

Assessor's Parcel Number: N/A

Date: FEBRUARY 5, 2018

Recording Requested By:

Name: TAMMY JAMES, MGR TECH INFRAS & OPER

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A



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KAREN ELLISON, RECORDER

MASTER SERVICES AGREEMENT #2018.021
(Title of Document)

**FIWI Communications LLC
Master Services Agreement**

This Master Services Agreement, dated August 16, 2017 ("Agreement") is made by and between Douglas County, Nevada, a political subdivision of the State of Nevada, with offices at 1616 8th Street, Minden, Nevada 89423 ("Customer") and FIWI Communications LLC, with offices at 1657 Lucerne Street, Suite C Minden, NV 89423 ("FIWI"), and describes the terms and conditions upon which FIWI, and/or its subsidiaries and affiliates, will provide to Customer, Internet and/or Communications services and/or equipment. Such services and/or equipment shall be described in each Master Services Agreement Addendum ("Addendum") which are now or hereafter become a part of this agreement ("Services"). This agreement shall automatically transfer to the successor of FIWI or Customer.

1. **TERM.** Unless sooner terminated as herein provided, the term of this Master Services Agreement and any Addendum to the Master Services Agreement shall be for a three-year period, commencing on the date that the Agreement has been fully executed by both parties (the "Effective Date"). Both parties may terminate this Agreement by mutual written consent.
2. **TECHNICAL SPECIFICATIONS.** The technical standards shall conform to the applicable FIWI specifications as stated in each respective Addendum.
3. **TAXES.** Unless this is explicitly waived in specific Addendums, Customer shall be responsible for the prompt payment of all federal, state and local taxes, which are payable upon the use of or sale of Services hereunder, or the use of or resale of Services by Customer. If FIWI should pay or become obligated to pay any such taxes properly assessed to Customer, Customer shall promptly reimburse FIWI thereof. Taxes based upon the Income, property or receipts of FIWI are excepted from this provision.
4. **AGENCY AGREEMENT.** In accordance with the terms of an "Agency Agreement" being entered into by both parties, Attachment 1 hereto, Customer authorizes FIWI to act as Customer's agent for the sole purpose of turning-up telephone company (LEC and IXC) facilities and coordinating Services between FIWI's POP and any third-party facilities. This applies to wired connectivity only and to the extent that there is a conflict, the individual addendums take precedence on any terms and conditions.
5. **PAYMENT.**
 - a. The monthly recurring charge for each Service (as specified in the applicable Addendum) shall be payable in U.S. funds. Such monthly recurring charge shall be due within 15 days from the date of FIWI's invoice thereof, and shall be submitted to FIWI at:

FIWI COMMUNICATIONS LLC.
1657 Lucerne Street, Suite C
Minden, NV 89423
 - b. Payment will not be deemed to have been made until the funds are delivered to FIWI. Any payment (including monthly recurring Service charges due under this section or any other amount due hereunder) not made when due will be subject to a late charge of 1 ½% per month or the rate allowed by NRS 99.040, whichever is greater.
 - c. Upon the expiration of the Initial Service Term (as specified in each Addendum), FIWI shall have the right to adjust its rates for that Service upon 30 days' notice to Customer.
 - d. Customer is responsible for all usage of the Services provided by FIWI to the Customer under this agreement, regardless of fraud, misuse, or fraudulent procurement or consumption of the Services provided hereunder, provided that such fraud or misuse is not attributable to the intentional, reckless or negligent acts of FIWI or its agents, and customer shall make payment on such usage as required herein.

7. **FORCE MAJEURE.** FIWI shall not be liable for any failure or delay in performance caused by accident, label dispute, fire or other casualty, weather or natural disaster, damage to facilities, the conduct of third parties, or other cause beyond its reasonable control (“force majeure”).
8. **DEFAULT.**
- a. Customer shall be in default if it fails to timely perform any obligation under this Agreement, or any other agreement with a FIWI subsidiary and affiliate, or becomes the subject of any proceedings under any bankruptcy or insolvency laws. Upon such default, and at any time thereafter, FIWI may, at its option, terminate this Agreement, one or more Addenda hereto, or any other agreement held by FIWI, and/or a FIWI subsidiary and affiliate, upon five days’ notice to Customer and pursue all other available remedies at law and in equity, all of which shall be cumulative.
 - b. If this Agreement or any Addendum is terminated by FIWI during the Initial Service Term of any Addendum as a result of Customer’s default or is terminated or repudiated by Customer without cause, in addition to any other damages or remedies to which FIWI may be entitled, Customer shall be liable for liquidated damages equal to 75% of the monthly recurring charge for the terminated Services for the remainder of the Initial Service Term under the applicable Addendum, or such other percentage as may be stated in the Addendum. Such lump sum for any terminated Services shall be due one month after notice is given to Customer by FIWI.
 - c. Subsequent to termination of Services for cause and prior to any reinstatement of FIWI’s Services to Customer, the parties shall agree upon the amount of any reconnect charges, increase in Service rates and/or security deposit required hereunder, it being understood, however, that in the event of termination, FIWI may sell the Services to others.
 - d. The terms and conditions of any Addendum hereto may be terminated by Customer if FIWI is in breach of said Addendum, provided that Customer provides FIWI with fifteen (15) days written notice of its intent to terminate said addendum and provides FIWI the opportunity to cure the breach within the fifteen (15) day time period.
9. **INDEMNIFICATION.** Customer shall indemnify and hold harmless FIWI, its subsidiaries and affiliates, against all losses, claims, damages, expenses and liabilities (including attorneys’ fees and court costs) caused by an act, error or omission of, or any condition created by, Customer or its employees, agents, equipment or other property and arising out of or relating to: (i) claims for libel or slander, and/or infringement of copyright in connection with the material transmitted over FIWI’s facilities; or (ii) personal injury or property damage (including any damage to the facilities or equipment of FIWI, any connecting carrier, or any other third party); or (iii) any breach of any representation, warranty or covenant made by Customer herein; or (iv) claims by the customers of the Customer, or any other third parties with whom Customer conducts business (to the extent that such claims arise out of operations or activities hereunder). FIWI agrees to indemnify, defend, and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from or related to FIWI’s negligent performance pursuant to the terms of the Contract by Contractor or Contractor’s agents or employees.
10. **NOTICES AND OTHER COMMUNICATIONS.**
- a. Unless written notice of a change is given to Customer, notices and other communications to FIWI shall be in writing and personally delivered, telecopied, or sent by Certified Mail, return receipt requested, or overnight courier service to:

FIWI COMMUNICATIONS LLC
1657 Lucerne Street, Suite C
Minden, NV 89423
fiwicomm@gmail.com

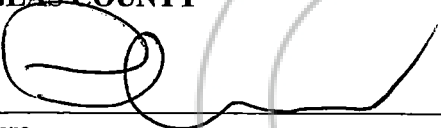
- b. Unless written notice of a change is given to FIWI, all notices and other communications to Customer shall be sent to its address as set forth on the face of this Agreement, and in a manner set forth in paragraph 10.a, above, or to Customer's facsimile number to be provided by Customer.
11. **LIABILITY.** The warranties and remedies set forth in this Agreement constitute the only warranties and remedies with respect to the Services provided. Such warranties are in lieu of all other warranties, written or oral, statutory, express or implied, including without limitation, the warranty of merchantability and the warranty of fitness for a particular purpose or use. In no event shall FIWI be liable for any special, consequential or incidental damages, or for any lost profits of any kind or nature whatsoever to Customer or Customer's customer.
12. **COMPLIANCE WITH LAWS.** Each party shall comply with all federal, state and local laws with respect to the Services and this Agreement. Customer agrees to provide evidence of all authorizations and approvals of public authorities, that are required to perform under this agreement, to FIWI upon request.
13. **GENERAL TERMS AND CONDITIONS.**
- a. This agreement is not intended and shall not be construed to create a partnership, agency or joint venture between the parties or result in a joint communications service offering to the customers of Customer or FIWI.
- b. This agreement may not be assigned by either party in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld, except that FIWI shall have the right to assign this Agreement to its subsidiaries and affiliates without Customer's consent, provided that such subsidiary or affiliate assumes all rights and obligations hereunder.
- c. This agreement and any documents attached hereto constitute the entire agreement between the parties and supersede all prior agreements, whether written or oral, with respect to the specific Services being provided hereunder.
- d. Neither this Agreement nor any Addendum hereto shall become effective until accepted by an authorized partner of FIWI.
- e. The terms and provisions of this Agreement may only be waived, modified or changed by an amendment in writing signed by both parties hereto. No failure by either party to insist upon the other party's performance of any obligation hereunder shall constitute a waiver of the obligation and the parties may require compliance with any such obligation at any time.
- f. In the event of any dispute arising out of or relating to this agreement, either party may initiate arbitration by an impartial arbitrator, not associated with either party, licensed by the State of Nevada. If either party institutes arbitration and/or legal proceedings to enforce any provision hereof, in addition to any other relief awarded by the court, the prevailing party shall be entitled to recover its attorneys' fees, expert fees, and other costs.
- g. If any provision of this Agreement shall be determined to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- h. This Agreement shall be governed in all respects by the internal laws of the State of Nevada. The parties hereby subject themselves to the jurisdiction of the state courts in the County of Douglas, State of Nevada, for the resolution of any dispute arising hereunder and agree that the venue in any suit filed in those courts shall be proper.
- i. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute the Agreement. Signed counterparts of this Agreement delivered via facsimile shall be treated as executed and delivered originals.

- j. Public Records: FIWI acknowledges that this Agreement and certain documentation (collectively 'Records') may be subject to public record requests. Should the Customer reasonably believe that Records, in whole or in part, are subject to production via a valid, properly submitted request made under the Public Records Law, the County will promptly notify FIWI of such request providing five (5) business days advance notice prior to producing any of the requested Records.
- k. FIWI will perform all services in a manner consistent with that level of care and skill ordinarily exercised by other members of FIWI's profession currently practicing in the same locality under similar conditions
- l. FIWI understands and agrees that the services it will render to the Customer are not intended for the improvement of real property or to otherwise grant any rights to FIWI pursuant to NRS chapter 108.
- m. The Customer is subject to the Nevada Local Government Budget and Finance Act. As such, Customer's obligation for payment on each Project is contingent on the availability of County funds, provided however that the Customer shall notify FIWI in writing of County's failure to appropriate sufficient funds at least 180 days in advance of said funds coming due.
- n. Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either FIWI or Customer.
- o. By signing the Contract, FIWI agrees that any information obtained from Customer, in whatever form, will not be divulged to other competing interests without the permission of the County Manager. In the event of a breach of this provision, Douglas County may immediately withdraw, without penalty or any payment, from the Contract. FIWI must notify Customer of any other contracts or projects Contractor is working on that may negatively impact Customer.

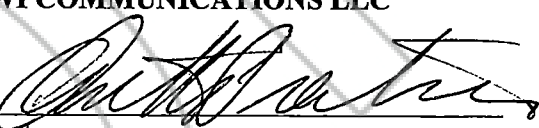
IN WITNESS WHEREOF, the undersigned hereby acknowledge that they have read and fully understand the foregoing Agreement and, further, that they agree to each of the terms and conditions contained herein.

DOUGLAS COUNTY

FIWI COMMUNICATIONS LLC



 Signature



 Signature

Larry Werner

 Name (Print)

ANTHONY PRESTIGIACOMO

 Name (Print)

County Manager

 Title

MANAGER

 Title

November 15, 2017

 Date

11/15/17

 Date

**FIWI Communications LLC
Addendum #1**

This Addendum dated August 16, 2017 is attached and made part of the Master Services Agreement dated August 16, 2017 between DOUGLAS COUNTY ("County") and FIWI Communications LLC ("FIWI"). All Services and charges specified under this Addendum are subject to the terms and conditions contained within the FIWI Master Services Agreement.

- 1. Project:** Design, installation and configuration of a 100Mb licensed encrypted microwave link between the Town of Gardnerville Administrative Office and the existing wireless links on the Light Pole at Stodick Park. The Radio link product descriptions are:


<u>Description</u>	<u>QTY</u>
FCC Microwave License Coordination	1
PTP 820 Licensed Point-to-Point Microwave Radio	2
1' Antenna assemblies	2
CNT-400 50 Ohm Coax	100'
Coaxial cable installation assembly kit	2
Lightning Protection Kits	2
Light duty chain mounted kit	2
Encryption 128bit Upgrade	2
UPS 1600VA	1
NEMA Cabinet	1

- 2. Costs:** The County's costs for the Project shall be a onetime amount of \$27,000.00.
- 3. Delivery:** Within 60 days from receipt of signed Agreement.

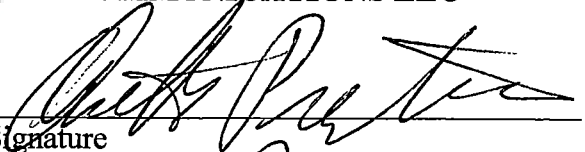
This Addendum may be executed in multiple counterparts, all of which taken together shall constitute the Addendum. Signed counterparts of this Addendum delivered via facsimile or email shall be treated as executed and delivered originals.

DOUGLAS COUNTY

FIWI COMMUNICATIONS LLC



Signature



Signature

Larry Werner

Name (Print)

ANTHONY PRESTIGIACOMO

Name (Print)

County Manager

Title

MANAGER

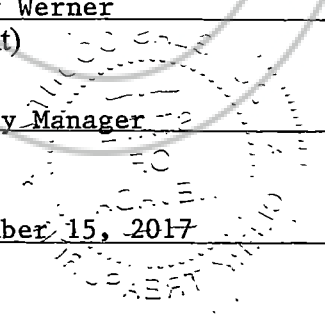
Title

November 15, 2017

Date

11/15/17

Date



COPY

Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

5th day of Feb 2018

By [Signature] Deputy