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IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT,  
IN AND FOR ALACHUA COUNTY, FLORIDA

CITY OF WALDO, FLORIDA a Florida  
Municipal Corporation,

Plaintiff,

Case Number: 01-2010-CA-006717

v.

Division: J

ALACHUA COUNTY, FLORIDA,  
a Political Subdivision of the State  
of Florida,

ALACHUA COUNTY

JUN 15 2011

Defendant.

Attorney's Office

**AMENDED COMPLAINT FOR DECLARATORY  
AND SUPPLEMENTAL RELIEF**

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Plaintiff, CITY OF WALDO, FLORIDA, hereinafter referred to as "Waldo," by and through its undersigned counsel, sues Defendant, ALACHUA COUNTY, FLORIDA, hereinafter referred to as "Alachua County" or "County," and states:

**JURISDICTION AND VENUE**

1. This is an action brought pursuant to Section 86.011, Florida Statutes, to declare the rights, status and legal relations of the City of Waldo, *vis a vis* Alachua County, with regard to certain surcharge fees collected on traffic citations issued by the Waldo Police Department within the corporate limits of the City of Waldo, and to provide supplemental relief.

2. Venue is proper in Alachua County, Florida, pursuant to Section 47.011, Florida Statutes, as Alachua County is the geographic location of both parties.

3. All conditions precedent to the initiation and maintenance of this action have occurred. Specifically, Chapter 164, Florida Statutes, provides a procedure by which local

governments are to resolve disputes among themselves prior to resorting to litigation. The City of Waldo initiated that procedure and followed it to its conclusion which was a mediation session, conducted by a mediator, between the City of Waldo and Alachua County. The parties were not able to mediate a resolution to the disagreement described in this Complaint.

#### **PARTIES**

4. Plaintiff, CITY OF WALDO, FLORIDA, is a municipal corporation of the State of Florida, duly organized and validly existing under the Constitution and the laws of the State of Florida. The City of Waldo is located within Alachua County, Florida.

5. Defendant, ALACHUA COUNTY, FLORIDA, is a political subdivision of the State of Florida, duly organized and validly existing under the Constitution and the laws of the State of Florida.

#### **ALLEGATIONS**

6. Section 318.21, Florida Statutes, provides a scheme for the distribution of funds collected as civil penalties. Subsection (9) of the statute provides:

Twelve dollars and fifty cents from each moving traffic violation must be used by the county to fund that county's participation in an intergovernmental radio communication program approved by the Department of Management Services. If the county is not participating in such a program, funds collected must be used to fund local law enforcement automation and must be distributed to the municipality or special improvement district in which the violation occurred or to the county if the violation occurred within the unincorporated area of the county.

7. In order to initiate collection of the \$12.50 surcharge on moving traffic violations authorized by Section 318.21, Florida Statutes, Alachua County sought approval, in 1993, of an Intergovernmental Radio Communication Program (hereinafter "IRCP") from the State Department of Management Services.

8. The Department of Management Services approved the County's IRCP in a letter to the County dated March 9, 1993.

9. Alachua County's IRCP developed in the early 1990s, and approved by the Department of Management Services, was a 400 megahertz radio system.

10. Waldo contributed funds to this IRCP by way of the \$12.50 surcharge on traffic citations written within the City, and in return those funds were used to defray the costs of Waldo's participation in the 400 megahertz system. Specifically, Waldo got the radios that it needed free of charge, and Waldo was not charged any access fees for use of the system.

11. In 1999 Alachua County decided that the system needed to be upgraded from a 400 megahertz system to an 800 megahertz system. To accomplish this upgrade, the County entered into an interlocal agreement with the City of Gainesville for combined use of an 800 megahertz Trunked Radio System that was being purchased and installed by Gainesville Regional Utilities (operating as GRUCom).

12. Pursuant to the interlocal agreement for the creation of the new 800 megahertz system, Alachua County became obligated to purchase new 800 megahertz radios, and to pay to GRUCom substantial annual sums for participation in the new 800 megahertz system.

13. The source of money identified by Alachua County to pay these obligations was the \$12.50 IRCP surcharge funds collected on all moving traffic citations written within Alachua County, whether the citations were issued by the Alachua County Sheriff's office or by other non-county law enforcement agencies such as the City of Waldo Police Department.

14. Thus, since 1999, the IRCP surcharge funds collected from tickets written within the City of Waldo have been used by Alachua County to pay the costs of purchasing,

maintaining, and replacing Alachua County's 800 megahertz radios, and paying the "connection charges" GRUCOM charges to Alachua County for each of those radio units.

15. Since 1999 Waldo has had to acquire, maintain, and replace radios that would be compatible with the new 800 megahertz system, and has also been responsible for paying the connection charges to GRUCOM for access to the system--currently \$60.11 per radio per month.

16. Since 1999 no IRCP surcharge funds have been returned to Waldo from Alachua County to assist in defraying these costs incurred by Waldo, nor has Alachua County used the \$12.50 funds collected on traffic citations written within Waldo to assist Waldo in any way with Waldo's costs of participating in the IRCP.

17. The legislative intent behind F.S. 318.21 is to promote the creation and maintenance of an "intergovernmental radio communication program" within each county.

18. This legislative intent is effectuated in F.S. 318.21 by its requirement that a substantial portion--\$12.50--of each moving traffic citation be used for this purpose.

19. In the instant case where Alachua County has collected \$12.50 surcharges from citations written by the Waldo Police Department, but then has used all such \$12.50 funds to pay for only the County's costs of participating in the IRCP, and has not used any of the collected \$12.50 funds to assist Waldo with any of its costs of participating in the IRCP, the County has operated in violation of F.S. 318.21.

20. The Waldo Police Department has no safe and workable alternative to participating in the GRUCOM radio system for purposes of communicating with other law enforcement officers, for communicating with the Alachua County dispatch center, and for receiving 911 calls.

21. The County's failure to provide any assistance to the City from the \$12.50 funds has since 1999 greatly diminished Waldo's ability to fully participate in the IRCP, and, in these times of reduced city revenues, jeopardizes Waldo's ability to participate in the IRCP in the future.

22. The County's actions described above are directly contrary to the legislative intent behind F.S. 318.21 to promote the creation and maintenance of IRCPs.

23. In determining whether to approve a proposed IRCP, the State of Florida Department of Management Services (DMS) does not look at how the \$12.50 funds collected by a county are used, and thus the DMS approval process does not provide an administrative avenue to challenge the lawfulness of a county's use of the \$12.50 funds.

24. Waldo's only avenue to obtain relief from Alachua County's violation of F.S. 318.21, as described above, is to obtain a declaration of the respective party's rights.

25. The following is an accounting of the IRCP funds generated from moving traffic violations written by the Waldo Police Department and spent by the County for the fiscal years 2001-2009:

<b>FY</b>	<b>IRCP SURCHARGE FEES</b>
2000-2001	\$36,500
2001-2002	\$65,382
2002-2003	\$58,349
2003-2004	\$75,803
2004-2005	\$85,711
2005-2006	\$44,209
2006-2007	\$63,124
2007-2008	\$96,329
2008-2009	\$90,600
<b>Total</b>	<b>\$616,007</b>

26. Waldo continues to suffer damages subsequent to FY 2008-2009 resulting from the County's violation of F.S. 318.21.

**WHEREFORE**, the City of Waldo respectfully requests that this Court issue its final judgment:

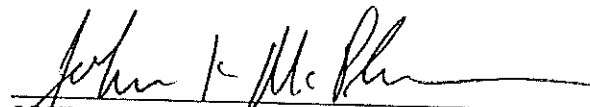
(i) Declaring that Alachua County's use of IRCP Surcharge Funds collected on traffic citations issued within the City of Waldo has, since 1999, been unlawful under Section 318.21, Florida Statutes.

(ii) Providing for supplemental relief in the form of an order that Alachua County transfer to the City of Waldo all IRCP Surcharge Funds collected on traffic citations issued within the City of Waldo since FY 2000-2001.

(iii) Providing for supplemental relief in the form of an order that, in the future, Alachua County shall use IRCP Surcharge Funds collected on traffic citations issued within the City of Waldo in a manner that assists Waldo in its participation in the IRCP and otherwise fully complies with F.S. 318.21.

#### Certificate of Service

I certify that a copy of this Amended Complaint has been provided by U.S. Mail to David C. Schwartz, Assistant County Attorney, P.O. Box 2877, Gainesville, FL, 32602-2877, this 14<sup>th</sup> day of June, 2011.

  
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