



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Ordinance Authorizing the Execution of Amendment #1 to Intergovernmental Agreement for Tri-City Records
Presenter:	Chief Lamkin

Please check appropriate box:

	Government Operations	X	Government Services 03.25.13
	Planning & Development		City Council
	Public Hearing		

Estimated Cost:	\$	Budgeted:	YES	X	NO	
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If NO, please explain how item will be funded:

Executive Summary:

In September 2007, the City of St. Charles entered into an Intergovernmental Agreement with the cities of Batavia and Geneva for a police records management system, operated with vendor New World Systems (NWS). The agreement outlined the various responsibilities by each party and created the ability for cost sharing of the NWS costs associated with operating the records management system. This has proven to be an effective method of managing police records and allowed for the ability to reduce overall costs as well as sharing of information. The Tri-Cities have been approached by the Village of Sugar Grove to join this agreement. In the interest of information sharing and distribution of overall operations and costs of the records system, it is recognized by the three police departments that this would benefit all. The Village of Sugar Grove agrees to reimburse each community for the legal review of this amendment and upon approval will be billed accordingly.

Attachments: *(please list)*

Agreement; Amendment #1; Ordinance

Recommendation / Suggested Action *(briefly explain):*

Recommendation to approve an Ordinance Authorizing Execution of Amendment #1 to the Intergovernmental Agreement for Tri-City records.

<i>For office use only:</i>	<i>Agenda Item Number: 5.b</i>
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City of St. Charles, Illinois
Ordinance No. _____

**An Ordinance Authorizing the Execution of Amendment #1 to
Intergovernmental Agreement For Tri-City Police Records**

**Presented & Passed by the
City Council on _____**

WHEREAS, the City of St. Charles has previously entered into an Intergovernmental Agreement For Tri-City Police Records, dated September 4, 2007 with the City of Batavia and the City of Geneva; and

WHEREAS, the parties desire to make certain amendments to said agreement, including adding the Village of Sugar Grove as a party thereto.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, as follows:

SECTION ONE: That the Mayor and City Clerk be and the same are hereby authorized to execute Amendment #1 to Intergovernmental Agreement For Tri-City Police Records, in substantially the form attached hereto as Exhibit "A", and, by this reference, incorporated herein, with such changes as may be approved by the City Attorney.

SECTION TWO: This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

Presented to the City Council of the City of St. Charles, Illinois this ____ day of _____, 2013.

Passed by the City Council of the City of St. Charles, Illinois this ____ day of _____, 2013.

Approved by the Mayor of the City of St. Charles, Illinois this ____ day of _____, 2013.

Mayor

Attest:

City Clerk

Ordinance No. _____

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Council Vote:

Ayes: _____

Nays: _____

Abstain: _____

Absent: _____

Intergovernmental Agreement For Tri-City Police Records

This Agreement is made and entered into this Fourth day of September 2007, by the CITY OF BATAVIA, CITY OF GENEVA, and CITY OF ST. CHARLES, all in Kane County, Illinois.

1. Parties

- 1.1. Each of the parties to this Agreement is a municipal corporation organized and existing under the authority of the Municipal Code of 1961 (Illinois Compiled Statutes) and predecessor statutes. Each municipal corporation shall hereinafter be called "Batavia," "Geneva," or "St. Charles," as the context may require.

2. Purpose

- 2.1. The purpose of this Agreement is to unite the parties in a cooperative agreement to share data processing equipment and software used to provide electronic records management services for the Police Departments in each municipality. Batavia, Geneva, and St. Charles agree that combining records will facilitate inter-department communication and cooperation, thus serving the citizens of all three communities effectively.

3. Name

- 3.1. For convenient reference, the name by which this Agreement shall be known is the "Tri-City Police Records Agreement."

4. Legal Basis

- 4.1. This Agreement is executed pursuant to the provisions of the Illinois Constitution of 1970, the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et. seq.*, and other legal authority.

5. Definitions

- 5.1. "New World" – New World Systems Corporation, a Michigan Corporation.
- 5.2. "New World License Agreement" – The agreement between Batavia and New World entitled "New World Standard Software License and Services Agreement" executed on February 19, 2007.
- 5.3. "System" – A combination of the software licensed from New World in the New World License Agreement and certain data processing equipment purchased by Batavia for the purpose of operating the New World software. The System shall

be comprised of the actual operational equipment, software and data, as well as a second copy of the core New World records software for purposes such as testing the New World software or training personnel.

5.4. "Partners" – All parties to this Agreement other than Batavia.

5.5. "Geographic Information Systems (GIS) Data License" – Terms as outlined in Appendix 1, which is attached hereto and incorporated into this Agreement.

6. Term of Agreement

6.1 The Term of this Agreement shall be in effect for a period of three (3) years, beginning March 1, 2007, and ending February 29, 2010. Thereafter it shall automatically be renewed with no affirmative action by the parties for successive three (3) year periods commencing March 1 of each year until notice of termination is given as provided in Section 12. The parties hereto acknowledge that the duration of the initial and renewal terms of this Agreement is authorized pursuant to Paragraph 8-1-7 of the Illinois Municipal Code (65 ILCS 5/8-1-7).

7. Services Provided by Batavia

7.1. Batavia shall provide the Partners with electronic access to the System. Partners shall also be permitted to utilize services from Batavia or from New World as provided in this section.

7.2. Batavia shall provide system management and administration functions for the System, including the following:

7.2.1. Installation, configuration, and administration of the operating system on each piece of equipment;

7.2.2. Installation of patches and upgrades to the operating systems;

7.2.3. Regular backups of the operating systems, software, and data in accordance with Batavia policies and procedures;

7.2.4. Installation and overall administration of the New World software and database system;

7.2.5. Installation of patches and upgrades to the New World software and database system;

7.2.6. Maintenance of network equipment and infrastructure owned or operated by Batavia; and

7.2.7. For the purposes of compliance with any requests for information under the provisions of the Illinois Freedom of Information Act (5 ILCS140/7 et. seq.), Batavia shall not be an agent of the Partners but shall provide a Partner with prompt notice of any request for information made under said Act.

7.3. The parties shall have access to the New World software components as described in Section 10. The parties shall also have access to their data stored in the database system used by the New World software.

- 7.4. Batavia shall undertake reasonable efforts to ensure access to the System but shall not, under any circumstances, guarantee the access to use the System. Certain events or circumstances, including but not limited to, hardware or software failures, may result in unscheduled downtime of the System. Batavia shall respond in a reasonable fashion to all unscheduled downtime and shall make reasonable efforts to prevent such unscheduled downtime.
- 7.5. From time to time, the System will require scheduled downtime for maintenance, repair or other purposes. Batavia shall attempt to minimize the period of downtime and shall provide reasonable notice to Partners of the expected time and duration of downtime. Such downtime shall be scheduled during pre-arranged, mutually agreeable time periods, and whenever possible, scheduled to avoid periods during unusual circumstances such as festivals or other events.
- 7.6. Batavia shall take reasonable action to protect the integrity of the System or other data processing systems operated by Batavia if a security breach is identified. Such action may require temporary interruption of services to the Partners. Batavia shall make reasonable efforts to promptly address the situation, including working with the Partners as necessary to remedy the problem.
- 7.7. Batavia shall not make any planned changes to the System or the means by which the Partners communicate with the System that could be reasonably expected to adversely affect the Partners' ability to use the system without prior consent from all Partners.
- 7.8. Each party shall designate one or more people from their organization that shall be authorized to contact New World in order receive telephone support for the use of the System, subject to any limitations imposed by New World.
- 7.9. Partners are responsible for procuring all necessary equipment for them to access the System. Each party is also solely responsible for all costs of maintaining, repairing or operating their equipment, including any equipment required to access the System.
- 7.10. Batavia shall, to the extent of its capability, assist Partners in obtaining necessary technical data to ensure compatibility of Partners' computers and related equipment with the System. Batavia shall also make reasonable efforts to coordinate communications between a Partner and New World as necessary to facilitate the Partner's access to the System.

8. Governance of System Operation

- 8.1. A Policy Board shall be established to provide all parties with equal participation in certain decisions regarding the operation of the System as set forth in this

section. The Policy Board shall not have the authority to bind or otherwise limit the Partners.

- 8.2. The Policy Board shall be comprised of the Chief of Police, or their assigned representative, of each of the parties of this Agreement.
- 8.3. Policy Board meetings may be called by any member of the Policy Board by providing notice to all other members at least forty-eight (48) hours in advance of the meeting time.
- 8.4. Each member of the Policy Board shall be entitled to cast one (1) vote on each matter brought to a meeting of the Policy Board for action. A quorum, defined as the majority of the members of the Policy Board, is required for the Policy Board to take action.
- 8.5. A majority vote of the Policy Board is required to successfully pass an action on items presented to the Policy Board.
- 8.6. The Policy Board shall act on matters related to policies, procedures, and other operational matters that require the cooperation of the parties in order to use or operate the System in an effective manner.
- 8.7. The Policy Board shall act on changes in the New World software components and/or the parties using particular components as outlined in Section 10. When changes are agreed upon by the Policy Board, the Policy Board shall recommend to the parties' City Councils that they, jointly and severally, take such necessary action to modify this Agreement accordingly, and, if required, to authorize any related expenditures.
- 8.8. The Policy Board shall act to determine the terms and length of a renewal of the Standard Software Maintenance Agreement ("SSMA") between Batavia and New World. The Policy Board will then recommend to the parties' City Councils that they take action to execute the agreement with New World and to authorize any related expenditures. To enter into a renewal term longer than three (3) years, the Policy Board must agree by unanimous vote rather than a majority vote. Should the Policy Board fail to successfully approve the renewal prior to the expiration date of the then-current term, then Batavia shall have the right, at its option, to renew the SSMA for one (1) year, fifteen (15) days prior to the expiration of the then-current term.
- 8.9. The Policy Board shall not take any action that would violate or otherwise conflict with the New World License Agreement.
- 8.10. The Policy Board shall, as it deems necessary, create committees for collaboration between the parties on various functional or technical aspects of the

System. Such committees shall be structured to provide equal representation from all parties.

9. Permitted Uses

- 9.1. There shall be no release or publication of data stored in the System that was entered by another party without the entering party's prior written approval. In the event that one party receives a Freedom of Information Act ("FOIA") request that may require a release of information, the FOIA request shall be immediately submitted to the entering party and processed based on the entering party's procedures for FOIA requests.
- 9.2. Partners shall be permitted to utilize the System for the purpose of operating the New World software. All use of the system by the Partners shall be consistent with the New World License Agreement.
- 9.3. All information stored on the System shall be accessible only through a password-protected login, and each party shall restrict access to its respective passwords as may be reasonably necessary to preserve the security and privacy of the System.
- 9.4. Parties shall access only this System through their network connection to Batavia.
- 9.5. All parties shall utilize any information from the System only for authorized lawful police purposes.
- 9.6. Access to the System shall be restricted for use by each party's authorized employees and agents only. Each party shall administer its own internal procedures, including the issuance of passwords, authorizing employees and agents as users, discontinuing access of former users, and similar matters as may be required for the purposes of this Agreement.
- 9.7. In the event any party's participation in this Agreement is terminated, the terminated party shall immediately discontinue any usage of the System.
- 9.8. Batavia shall be promptly notified of any breach in Partner's computer or recordkeeping system that may jeopardize the security or integrity of the System, including the termination of employment of any formerly authorized user of the System, so that appropriate security measures can be implemented.
- 9.9. In addition to the above-described security and non-disclosure requirements, all parties shall comply with all local, state and federal regulations and statutes governing the keeping, use or transmission of personal information or records of any sort which are kept on or accessed through the System, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA).

9.10. Batavia shall administer all internal aspects of the System. Batavia shall also monitor the System as follows:

9.10.1. Use automated means to monitor the availability of the equipment used in the operation of the System, and to notify Batavia Information Systems personnel in the event of a failure.

9.10.2. Install and maintain current anti-virus and anti-spyware software on the System, and use the centralized management services of those software products to notify Batavia Information Systems personnel in the event that a problem is detected.

9.10.3. Review event logs for the various components of the System where available, and take action as necessary to correct problems as identified in the logs.

9.11. All parties agree that they shall monitor use of the System by their employees and agents as the party may deem necessary to assure that all use is in accordance with their own policies, all applicable laws and this Agreement.

9.12. Partners acknowledge and agree that the New World software is confidential and proprietary to New World. Partners are bound by the same obligations for confidential information as Batavia as more fully set forth in Section 8 of the New World License Agreement.

9.13. Each party is responsible for their compliance with license requirements for the number of users or workstations in use at their facilities in accordance with the terms of the New World License Agreement.

9.14. All parties share the same responsibilities for the initial implementation of the System or the later implementation of additional components. These responsibilities are described in Sections 6.1, 6.2, 6.4, and 6.5 of the New World License Agreement.

10. System Software Components and Costs

10.1. Batavia shall make New World software components available to one or more parties as indicated in Appendix 2, provided that such party has purchased the necessary user licenses as required by New World. Appendix 2 shall be modified by the parties as appropriate, without amendment of this Agreement, pursuant to the provisions of Sections 10.2, 10.3, and 10.4 below.

10.2. The parties agree to share the costs of services provided by New World during the initial implementation of the System as follows:

- 10.2.1. Batavia shall pay an agreed proportion of the service costs as if Batavia were the only party implementing the system. The remaining share of the service costs approximately represents the incremental increase in costs created by increasing the scope of the project to include the Partners, and the Partners shall share that cost equally.
 - 10.2.2. Partners shall also share equally the cost of upgrading the New World software license from a single jurisdiction license to a multiple jurisdiction license.
 - 10.2.3. Batavia and St. Charles shall implement the Software Components pertaining to mobile applications, sharing the implementation costs equally.
- 10.3. In the event that one or more parties desires to purchase additional software components or system capabilities, such parties shall provide written authorization to Batavia to purchase the software. The initial purchase cost incurred by Batavia for the software (including, but not limited to, license fees, initial maintenance fees, and installation services) shall be invoiced in an amount divided evenly between those parties. Upon installation of the additional software, Batavia shall make such software available to those parties that chose to purchase it. Appendix 2 of this Agreement shall be amended accordingly to reflect the additional software and the parties using it.
- 10.4. In the event that a party desires to begin using an installed component that has previously been implemented by other parties according to Section 10.3, then that party shall provide written authorization to Batavia and pay a proportionate amount of to the initial purchase cost to the other parties using the component as if that party had participated in the initial implementation and divided the costs equally at that time.
- 10.5. In the event that a party needs to purchase user licenses or other New World software that will be installed at that party's agency for that party's exclusive use, that party shall procure such licenses or software directly from New World Systems. That party shall also be directly responsible for any installation costs and for the annual maintenance of such licenses or software. In the event that such a purchase also requires licenses or software to be purchased and installed on the shared application servers in Batavia, then the costs incurred by Batavia for such licenses or software will be divided among the parties based on their usage as provided in this Section 10.
- 10.6. An annual payment for software maintenance costs to New World is required for technical support of the system, such as phone support and software updates. Maintenance costs shall be divided between the parties as described below.
 - 10.6.1. Maintenance costs for the software components listed in Appendix 2 that have a fixed price shall be divided equally among the parties using each component.

- 10.6.2. Maintenance costs for user licenses or for software components that are priced based on the number of users shall be divided among the parties in proportion to the number of user licenses that each party has purchased.
- 10.7. Batavia shall invoice Partners for maintenance costs thirty (30) days prior to the date the maintenance payment is due by Batavia to New World.
- 10.8. Payments for all invoices issued by Batavia are due thirty (30) days after the invoice date.
- 10.9. Batavia owns all title and interest in the data processing equipment, and Batavia is the software licensee with New World. In the event that a Partner terminates their participation in the Agreement, that party shall not be entitled to a refund for any monies paid prior to the termination. Should a party terminate their participation in this Agreement in order to pursue an alternate implementation of the New World software, Batavia shall make all reasonable efforts to work with New World to transfer user licenses or other components bought explicitly and solely on behalf of that party to another New World license agreement.
- 10.10. Partners are permitted to engage New World directly to obtain their consulting services for System training or configuration of Partner's equipment. Partner shall arrange to be billed directly by New World for such services, and shall be solely responsible for payment of invoices issued by New World for such services.

11. Indemnification

- 11.1. Each party shall indemnify and hold harmless the other parties and their agents, employees, officers and elected officials for any and all costs, judgments or damages (including reasonable attorneys fees) arising out of the party's use of the System, including any damages arising out of information contained therein and its accuracy, and shall indemnify and hold harmless such indemnified parties for all official or unofficial use or misuse of the System originating from the party's facilities, equipment, or conducted through the use of any security information specific to the party such as usernames or passwords and for any and all costs, judgments or damages arising therefrom.
- 11.2. Partners agree that Batavia shall have no liability for any and all losses of data or information stored on the system or server and any costs associated with the creation, replication or loss of such data and information, or for any downtime as described in Section 7.4, except in cases of gross negligence or malicious intent.

12. Termination

- 12.1. A Partner may voluntarily terminate their participation by giving written notice to the other parties ninety (90) days prior to the effective date of termination.
- 12.2. Batavia may voluntarily terminate this Agreement by giving written notice to the other parties twenty-four (24) months prior to the effective date of termination. Such termination may be effected earlier with unanimous consent of the other parties.
- 12.3. If a Partner is in default of their obligations hereunder, then Batavia shall send that party a written notice of default. The defaulting party shall have thirty (30) days to cure the default condition. If the default is not cured after that time, the defaulting party's participation in this Agreement shall be terminated.
- 12.4. Regardless of the manner in which the termination is effected, the terminated party shall pay its proportionate share of the annual maintenance costs through the end of the then-current annual period of the Standard Software Maintenance Agreement, described in Exhibit C of the New World License Agreement.

13. General Provisions

- 13.1. This Agreement may be amended in writing at any time by all of the parties to the Agreement. Amendments shall refer back to this Agreement and to subsequent amendments, if any, on the same subject and shall specify the language to be changed or added. The execution of any amendment shall be authorized by passage of an appropriate ordinance by the corporate authorities of each party.
- 13.2. If any part of this Agreement is adjudged invalid, such adjudication shall not affect the validity of the Agreement as a whole or of any other part.
- 13.3. Any notice required hereunder shall be deemed to be given on the date of mailing if sent by registered or certified mail, return receipt requested, to the address or addresses of the parties following their signatures at the end of this Agreement.
- 13.4. Paragraph titles are descriptive only and do not in any way limit or expand the scope of this Agreement, which is not transferable by any party hereto.

CITY OF BATAVIA, an Illinois
Municipal Corporation,

By: _____
Its Mayor

Attest:

By: _____
Its City Clerk

CITY OF GENEVA,
an Illinois Municipal Corporation,

By: _____
Its Mayor

Attest:

By: _____
Its City Clerk

CITY OF ST. CHARLES, an Illinois
Municipal Corporation,

By: _____
Its Mayor

Attest:

By: _____
Its City Clerk

Appendix 1
Geographic Information Systems (GIS) Data License

This Appendix 1 grants certain limited rights to use the electronic data and documentation generated from the parties' GIS spatial or tabular datasets (hereinafter, "Datasets"). All rights not specifically granted in this Agreement are reserved to the party who created the Datasets.

1. Reservation of Ownership and Grant of License

1.1. Each party retains exclusive rights, title, and ownership of the copy of the Datasets licensed under this Appendix and grants to the user a personal, nonexclusive, nontransferable license to use the data on the terms and conditions of this Agreement. From the date of receipt, each party agrees to use reasonable effort to protect the Datasets from unauthorized use, reproduction, distribution, or publication.

2. Use

2.1. Parties to this Agreement shall not sublicense, sell, rent, lease, loan, transfer, assign, or provide access to electronic versions of the Datasets, in whole or part, to third parties, including clients or contractors. Printed versions of all or portions of the Datasets may only be provided to contractors as part of a larger service that is contracted by a party.

2.2. Each party may produce maps, tables, and/or reports using all or portions of the Datasets provided. The appropriate party must be cited as the source of the Datasets in all products, publications, or presentation containing all or portions of the Datasets. Users of the Datasets must also cite the source of any modifications or analysis performed on the Datasets.

2.3. Each party is solely responsible for any interpretation or manipulation of the Datasets, and the parties are strongly encouraged to collaborate with the party that created the Datasets on all analyses in order to ensure full understanding of the appropriate use of the Datasets.

2.4. Parties shall not use the Datasets as the primary criteria for regulatory permitting decisions.

2.5. Parties shall not use the Datasets to replace or modify land surveys, deeds, and/or other legal instruments defining land ownership and use. Any utilities contained within the Datasets have not been JULIE located. Please contact (800) 892-0123 for compliance with Illinois Compiled Statute 220 ILCS 50/1 et seq. prior to excavation.

3. Liability

3.1. The Datasets contain information from publicly available sources. Each party has developed the Datasets for their internal use. Independent verification of all information derived from the Datasets is strongly recommended.

3.2. Each party makes no warranties, expressed or implied, including without limitation, any warranties of merchantability or fitness for a particular purpose. Independent verification of all information derived from the Datasets is strongly recommended.

3.3. Each party and its elected or appointed officials, agents, consultants, contractors and employees shall not be liable for any loss of profits, consequential or incidental damages, or claims against the consumer by third parties that arise from the use of the Datasets. Each party shall indemnify and hold harmless the party that owns the Datasets from any and all liability claims or damages to any person or property arising from or connected with the use of the Datasets.

4. Updates

4.1. The Datasets shall be updated on a regular basis as mutually agreed by the parties.

Appendix 2
New World Software Components In Use

Installed Component	Parties Using Component
Aegis/MSP Base Law Enforcement (LE) Records*	Batavia, Geneva, St. Charles
Aegis/MSP Federal and State Compliance Reporting for LE Records	Batavia, Geneva, St. Charles
Additional Aegis/MSP Software for LE Records Alarm Tracking and Billing Bicycle Registration Bookings Case Management Demographic Profiling Reporting Gang Tracking	Batavia, Geneva, St. Charles Batavia, Geneva, St. Charles
Aegis/MSP Third-Party Interface Software Livescan Interface	Batavia, Geneva, St. Charles
Aegis/MSP Data Analysis / Crime Mapping / Management Reporting*	Batavia, Geneva, St. Charles
Aegis/MSP Imaging Software	Batavia, Geneva, St. Charles
Mobile Messaging Software* Software for RS/6000 Message Switch MDT/MCT Base RMS Interface	Batavia, St. Charles Batavia, St. Charles
Mobile Management Server Software* Base CAD/RMS/NCIC/Messaging Package Field Reporting Field Reporting Data Merge	Batavia, St. Charles Batavia, St. Charles Batavia, St. Charles
Mobile Client Software* LE Field Reporting (Federal Standards) LE Field Reporting Compliance Mobile Upload of Field Reports	Batavia, St. Charles Batavia, St. Charles Batavia, St. Charles

** indicates component pricing varies based on number of users*