.3 of the Extended Agreement is deleted in its entirety and replaced with the following new sentence:

“Effective as of the first day of April, 2023, the gross revenues generated from tower lease payments from existing Third Party Tower Tenants (Third Party Tower Tenant tower leases entered into after July 1, 2002) and from new Third Party Tower Tenants (Third Party Tower Tenant tower leases entered into after the date of this Fifth Amendment) shall thereafter be evenly divided between the Parties, with L3Harris receiving fifty percent (50%) and the City receiving fifty percent (50%) of the gross revenue generated from tower lease payments from existing and new Third Party Tower Tenants.”

7. **End of Term Options** – Section 9.2 (B) shall be deleted in its entirety and replaced with the following new Paragraph B:

“B. Not renew the term of this Service Agreement, in which event the agreements with the Third-Party Tower Tenants shall be assigned by L3Harris to the City and thereafter neither Party shall have any further obligation to the other Party.”

8. **Revenue Sharing Agreement** – Consistent with the amendments to the Extended Agreement set forth above in Sections 5 through 7 of this Fifth Amendment, the Revenue Sharing Agreement in **Schedule C** to the Extended Agreement is amended as follows:

a. The term of the Revenue Sharing Agreement is extended for one (1) additional fifty-four (54) month period starting on April 1, 2023, and ending on September 30, 2027.

b. Section 3(a) of the Revenue Sharing Agreement is deleted in its entirety and replaced with the following:

“Effective as of the first day of April, 2023, the gross revenues generated from tower lease payments from existing Third Party Tower Tenants (Third Party Tower Tenant tower leases entered into after July 1, 2002) and from new Third Party Tower Tenants (Third Party Tower Tenant tower leases entered into after the date of this Fifth Amendment) shall thereafter be evenly divided between L3Harris and the City, with L3Harris receiving fifty percent (50%) and the City receiving fifty percent (50%) of the gross revenue generated from tower lease payments from existing and new Third Party Tower Tenants.”

c. The fourth subparagraph in Section 3 of the Revenue Sharing Agreement is deleted in its entirety and replaced with the following:

“Renew the Term of the Access Agreement, or not renew the Term of the Access Agreement. If the City and L3Harris elect to not renew the term of the Access Agreement, the agreements with the Third-Party Tower Tenants shall be assigned by L3Harris to the City and thereafter neither L3Harris nor the City shall have any further obligation to the other party.”

## **9. Miscellaneous**

a. The terms and conditions of the Extended Agreement, except as amended herein, shall remain in full force and effect.


b. This Fifth Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed signature pages delivered by electronic mail shall be deemed effective as original signature pages.

c. Each of the Parties represents and warrants that it has the right, power, legal capacity and authority to enter into and perform its respective obligations under this Fifth Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment to Service & Access Agreement as of the day and year first above written.

**L3HARRIS TECHNOLOGIES, INC.**, a Delaware corporation acting through its Public Safety Professional Communications Business Sector

By: 

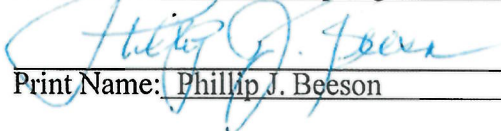
Name: Michael J. Hayes

Title: VP, Program Management

Date: February 23, 2023

**Witnesses:**

  
Print Name: Patricia Harpring

  
Print Name: Phillip J. Beeson

**THE CITY OF CLEARWATER, FLORIDA**,  
a Florida municipal corporation

By: \_\_\_\_\_  
Frank Hibbard  
Mayor

By: \_\_\_\_\_  
Jennifer Poirrier  
Interim City Manager

Approved as to form:

Attest:

\_\_\_\_\_  
Matthew J. Mytych, Esq.  
Assistant City Attorney

\_\_\_\_\_  
Rosemarie Call  
City Clerk

**ATTACHMENT A**

**Communications System Description**

See attached April 18, 2017 System Drawings of the City's Communications System

**ATTACHMENT B**

**Dunedin Tower Site License Agreement**



**ATTACHMENT C**

**Missouri Road Tower Site License Agreement**