

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

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Meeting Date: August 19, 2014	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department
Submitted By: **Department of Public Safety**
Submitted For: **Division of Consumer Affairs**

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **A) Approve** the Florida Department of Law Enforcement (FDLE) Criminal Justice Information Services Criminal History Record Check User Agreement for Non-Criminal Justice Purposes ("User Agreement"), which authorizes the Palm Beach County Division of Consumer Affairs ("Consumer Affairs") to process fingerprint based criminal background checks on vehicle for hire drivers through FDLE’s databases using livescan technology; and **B) Authorize** the County Administrator or designee to execute any amendments or extensions of time relating to this FDLE User Agreement.

Summary: On April 15, 2014 the Board of County Commissioners approved a Vehicle for Hire (VFH) Ordinance amendment allowing Consumer Affairs to run "Level 2" fingerprint based national criminal history background checks on vehicle for hire drivers through the FDLE and the Federal Bureau of Investigation (FBI) databases. Execution of this User Agreement is an FDLE prerequisite to finalizing the previously approved action allowing Consumer Affairs Staff to process the "Level 2" criminal history checks through the FDLE databases. **Countywide (PGE)**

Background and Justification: The Division of Consumer Affairs now has the authority to perform statewide and national fingerprint based criminal background checks. To set up and finalize the process of obtaining VFH driver fingerprints and electronically submit the fingerprints to FDLE, a User Agreement with the County is a prerequisite for Consumer Affairs to access the reports generated by FDLE through its criminal justice information databases. The costs associated with the fingerprint based criminal history check will be paid by the drivers as previously approved by the Board and outlined in the VFH Fee Resolution.

Attachments

1. The Florida Department of Law Enforcement (FDLE) Criminal Justice Information Services Criminal History Record Check User Agreement for Non-Criminal Justice Purposes ("User Agreement").

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Recommended by:	<u>Vincent J. Bonvento</u>	<u>7/31/14</u>
	Department Director	Date
Approved By:	<u>Vincent J. Bonvento</u>	<u>7/31/14</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	<u> **0 </u>	_____	_____	_____	_____

ADDITIONAL FTE POSITIONS (Cumulative) _____ 0 _____ 0 _____ 0 _____ 0 _____ 0

Is Item Included In Current Budget? Yes _____ No _____

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
 Rev No: Fund _____ Department _____ Unit _____ RevSc _____

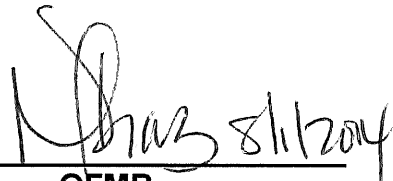
B. Recommended Sources of Funds/Summary of Fiscal Impact:

**There is no fiscal impact associated with this agenda item.


Departmental Fiscal Review: Stephanie Sejnoka 7/31/14

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

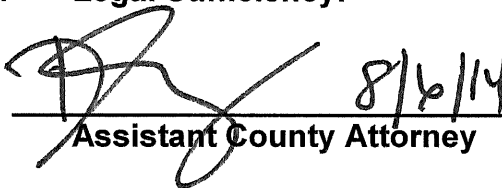


 OFMB
 mm
 8-1-14



 Contract Administration
 8-4-14 Sidwick

B. Legal Sufficiency:



 Assistant County Attorney

C. Other Department Review:

 Department Director

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



Criminal Justice Information Services
CRIMINAL HISTORY RECORD CHECK

USER AGREEMENT FOR NON-CRIMINAL JUSTICE PURPOSES

CUSTOMER/AGENCY NAME: PALM BEACH COUNTY CONSUMER AFFAIRS DIVISION

I. This agreement, entered into between the Florida Department of Law Enforcement (hereinafter referred to as FDLE), an agency of the state of Florida with headquarters in Tallahassee, Florida and Palm Beach County Consumer Affairs Division (hereinafter referred to as the User), located at 50 South Military Trail, Suite 201, West Palm Beach, Florida 33415, recites that:

- 1) FDLE has established and maintains intrastate systems for the collection, compilation, and dissemination of state criminal history records and information in accordance with subsection 943.05(2), F.S. and, additionally, is authorized and does in fact participate in federal and interstate criminal history records systems pursuant to Section 943.051, F.S.
- 2) FDLE and its user agencies are subject to and must comply with pertinent state and federal regulations relating to the obtaining, use, and dissemination of records and record information derived from the systems of FDLE and the United States Department of Justice (Chapter 943, F.S., Chapter 11C-6, F.A.C., Title 28, Part 20 C.F.R.).
- 3) User is an agency of the state of Florida, established by law and required/authorized to submit fingerprint impressions and review resultant criminal history records as part of the screening process for purposes of state employment, licensing, permitting, granting access, registration, or certification pursuant to Sections 125.5801 which statute(s) has/have been approved by the U.S. Department of Justice pursuant to Public Law 92-544, 86 Stat. 1115 and 28 C.F.R. Section 20.33, and form(s) the legal basis for User's access to criminal history record information derived from the systems of the U.S. Department of Justice. The following ORIGINATING (ORI) number(s) have been assigned as identifier(s) and will be used for the approved submissions: FL924850Z
- 4) User is required to obtain and FDLE is required and willing to provide such services as long as proper reimbursement is made and strict compliance with all applicable federal and state laws, rules, and regulations is observed.

II. Now, therefore, in light of the foregoing representations and the promises, conditions, terms, and other valuable considerations more fully set forth hereinafter or incorporated by references and made a part hereof, the FDLE and User do mutually agree as follows:

- 1) FDLE agrees to:
 - A) Assist User concerning the privacy and security requirements imposed by regulations, state, and federal laws.
 - B) Provide User with such state criminal history records and information as reported to, processed, and contained in its systems and legally available to the User.

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- C) Act as an intermediary between User and the United States Department of Justice, securing for the use and benefit of User such federal and multi-state criminal history records or information as may be available to User under federal laws and regulations.

2) User agrees to:

- A) Provide FDLE with properly executed applicant fingerprint submissions.
- B) Keep all records necessary to facilitate a security audit by FDLE and to cooperate in such audits as FDLE or other authorities may deem necessary. Records which may be subject to audit are criminal history records and notification that an individual has no criminal history, internal policies and procedures articulating the provisions for physical and personnel security, and an executed copy of this user agreement.
- C) As determined by type of criminal history request and method of submission, reimburse FDLE in a timely fashion, in accordance with Section 943.053(3)(b), Florida Statutes, upon proper presentation of billing for state services rendered. If user contracts with an authorized and properly registered third-party service provider or livescan vendor for electronic submission of fingerprint-based criminal history requests, FDLE will collect payment for state services rendered directly from such service provider or vendor upon submission of each criminal history request.
- D) As determined by type of criminal history request and method of submission, reimburse the Federal Bureau of Investigation in a timely fashion, via FDLE, upon proper presentation of billing for federal services rendered. If user contracts with an authorized and properly registered third-party service provider or livescan vendor for electronic submission of fingerprint-based criminal history requests, FDLE will collect payment for federal services rendered directly from such service provider or vendor upon submission of each criminal history request.
- E) As applicable, maintain adequate records and monitor allocated funds for payment of services under this agreement.
- F) Ensure that the appropriate personnel are informed that the use of criminal history records and information derived from processed applicant fingerprint submissions are restricted and that such information should not be discussed with others or released to others except as specified in this agreement. The employees or volunteers should be informed that inappropriate release of non-Florida criminal history information is prohibited under pertinent federal regulations (28 C.F.R. Part 20), which are reflected in state law under Section 943.054, F.S. See Florida Attorney General's Opinion 99-1. Florida criminal history information should be used only for the purpose stated in the request. See Section 943.053(4), F.S., Section 435.09, F.S., and Rule Chapter 11-C, F.A.C.
- G) Promptly advise FDLE of any violations of this agreement.

III. Privacy and Security:

- 1) User shall use criminal history records acquired hereunder only for the purpose of screening applicants to determine their suitability for employment, licensing, permitting, granting access, registration, certification or volunteering as specified under the statute enabling User to receive criminal history record information or in judicial or administrative hearings associated with one of the enumerated purposes.
- 2) User shall not co-mingle criminal history records with public records.

- 3) User shall not duplicate and/or disseminate criminal history records acquired hereunder for use outside of User agency except as authorized by state and federal law. Sharing of criminal history records with other related agencies of the state of Florida is permitted by the FBI provided that:
- A) The other related agency is authorized to receive criminal history record information derived from the systems of the U.S. Department of Justice in the manner specified at paragraph I.(3) of the Agreement;
 - B) The applicant fingerprints submitted to FDLE lists the authorizing statute for each agency receiving such (directly or as shared) information in the "reason fingerprinted" block of the submission; and.
 - C) The requesting agency and related agency have concurrent regulatory responsibilities and have a unity of purpose with respect to the use of criminal history record information.
- 4) User has been approved to receive criminal history record information pursuant to specific statutory authority and shall not use criminal history record information acquired pursuant to such approval for any other purpose.
- 5) User shall not use or rely upon a criminal history record or information which is or is likely to be out-of-date. If criminal activity is pertinent to and considered at time of record screening (whether initial or renewal), a current computerized criminal history must be requested and relied upon.

Sealed or expunged record information may not, under any conditions, be shared with or disseminated to any agency not authorized by state statute to receive such information.

- 6) User shall destroy criminal history records in accordance with applicable laws, rules and regulations.
- 7) User shall keep criminal history records acquired hereunder in a secure file, safe, or other security device, such as locked file cabinet in an access controlled area, and shall take such further steps as are necessary to ensure that the records are accessible only to those of its employees who have been instructed in their proper use and handling and have a need to examine such records.
- 8) User shall, upon receipt of any request, pursuant to the public records law, for a processed fingerprint submission or criminal history record, transmit the request, along with the involved fingerprint submission and criminal history record, to the Florida Department of Law Enforcement, Attention: User Services Bureau. FDLE will prepare copies of the involved documents, obliterating any state or federal data which is not available for dissemination under the Florida public records law, and return all documents to the User for response to the requester. However, a processed submission, or photocopy of same, may be provided to a law enforcement agency for fingerprint identification purposes, if so requested. User shall not release any criminal history information which is made exempt from public records disclosure by law. In particular, record information derived from the U.S. Department of Justice shall not be disseminated outside the User agency or used for a purpose other than that specified in the statute authorizing the request, except as expressly provided herein.

Provisions Incorporated

User shall be bound by applicable federal and state laws, federal regulations, and rules of FDLE dealing with criminal history information to the same extent that User would be if such provisions were fully set out herein. (Refer to Title 28, Chapter 1, Part 20, C.F.R., Chapter 943, F.S., and Chapter 11C-6, F.A.C.).

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Termination

Either FDLE or User may suspend the performance of services under this agreement when, in the reasonable estimation of FDLE or User, the other party has breached any material term of the agreement. Furthermore, upon FDLE becoming aware of violations of this agreement which jeopardize Florida's access to national criminal history information, FDLE shall have the option of suspending services under this agreement pending resolution of the problem. The violation of any material term of this agreement or of any substantive requirement or limitation imposed by the federal or state statutes, regulations, or rules referred to in this agreement shall be deemed a breach of a material term of the agreement. This agreement is also terminable upon the same grounds and upon the occurrence or non-occurrence of such events that operate to suspend, annul, or void any other long-term contract entered into by a state agency.

This agreement supersedes any previous agreements, and may with notice to User be amended or superseded by FDLE as needed to comply with state or federal laws or regulations or administrative needs of FDLE.

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by the proper officers and officials.

NAME OF USER AGENCY PALM BEACH COUNTY

AGENCY HEAD PRISCILLA A. TAYLOR **TITLE** MAYOR
(PLEASE PRINT) (PLEASE PRINT)

AGENCY HEAD _____
(SIGNATURE)

DATE _____

WITNESS _____ **TITLE** _____

DATE _____

APPROVED AS TO TERMS AND CONDITIONS

[Handwritten Signature]
Signature

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

BY _____ **TITLE** _____

WITNESS _____ **TITLE** _____

DATE _____

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