

AGENDA ITEM SUMMARY

Meeting Date: **October 1, 2013** ☐ Consent ☒ Regular
 ☐ Ordinance ☐ Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for Public Hearing on **October 22, 2013 at 9:30 am:** An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 2 of the Palm Beach County Code (Ordinance No. 2003-030, amended by Ordinance No. 2008-007); pertaining to criminal history record checks; amending section 2-373 of the Palm Beach County Code (Definitions); amending section 2-374 of the Palm Beach County Code (Critical Facilities Determination); amending section 2-375 of the Palm Beach County Code (Criminal History Record Checks); amending section 2-376 of the Palm Beach County Code (Alternative Compliance); providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; and providing for an effective date.

Summary: This Amendment modifies the County's program for conducting criminal history record checks on contractors, vendors, repair and delivery persons who require unescorted access to Critical Facilities by adding a requirement for criminal history record checks for unescorted access to Criminal Justice Information Facilities (CJI Facilities). The Amendment is required by the Criminal Justice Information Services Security Policy (CJIS Policy) implemented by the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI CJIS Division). CJI Facilities are those facilities or areas that contain or house law enforcement agency criminal justice information. CJI Facilities will be identified by Board resolution. The CJIS Policy assigns implementing responsibility for performing criminal history record checks at CJI Facilities to local law enforcement or the Florida Department of Law Enforcement (FDLE). Therefore, the Amendment assigns implementing responsibility for access to CJI Facilities to the Palm Beach County Sheriff's Office (Sheriff's Office). The disqualifying criminal offenses for CJI Facilities are identified in Appendix B to the Ordinance and include all misdemeanors, felonies, warrants and arrests. The Sheriff's Office in conjunction with the FDLE may review misdemeanors, pending charges, arrests and warrants to determine whether these are disqualifying offenses based on the access requested. The Sheriff's Office shall develop procedures for implementation of its responsibilities pursuant to the Amendment. Alternative compliance is amended to exclude Florida security guards who are already required by County to obtain criminal history record checks from the State, but only in the year that the State performs the record checks and to exclude volunteers of the Palm Beach County Sheriff's Office, State Attorney's Office and the Clerk & Comptroller's office. **(ESS) Countywide (JM)**

Background & Policy Issues: The Criminal History Record Check Ordinance (Ord. No.03-030) established the County's program for conducting criminal history record checks for critical facilities. Since that time, the FBI CJIS Division adopted a CJIS Policy that requires implementation of criminal history record checks for Contractors that seek access to facilities or areas that contain or house criminal justice information records of law enforcement agencies. In order to accommodate the new security requirements, the Criminal History Record Check Ordinance is expanded to include criminal history record check requirements for unescorted access to CJF Facilities, to identify disqualifying offenses, and to assign CJF implementation responsibility to the Sheriff's Office pursuant to the CJIS Policy.

Attachments:

1. Amendment to the Criminal History Record Check Ordinance (Strike-through/underlined version)
2. Amendment to the Criminal History Record Check Ordinance (Clean version)

Recommended By: Armen Wolf 9/6/13 *mw*
Department Director Date

Approved By: *[Signature]* 9/17/13
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
Program _____

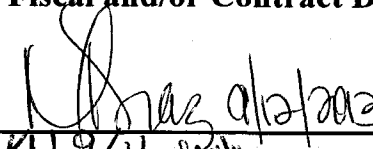
B. Recommended Sources of Funds/Summary of Fiscal Impact:

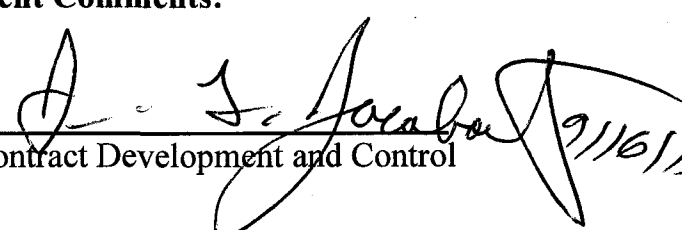
No fiscal impact is anticipated as a result of this Amendment.

C. Departmental Fiscal Review: _____

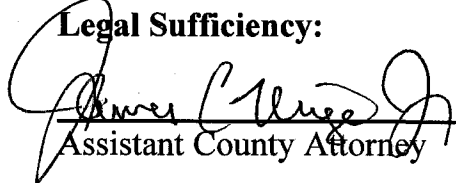
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:


OFMB KU 9/11/13


Contract Development and Control 9/16/13

B. Legal Sufficiency:


Assistant County Attorney 9/17/13

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2 OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2003-030, AMENDED BY ORDINANCE NO. 2008-007); PERTAINING TO CRIMINAL HISTORY RECORD CHECKS; AMENDING SECTION 2-373 OF THE PALM BEACH COUNTY CODE (DEFINITIONS); AMENDING SECTION 2-374 OF THE PALM BEACH COUNTY CODE (CRITICAL FACILITIES DETERMINATION); AMENDING SECTION 2-375 OF THE PALM BEACH COUNTY CODE (CRIMINAL HISTORY RECORD CHECKS); AMENDING SECTION 2-376 OF THE PALM BEACH COUNTY CODE (ALTERNATIVE COMPLIANCE); PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

24 **WHEREAS**, the Board of County Commissioners of Palm Beach County ("Board")
25 adopted the Palm Beach County Criminal History Record Check Ordinance (Ordinance No.
26 2003-030, amended by Ordinance No. 2008-007) on August 19, 2003 providing that it become
27 effective on October 1, 2003; and

28 **WHEREAS**, the Palm Beach County Criminal History Record Check Ordinance
29 established the County's program for conducting criminal history record checks on Contractors,
30 vendors, repair and delivery persons who seek unescorted access to County facilities determined
31 to be critical to public safety or security and established a list of Disqualifying Criminal Offenses
32 for those facilities; and

33 **WHEREAS**, since that time, legal requirements for securing access to criminal justice
34 information have been established and it is necessary to implement criminal history record
35 checks for facilities that are critical to criminal justice information security; and

36 **WHEREAS**, the Criminal Justice Information Services Division of the Federal Bureau of
37 Investigation (FBI) has adopted and implemented the Criminal Justice Information Services
38 Security Policy that defines requirements for conducting criminal history record checks in
39 facilities with access to criminal justice information and further assigns responsibility for
40 performing criminal history record checks in such facilities to the Florida Department of Law
41 Enforcement and local law enforcement agencies; and

42 **WHEREAS**, the Board of County Commissioners desires to establish Criminal Justice
43 Information Facilities and the corresponding Disqualifying Criminal Offenses; and

44 **WHEREAS**, the Board of County Commissioners desires to amend the Criminal History
45 Record Check Ordinance.

46 **NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
47 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

48
49

50 **Section 1. Title**

51 This Ordinance shall be known and may be cited as the "Palm Beach County Criminal
52 History Record Check Ordinance."

53
54 **Section 2. Authority**

55 This Ordinance is enacted pursuant to the authority vested in the County by Section
56 125.5801, Florida Statutes.

57
58 **Section 3.** Section 2-373 of the Palm Beach County Code is hereby amended as
59 follows:

60 **Definitions**

61 A. "Applicant" means the individual who applies for a criminal history record check.

62 B. "Contractor" means any natural person who is not employed by the County and
63 provides or delivers goods or services for, to or on behalf of the County, which shall include, but
64 shall not be limited to, employees and subcontractors of contractors, unpaid contractors or
65 volunteers, vendors, repair persons and delivery persons. "Contractor" shall also mean any non-
66 governmental tenant of a County-owned building, except tenants of County general aviation
67 airports, including the employees and subcontractors of such tenants. The term "Contractor" shall
68 not include any local government, State or Federal employees, or any persons employed by any
69 mail, courier, postal or other similar delivery services.

70 C. "County" means the Board of County Commissioners of Palm Beach County and
71 its authorized representatives.

72 D. "Criminal History Record Check" means a fingerprint-based State and national
73 criminal history record check.

74 E. "Criminal Justice Information" (CJI) includes the FBI CJIS and FDLE provided
75 data necessary for law enforcement and civil agencies to perform their missions including, but
76 not limited to, biometric, identity history, biographic, property and case/incident history data.

77 F. "Criminal Justice Information Facility" (CJI Facility) means any facility or portion
78 thereof owned or leased by the County which houses CJI and which is determined by resolution
79 of the Board pursuant to Section 4 of this Ordinance to be critical to the security of CJI.

80 G. "Criminal Justice Information Services Division" (FBI CJIS) means the Criminal
81 Justice Information Services Division of the FBI responsible for the collection, warehousing, and
82 timely dissemination of relevant CJI to the FBI and to qualified law enforcement, criminal
83 justice, civilian, academic, employment, and licensing agencies.

84 EH. "Critical Facility" means those facilities or areas owned, operated or leased by
85 the County that have been determined by resolution of the Board to be critical to security or
86 public safety pursuant to Section 4 of this Ordinance.

87 FI. "Disqualifying Criminal Offense" means with respect to access to a Critical
88 Facility means a conviction of or a plea of nolo contendere or guilty to any of those criminal
89 offenses listed in Appendix "A" to this Ordinance in any jurisdiction during the ten (10) years
90 prior to the date of the criminal history record check. Notwithstanding the foregoing, any

conviction for which a full pardon has been granted or any adjudication of delinquency shall not be considered a disqualifying criminal offense.

J. "Disqualifying Criminal Offense" with respect to access to a CJI Facility means any of those offenses identified in Appendix "B" to this Ordinance and as determined by the Criminal Justice Information Services (CJIS) Security Policy, version 5.2, dated August 9, 2013, as may be amended and updated from time to time.

GK. "Existing Contractor" means a Contractor who required access to a CriticalCJI Facility prior to the effective date of this Ordinance and will continue to require access to the Critical FacilityCJI Facility after the effective date of this Ordinance.

L. "Facilities Development & Operations" means the Facilities Development & Operations Department of the County.

M. "Federal Bureau of Investigation" (FBI) means the Federal Agency established in Title 28 of the United States Code (U.S. Code), Section 533.

N. "Florida Department of Law Enforcement" (FDLE) means the Florida agency created by Section 20.201, F.S. which serves as the central repository of criminal justice information for the State of Florida and operates under the authority of Section 943.05, F.S. and Chapter 11C, F.A.C.

HO. "New Contractor" means a Contractor who will require access to a Critical Facility or a CJI Facility for the first time on or after the effective date of this Ordinance.

P. "Sheriff's Office" means the Palm Beach County Sheriff's Office.

Q. "State Attorney's office" means the State Attorney of the 15th Judicial Circuit.

R. "Volunteer" means a person who is providing or donating goods or services for, to, or on behalf of the County or for any local government, State or Federal agency or office.

Section 4. Section 2-374 of Palm Beach County Code is hereby amended as follows:

Critical Facilities Determination

A. The Board shall identify Critical Facilities by resolution including those facilities or areas owned, operated or leased by the County that the Board determines to be critical to security or public safety which resolution may be amended, replaced, or supplemented by the Board from time to time.

B. The Board shall identify CJI Facilities by resolution including those facilities or areas owned, operated or leased by the County that the Board determines to be critical to the security of CJI which resolution may be amended, replaced, or supplemented by the Board from time to time.

Section 5. Section 2-375 of Palm Beach County Code is hereby amended as follows:

2-375.1 Criminal History Record Checks for Critical Facilities

A. All Contractors shall be required to undergo a criminal history record check conducted by or on behalf of the County in order to retain or be granted unescorted access to any Critical Facility. ~~Existing Contractors shall be required to undergo a criminal history record check within thirty (30) days of the effective date of this Ordinance.~~ New Contractors shall be required to undergo a criminal history check prior to being granted unescorted access to any

Critical Facility. Any Contractor found to have a disqualifying criminal offense or who fails to provide the information necessary to complete a criminal history record check shall, when acting in his or her capacity as a Contractor for or on behalf of the County, be denied access to Critical Facilities or be required to be accompanied by an escort designated by the County in Critical Facilities. ~~The decision of whether to deny access or require an escort in Critical Facilities shall be at the discretion of the County.~~ Any Contractor found to have an arrest for any offense involving juveniles shall, when acting in his or her capacity as a Contractor for on behalf of the County, be denied access to Critical Facilities where children are located including aquatic centers, Head Start facilities, community centers and the High Ridge Family Center. Any Contractor found to have an arrest for any offense involving animals shall, when acting in his or her capacity as a Contractor for or on behalf of the County, be denied access to Critical Facilities where animals are located including animal care and control facilities. The decision of whether to deny access or require an escort in Critical Facilities shall be at the discretion of the County.

B. Prior to an Applicant submitting a request for a criminal history record check for access to a Critical Facility, the County shall notify each applicant to be fingerprinted that his or her fingerprints will be sent to the State Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check.

C. The County shall notify any applicant found to have a Disqualifying Criminal Offense in writing that he or she has been found to have a Disqualifying Criminal Offense and will be denied access to Critical Facilities or be required to be accompanied by an escort designated by the County in Critical Facilities unless the Contractor provides the County with verifiable evidence that he or she does not have a Disqualifying Criminal Offense. The notification shall also state that the Contractor has the right to (1) obtain a copy of his or her criminal history records; (2) to challenge the completeness and accuracy of the criminal history records pursuant to State and Federal law; and (3) to request a correction, change or update to the criminal history records pursuant to State and Federal law. The written notification, sent by certified mail, shall not include specific information regarding the Contractor's criminal history records or the nature of the disqualifying criminal offense. The County shall verify the identity of the Contractor prior to releasing the criminal history records to the Contractor.

D. The County shall notify any applicant found to have an outstanding warrant in writing by mail. The notification shall identify the jurisdiction of the outstanding warrant so that the applicant may make arrangements to address the outstanding warrant. The County shall also notify the jurisdiction which issued the warrant that the warrant appeared on the criminal history record check of the applicant.

E. The County shall notify any applicant in writing found to have a prior arrest, without a disposition on record, for the criminal offenses on Appendix "A" to this Ordinance. If the arrest still has no disposition six months after the date of the notice to the Contractor, the Contractor shall be denied access to Critical Facilities or be required to be accompanied by an escort designated by the County in Critical Facilities until the Contractor provides the County with verifiable evidence that the prior arrest has been resolved without a conviction or plea of

nolo contender or guilty to any of the criminal offenses listed on Appendix "A" to this Ordinance.

F. The County Administrator ~~may~~shall establish procedures for the implementation of this Ordinance, which may include, but shall not be limited to, procedures for obtaining and processing criminal history record check information for Critical Facilities, standardizing information to be included in solicitations, procurement documents and contracts issued by the County, and notifying Contractors of the requirements of this Ordinance.

G. Notwithstanding any provision of this Ordinance to the contrary, the access restrictions set forth in this Ordinance shall only apply when a person is acting in his or her capacity as a Contractor for or on behalf of the County.

H. Nothing in this Ordinance shall be construed as prohibiting or preventing the County from conducting any other background screening that the County may lawfully undertake.

2-375.2 Criminal History Record Checks for CJI Facilities

A. The Sheriff's Office shall be the implementing office for conducting criminal history records checks on Contractors when the access requirement is a CJI Facility. All criminal history records checks conducted for this purpose of unescorted access and pursuant to this Ordinance shall be made according to the Criminal Justice Information Services (CJIS) Security Policy, version 5.2, dated August 9, 2013, as may be amended and updated from time to time.

B. All Existing Contractors and all New Contractors shall be required to undergo a criminal history record check conducted by the Sheriff's Office in order to retain or be granted unescorted access to any CJI Facility.

C. Any Applicant found to have a Disqualifying Criminal Offense, or who fails to provide the information necessary to complete a criminal history record check, shall be denied access to CJI Facilities or be required to be accompanied by an escort designated by the Sheriff's Office. The decision of whether to deny access or require an escort in CJI Facilities shall be at the sole discretion of the Sheriff's Office.

D. The Sheriff's Office, in conjunction with FDLE when required and/or determined to be appropriate by the Sheriff's Office, shall have the ability to review any misdemeanor conviction, pending charge/arrest and/or warrant to determine applicability of the conviction, charge and/or warrant to the access being requested. The Sheriff's Office, in its sole discretion, may grant access to, or provide for continued access, depending on the facts presented. There is no review of a Disqualifying Criminal Offense involving a felony.

E. The Sheriff's Office shall establish procedures for the implementation of its responsibilities pursuant to this Ordinance, including but not limited to, procedures for processing and obtaining criminal history record check information, procedures for notifying Applicants who are found to have disqualifying offenses, procedures for presenting verifiable evidence that a Contractor does not have a disqualifying offense, and procedures for notifying potential Contractors of the requirements of this Ordinance.

F. Notwithstanding any provision of this Ordinance to the contrary, the access restrictions set forth in this Ordinance shall only apply when a person is acting in his or her capacity as a Contractor for or on behalf of the County.

G. Nothing in this Ordinance shall be construed as prohibiting or preventing the Sheriff's Office from conducting any other background screening that the Sheriff may lawfully undertake.

Section 6. Section 2-376 of Palm Beach County Code is hereby amended as follows:

Alternative Compliance

A Contractor shall be exempt from the requirements of this Ordinance ~~if the Contractor is subject to and in compliance with the criminal history record check requirements of:~~

(1) the Contractor is subject to and in compliance with the criminal history record check requirements of Title 49 Code of Federal Regulations Part 1500 et al., as may be amended from time to time or any successor regulation or other federal regulation establishing criminal history record check requirements for public-use airports; or

(2) the Contractor is subject to and in compliance with the criminal history record check requirements of this Ordinance for access to CJI Facilities if the access requirement is for Critical Facilities; or

(23) the Contractor is subject to and in compliance with the criminal history record check requirements of Any other federal, state or local law, which are equal to or more stringent than the requirements of this Ordinance; or

(4) the Contractor is required by County procurement policy or document to maintain a Florida Security Guard license "D" or "G" but only for the year that the State performs the criminal history records check, but such Contractor must comply in any other year; or

(5) the person is a volunteer to the Palm Beach County Sheriff's Office, Palm Beach County State Attorney's Office or the Clerk & Comptroller of Palm Beach County's Office. These volunteers are not considered Contractors and are not subject to the requirements of this Ordinance.

Section 7. Enforcement

This Ordinance shall be enforceable by all remedies available at law, but shall not be enforced as a misdemeanor in accordance with Section 125.69(1), Florida Statutes.

Section 8. Repeal of Laws in Conflict

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 9. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 10. Inclusion in the Code of Laws and Ordinances

257 The provisions of this Ordinance shall become and be made a part of the Code of Laws
258 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
259 renumbered or relettered to accomplish such, and the word "ordinance" may be changed to
260 "section", "article", or other appropriate word.

261

262 **Section 11. Effective Date**

263 The provisions of this Ordinance shall become effective upon filing with the Department
264 of State.

265

266 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
267 County, Florida, on this the _____ day of _____, 2013.

268

269

270 SHARON R. BOCK, PALM BEACH COUNTY, FLORIDA BY ITS
271 CLERK & COMPTROLLER, BOARD OF COUNTY COMMISSIONERS

272

273

274

275 By: _____ By: _____
276 Deputy Clerk Steven L. Abrams, Mayor

277

278

279

280 APPROVED AS TO FORM AND
281 LEGAL SUFFICIENCY

282

283

284

285 By: _____
286 ASSISTANT COUNTY ATTORNEY

287

288

289

290 Filed with the Department of State on this _____ day of _____, 2013.

291

Appendix A
Disqualifying Offenses in Critical Facilities

1. Carrying a weapon or explosive into building where same is posted as prohibited
2. Destruction or vandalism to a public buildings or property
3. Conveying false information and threats
4. Murder
5. Assault with the intent to murder.
6. Espionage
7. Sedition
8. Kidnapping or hostage taking
9. Treason
10. Rape or aggravated sexual abuse
11. Unlawful possession, use, sale, distribution or manufacture of an explosive, weapon or weapon of mass destruction
12. Terrorism
13. Hate crimes
14. Extortion
15. Armed or felony unarmed robbery
16. Distribution of, or intent to distribute, a controlled substance
17. Felony arson
18. Felony involving a threat
19. Felony involving:
 - A. Willful destruction of property
 - B. Importation or manufacture of a controlled substance
 - C. Burglary
 - D. Theft
 - E. Dishonesty, fraud or misrepresentation
 - F. Possession or distribution of stolen property
 - G. Aggravated assault
 - H. Bribery
 - I. Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than one year
 - J. Violence at any public airport
 - K. Information technology crimes including, but not limited to, unlawful use of protected information or hacking
20. Conspiracy or attempt to commit any of the criminal acts listed in this Appendix "A"
21. Any offense involving animals when the access requirement is a Critical Facility/area within an animal care and control facility.
22. Any offense involving juveniles when the access requirement is an aquatic center, gymnasium, Head Start facility, community center or High Ridge Family Center
23. Any felony involving violence.
24. Any offense against a law enforcement officer.

339
340
341
342
343
344
345
346
347
348
349
350
351

APPENDIX B

DISQUALIFYING OFFENSES
IN CRIMINAL JUSTICE INFORMATION FACILITIES

1. All felonies
2. All misdemeanors
3. Any pending charge/and or arrest
4. Any warrant.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49

WHEREAS, the Board of County Commissioners of Palm Beach County (“Board”) adopted the Palm Beach County Criminal History Record Check Ordinance (Ordinance No. 2003-030, amended by Ordinance No. 2008-007) on August 19, 2003 providing that it become effective on October 1, 2003; and

WHEREAS, since that time, legal requirements for securing access to criminal justice information have been established and it is necessary to implement criminal history record checks for facilities that are critical to criminal justice information security; and

WHEREAS, the Board of County Commissioners desires to establish Criminal Justice Information Facilities and the corresponding Disqualifying Criminal Offenses; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

50 **Section 1. Title**

51 This Ordinance shall be known and may be cited as the "Palm Beach County Criminal
52 History Record Check Ordinance."

53
54 **Section 2. Authority**

55 This Ordinance is enacted pursuant to the authority vested in the County by Section
56 125.5801, Florida Statutes.

57
58 **Section 3.** Section 2-373 of the Palm Beach County Code is hereby amended as
59 follows:

60 **Definitions**

61 A. "Applicant" means the individual who applies for a criminal history record check.

62 B. "Contractor" means any natural person who is not employed by the County and
63 provides or delivers goods or services for, to or on behalf of the County, which shall include, but
64 shall not be limited to, employees and subcontractors of contractors, unpaid contractors or
65 volunteers, vendors, repair persons and delivery persons. "Contractor" shall also mean any non-
66 governmental tenant of a County-owned building, except tenants of County general aviation
67 airports, including the employees and subcontractors of such tenants. The term "Contractor" shall
68 not include any local government, State or Federal employees, or any persons employed by any
69 mail, courier, postal or other similar delivery services.

70 C. "County" means the Board of County Commissioners of Palm Beach County and
71 its authorized representatives.

72 D. "Criminal History Record Check" means a fingerprint-based State and national
73 criminal history record check.

74 E. "Criminal Justice Information" (CJI) includes the FBI CJIS and FDLE provided
75 data necessary for law enforcement and civil agencies to perform their missions including, but
76 not limited to, biometric, identity history, biographic, property and case/incident history data.

77 F. "Criminal Justice Information Facility" (CJI Facility) means any facility or portion
78 thereof owned or leased by the County which houses CJI and which is determined by resolution
79 of the Board pursuant to Section 4 of this Ordinance to be critical to the security of CJI.

80 G. "Criminal Justice Information Services Division" (FBI CJIS) means the Criminal
81 Justice Information Services Division of the FBI responsible for the collection, warehousing, and
82 timely dissemination of relevant CJI to the FBI and to qualified law enforcement, criminal
83 justice, civilian, academic, employment, and licensing agencies.

84 H. "Critical Facility" means those facilities or areas owned, operated or leased by the
85 County that have been determined by resolution of the Board to be critical to security or public
86 safety pursuant to Section 4 of this Ordinance.

87 I. "Disqualifying Criminal Offense" with respect to access to a Critical Facility means
88 a conviction of or a plea of nolo contendere or guilty to any of those criminal offenses listed in
89 Appendix "A" to this Ordinance in any jurisdiction during the ten (10) years prior to the date of
90 the criminal history record check. Notwithstanding the foregoing, any conviction for which a

full pardon has been granted or any adjudication of delinquency shall not be considered a disqualifying criminal offense.

J. "Disqualifying Criminal Offense" with respect to access to a CJI Facility means any of those offenses identified in Appendix "B" to this Ordinance and as determined by the Criminal Justice Information Services (CJIS) Security Policy, version 5.2, dated August 9, 2013, as may be amended and updated from time to time.

K. "Existing Contractor" means a Contractor who required access to a CJI Facility prior to the effective date of this Ordinance and will continue to require access to the CJI Facility after the effective date of this Ordinance.

L. "Facilities Development & Operations" means the Facilities Development & Operations Department of the County.

M. "Federal Bureau of Investigation" (FBI) means the Federal Agency established in Title 28 of the United States Code (U.S. Code), Section 533.

N. "Florida Department of Law Enforcement" (FDLE) means the Florida agency created by Section 20.201, F.S. which serves as the central repository of criminal justice information for the State of Florida and operates under the authority of Section 943.05, F.S. and Chapter 11C, F.A.C.

O. "New Contractor" means a Contractor who will require access to a Critical Facility or a CJI Facility for the first time on or after the effective date of this Ordinance.

P. "Sheriff's Office" means the Palm Beach County Sheriff's Office.

Q. "State Attorney's office" means the State Attorney of the 15th Judicial Circuit.

R. "Volunteer" means a person who is providing or donating goods or services for, to, or on behalf of the County or for any local government, State or Federal agency or office.

Section 4. Section 2-374 of Palm Beach County Code is hereby amended as follows:

Facilities Determination

A. The Board shall identify Critical Facilities by resolution including those facilities or areas owned, operated or leased by the County that the Board determines to be critical to security or public safety which resolution may be amended, replaced, or supplemented by the Board from time to time.

B. The Board shall identify CJI Facilities by resolution including those facilities or areas owned, operated or leased by the County that the Board determines to be critical to the security of CJI which resolution may be amended, replaced, or supplemented by the Board from time to time.

Section 5. Section 2-375 of Palm Beach County Code is hereby amended as follows:

2-375.1 Criminal History Record Checks for Critical Facilities

A. All Contractors shall be required to undergo a criminal history record check conducted by or on behalf of the County in order to retain or be granted unescorted access to any Critical Facility. New Contractors shall be required to undergo a criminal history check prior to being granted unescorted access to any Critical Facility. Any Contractor found to have a disqualifying criminal offense or who fails to provide the information necessary to complete a

criminal history record check shall, when acting in his or her capacity as a Contractor for or on behalf of the County, be denied access to Critical Facilities or be required to be accompanied by an escort designated by the County in Critical Facilities. Any Contractor found to have an arrest for any offense involving juveniles shall, when acting in his or her capacity as a Contractor for or on behalf of the County, be denied access to Critical Facilities where children are located including aquatic centers, Head Start facilities, community centers and the High Ridge Family Center. Any Contractor found to have an arrest for any offense involving animals shall, when acting in his or her capacity as a Contractor for or on behalf of the County, be denied access to Critical Facilities where animals are located including animal care and control facilities. The decision of whether to deny access or require an escort in Critical Facilities shall be at the discretion of the County.

B. Prior to an Applicant submitting a request for a criminal history record check for access to a Critical Facility, the County shall notify each applicant to be fingerprinted that his or her fingerprints will be sent to the State Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check.

C. The County shall notify any applicant found to have a Disqualifying Criminal Offense in writing that he or she has been found to have a Disqualifying Criminal Offense and will be denied access to Critical Facilities or be required to be accompanied by an escort designated by the County in Critical Facilities unless the Contractor provides the County with verifiable evidence that he or she does not have a Disqualifying Criminal Offense. The notification shall also state that the Contractor has the right to (1) obtain a copy of his or her criminal history records; (2) to challenge the completeness and accuracy of the criminal history records pursuant to State and Federal law; and (3) to request a correction, change or update to the criminal history records pursuant to State and Federal law. The written notification, sent by certified mail, shall not include specific information regarding the Contractor's criminal history records or the nature of the disqualifying criminal offense. The County shall verify the identity of the Contractor prior to releasing the criminal history records to the Contractor.

D. The County shall notify any applicant found to have an outstanding warrant in writing by mail. The notification shall identify the jurisdiction of the outstanding warrant so that the applicant may make arrangements to address the outstanding warrant. The County shall also notify the jurisdiction which issued the warrant that the warrant appeared on the criminal history record check of the applicant.

E. The County shall notify any applicant in writing found to have a prior arrest, without a disposition on record, for the criminal offenses on Appendix "A" to this Ordinance. If the arrest still has no disposition six months after the date of the notice to the Contractor, the Contractor shall be denied access to Critical Facilities or be required to be accompanied by an escort designated by the County in Critical Facilities until the Contractor provides the County with verifiable evidence that the prior arrest has been resolved without a conviction or plea of nolo contender or guilty to any of the criminal offenses listed on Appendix "A" to this Ordinance.

174 F. The County Administrator shall establish procedures for the implementation of
175 this Ordinance, which may include, but shall not be limited to, procedures for obtaining and
176 processing criminal history record check information for Critical Facilities, standardizing
177 information to be included in solicitations, procurement documents and contracts issued by the
178 County, and notifying Contractors of the requirements of this Ordinance.

179 G. Notwithstanding any provision of this Ordinance to the contrary, the access
180 restrictions set forth in this Ordinance shall only apply when a person is acting in his or her
181 capacity as a Contractor for or on behalf of the County.

182 H. Nothing in this Ordinance shall be construed as prohibiting or preventing the
183 County from conducting any other background screening that the County may lawfully
184 undertake.

185 **2-375.2 Criminal History Record Checks for CJI Facilities**

186 A. The Sheriff's Office shall be the implementing office for conducting criminal
187 history records checks on Contractors when the access requirement is a CJI Facility. All criminal
188 history records checks conducted for this purpose of unescorted access and pursuant to this
189 Ordinance shall be made according to the Criminal Justice Information Services (CJIS) Security
190 Policy, version 5.2, dated August 9, 2013, as may be amended and updated from time to time.

191 B. All Existing Contractors and all New Contractors shall be required to undergo a
192 criminal history record check conducted by the Sheriff's Office in order to retain or be granted
193 unescorted access to any CJI Facility.

194 C. Any Applicant found to have a Disqualifying Criminal Offense, or who fails to
195 provide the information necessary to complete a criminal history record check, shall be denied
196 access to CJI Facilities or be required to be accompanied by an escort designated by the Sheriff's
197 Office. The decision of whether to deny access or require an escort in CJI Facilities shall be at
198 the sole discretion of the Sheriff's Office.

199 D. The Sheriff's Office, in conjunction with FDLE when required and/or determined
200 to be appropriate by the Sheriff's Office, shall have the ability to review any misdemeanor
201 conviction, pending charge/arrest and/or warrant to determine applicability of the conviction,
202 charge and/or warrant to the access being requested. The Sheriff's Office, in its sole discretion,
203 may grant access to, or provide for continued access, depending on the facts presented. There is
204 no review of a Disqualifying Criminal Offense involving a felony.

205 E. The Sheriff's Office shall establish procedures for the implementation of its
206 responsibilities pursuant to this Ordinance, including but not limited to, procedures for
207 processing and obtaining criminal history record check information, procedures for notifying
208 Applicants who are found to have disqualifying offenses, procedures for presenting verifiable
209 evidence that a Contractor does not have a disqualifying offense, and procedures for notifying
210 potential Contractors of the requirements of this Ordinance.

211 F. Notwithstanding any provision of this Ordinance to the contrary, the access
212 restrictions set forth in this Ordinance shall only apply when a person is acting in his or her
213 capacity as a Contractor for or on behalf of the County.

G. Nothing in this Ordinance shall be construed as prohibiting or preventing the Sheriff's Office from conducting any other background screening that the Sheriff may lawfully undertake.

Section 6. Section 2-376 of Palm Beach County Code is hereby amended as follows:

Alternative Compliance

A Contractor shall be exempt from the requirements of this Ordinance if:

(1) the Contractor is subject to and in compliance with the criminal history record check requirements of Title 49 Code of Federal Regulations Part 1500 et al., as may be amended from time to time or any successor regulation or other federal regulation establishing criminal history record check requirements for public-use airports; or

(2) the Contractor is subject to and in compliance with the criminal history record check requirements of this Ordinance for access to CJI Facilities, if the access requirement is for Critical Facilities; or

(3) the Contractor is subject to and in compliance with the criminal history record check requirements of any other federal, state or local law, which is equal to or more stringent than the requirements of this Ordinance; or

(4) the Contractor is required by County procurement policy or document to maintain a Florida Security Guard license "D" or "G" but only for the year that the State performs the criminal history records check, but such Contractor must comply in any other year; or

(5) the person is a volunteer to the Palm Beach County Sheriff's Office, Palm Beach County State Attorney's Office or the Clerk & Comptroller of Palm Beach County's Office. These volunteers are not considered Contractors and are not subject to the requirements of this Ordinance.

Section 7. Enforcement

This Ordinance shall be enforceable by all remedies available at law, but shall not be enforced as a misdemeanor in accordance with Section 125.69(1), Florida Statutes.

Section 8. Repeal of Laws in Conflict

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 9. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 10. Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be

256 renumbered or relettered to accomplish such, and the word "ordinance" may be changed to
257 "section", "article", or other appropriate word.

258

259 **Section 11. Effective Date**

260 The provisions of this Ordinance shall become effective upon filing with the Department
261 of State.

262

263 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
264 County, Florida, on this the _____ day of _____, 2013.

265

266

267 SHARON R. BOCK, PALM BEACH COUNTY, FLORIDA BY ITS
268 CLERK & COMPTROLLER, BOARD OF COUNTY COMMISSIONERS

269

270

271

272 By: _____ By: _____
273 Deputy Clerk Steven L. Abrams, Mayor

274

275

276

277 APPROVED AS TO FORM AND
278 LEGAL SUFFICIENCY

279

280

281

282 By: _____
283 ASSISTANT COUNTY ATTORNEY

284

285

286

287 Filed with the Department of State on this _____ day of _____, 2013.
288

Appendix A
Disqualifying Offenses in Critical Facilities

1. Carrying a weapon or explosive into building where same is posted as prohibited
2. Destruction or vandalism to a public buildings or property
3. Conveying false information and threats
4. Murder
5. Assault with the intent to murder.
6. Espionage
7. Sedition
8. Kidnapping or hostage taking
9. Treason
10. Rape or aggravated sexual abuse
11. Unlawful possession, use, sale, distribution or manufacture of an explosive, weapon or weapon of mass destruction
12. Terrorism
13. Hate crimes
14. Extortion
15. Armed or felony unarmed robbery
16. Distribution of, or intent to distribute, a controlled substance
17. Felony arson
18. Felony involving a threat
19. Felony involving:
 - A. Willful destruction of property
 - B. Importation or manufacture of a controlled substance
 - C. Burglary
 - D. Theft
 - E. Dishonesty, fraud or misrepresentation
 - F. Possession or distribution of stolen property
 - G. Aggravated assault
 - H. Bribery
 - I. Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than one year
 - J. Violence at any public airport
 - K. Information technology crimes including, but not limited to, unlawful use of protected information or hacking
20. Conspiracy or attempt to commit any of the criminal acts listed in this Appendix "A"
21. Any offense involving animals when the access requirement is a Critical Facility/area within an animal care and control facility.
22. Any offense involving juveniles when the access requirement is an aquatic center, gymnasium, Head Start facility, community center or High Ridge Family Center
23. Any felony involving violence.
24. Any offense against a law enforcement officer.

334
335
336
337
338
339
340
341
342
343
344

APPENDIX B
DISQUALIFYING OFFENSES
IN CRIMINAL JUSTICE INFORMATION FACILITIES

1. All felonies
2. All misdemeanors
3. Any pending charge/and or arrest
4. Any warrant.