

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0 *</u>	=====	=====	=====	=====
# 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:


* There is no fiscal impact associated with this item.

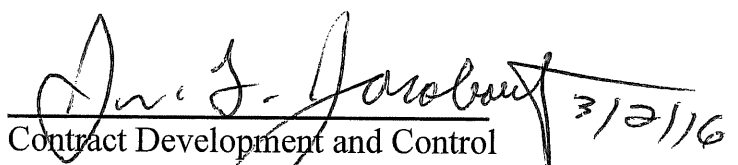
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C. Departmental Fiscal Review: _____


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:


 OFMB *AP* *2/29/16*
2/25 *2/29*


 Contract Development and Control *3/2/16*

B. Legal Sufficiency:


 Assistant County Attorney *3/8/16*

C. Other Department Review:

 Department Director

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

AGREEMENT

THIS AGREEMENT ("Agreement") made and entered into this _____ day of _____, by and between Palm Beach County, a political subdivision of the State of Florida ("County") and the United States Department of Homeland Security, Immigration and Customs Enforcement, a Federal Agency ("Participant").

WITNESSETH

WHEREAS, the County and Participant are continually identifying more effective service delivery methods which result in overall savings to the taxpayers of the County and Participant; and

WHEREAS, the County has purchased, designed, installed, and operates a Public Safety Trunked Radio System that supports the needs of the Palm Beach County Sheriff's Office, Palm Beach County Fire Rescue, Palm Beach County Emergency Medical Services, and various Palm Beach County general government agencies; and

WHEREAS, the County and Participant have determined that the ability to provide interoperable communications is critical to the effective and efficient provision of public safety and general government services; and

WHEREAS, it has been determined to be mutually beneficial to both Parties to execute this Agreement which sets forth the parameters under which Participant can access the Common Talk Groups established on the County's Public Safety Radio System to receive the public safety benefit of interoperability; and

WHEREAS, Section 163.01, Florida Statutes, permits public agencies to enter into Agreements to jointly exercise any power, privilege or authority which such agencies share in common and which each might exercise separately;

NOW THEREFORE, in conjunction with the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

SECTION 1: PURPOSE AND DEFINITIONS

- 1.01 The purpose of this Agreement is to set forth the parameters under which the County will provide access to the Common Talk Groups established on the County System specifically to provide interoperable communications among public safety and general government agencies capable of accessing this feature of the County System. This Agreement also identifies the condition of use and ability of Participant to participate in the operational decisions relating to the use of the Common Talk Groups.

1.02 Definitions

- 1.021 Common Talk Groups: Talk groups established on the County's communications system that are made available to County agencies, municipalities and other non-County agencies for interoperable communications between agencies for the purpose of providing mutual assistance and planning and execution of on-scene operations.
- 1.022 County Talk-Groups: Talk groups established on the County's communication system that are made available to county agencies providing for inter-departmental communications. These talk groups are reserved for particular departments/agencies and only available to outside departments by separate agreements.
- 1.023 Participant Equipment: Also known as "agency radios," are Participant owned 800 MHz handheld and mobile radios and control stations that have the ability to be programmed and used on the County's Public Safety Radio System.
- 1.024 Radio Alias: The unique name assigned to an operator's radio that displays on the dispatchers console when a radio transmits.
- 1.025 System: The Public Safety Radio System funded, purchased, installed, maintained and owned by the County.
- 1.026 System Administrator: An employee within the County's Electronic Services & Security Division of the Department of Facilities Development & Operations with the title Radio System Administrator who is responsible for day to day administration and management of the System and the County's designated contact person pursuant to various sections of this Agreement.

SECTION 2: ADMINISTRATION OF THE COUNTY'S PUBLIC SAFETY RADIO SYSTEM AND USAGE PROCEDURES

- 2.01 The Palm Beach County Electronic Services & Security Division's System Administrator will be Participant's day to day contact and can be reached at 561-233-0837. The Electronic Services & Security Division is staffed from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding County holidays. After hours emergency contact will be made through the County's Emergency Operations Dispatch Center at 561-712-6428 and the appropriate contact will be made.
- 2.02 The Network Maintenance and Administration Plan dated June 6, 2002, as referenced on Attachment I hereto, identifies the general procedures for the management of the system and procedures for input through the user committees into operating procedure development. The plan establishes the Countywide Radio Steering Committee (CRSSC), which is responsible for overseeing and implementing the policies and procedures for the County's System.

- 2.03 Participant shall follow all policies and standard operating procedures in place at the time of this Agreement as well as those developed in the future and issued to Participant by the System Administrator. Participant agrees to comply with any enforcement actions required by these policies and procedures for misuse or abuse of the County's System.

SECTION 3: COUNTY EQUIPMENT & RESPONSIBILITIES

- 3.01 The County System consists of ten (10) transmit and receive sites with co-located microwave equipment and three (3) microwave only sites that provide network connectivity as well as the SmartZone Controller.
- 3.02 The County System provides seamless County-wide portable and mobile radio coverage for the Common Talk Groups. The radio coverage for the Common Talk Groups is identical to that of other County Talk Groups that reside on the County's System.
- 3.03 The County shall be responsible for the maintenance and operation of the County's System, including all costs associated with permitting and licensing.
- 3.04 The County shall maintain the coverage within the County's geographic boundaries as described in the County's contract with Motorola R98-2006D throughout the term of this Agreement except for times of scheduled preventive maintenance, where it will be required to disable portions of the network for a pre-determined length of time or during times of system failures. Participant shall be notified of scheduled preventive maintenance, pursuant to the policies and procedures referenced on Attachment I hereto.
- 3.05 The County shall be responsible for talk group and fleet mapping management in accordance with the policies and procedures set forth on Attachment I, as may be amended and updated from time to time.

SECTION 4: PARTICIPANT EQUIPMENT AND RESPONSIBILITIES

- 4.01 Participant's equipment will be 800 MHz mobile, portable, and control station equipment programmed to be used on the County's System. The equipment used will be compatible with Motorola 800 MHz SmartNet and/or SmartZone communication systems. Participant will be required to keep its equipment in proper operating condition and Participant is responsible for maintenance of its radio equipment.
- 4.02 Participant will only program the Common Talk Groups and the individual unit ID numbers assigned by the System Administrator as part of this Agreement. Participant will **not** program into its radios the County operational talk groups without a letter of authorization or a signed agreement from the County.

- 4.03 Participant shall provide the County with a list of persons/positions, which are authorized to request activating/deactivating existing units or new units. No programming will be undertaken by Participant or its service provider until requested and approved in writing by the System Administrator.
- 4.04 Participant shall receive certain access codes to the County's System to enable the Common Talk Groups to be programmed into their equipment. The access codes are to be treated as confidential information and Participant is responsible to safeguard the code information from release to unauthorized parties. All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the County will be kept confidential by Participant and will not be disclosed to any other party, directly or indirectly, without the County's prior written consent, unless required by law or lawful order. All system parameters shall remain the County's property, and may only be reproduced or distributed with the written permission of the County. Participant agrees that the County has sole and exclusive ownership of all right, title and interest to the Confidential Information and may be recalled at any time.
- 4.05 Access and programming codes will only be released to: 1) service staff employed by Participant, 2) approved commercial service providers under contract with Participant, 3) County departments (PBSO, Fire Rescue and/or the County's Electronic Services & Security Division, or 4) another Federal agency, State agency and/or City that has in-house service personnel and an agreement with the County.
- 4.06 The County will approve all commercial service providers upon review of whether the contract terms between Participant and the commercial service provider are adequate to protect the County's System from misuse, harm or release of access and programming codes to unauthorized persons.
- 4.07 Participant will be responsible for ensuring that the commercial service provider adheres to the terms of this Agreement pertaining to the proper use of access/programming codes and radio use.
- 4.08 Participant is solely responsible for the performance and the operation of Participant equipment and any damages or liability resulting from the use thereof. Should the County identify malfunctioning Participant owned equipment; the County will request that Participant discontinue use of the specific device until the repairs are completed. The County may, in its discretion, disable the equipment from the System after properly notifying Participant in writing if the device is causing interference to the System.
- 4.09 In the case of lost or stolen equipment, Participant will notify the System Administrator by e-mail or fax authorizing the System Administrator to disable the equipment. The authorization shall provide the County issued individual unit ID number and the serial number of the radio. The System Administrator will advise back via e-mail when the radio has been disabled. A request by Participant

to re-activate a disabled unit will also be required by e-mail or fax to the System Administrator.

SECTION 5: SUBSCRIBER UNIT INFORMATION TO BE PROVIDED BY PARTICIPANT

- 5.01 Participant will be required to provide to the County an initial inventory of the radios that are proposed to be programmed for use of the Common Talk Groups. Participant will provide the following information to the County:
1. Radio manufacturer and model numbers.
 2. Radio serial numbers.
 3. Requested aliases to be programmed.

The System Administrator will then compile this information and transmit back to Participant a matrix of the County-wide talk groups, aliases, and radio ID numbers prior to Participant's radios being activated on the County's 800 MHz System. Participant is responsible for adhering to the Talk-Group and Radio ID allocations established by the County. The County's Talk-Group and Radio ID allocations are on file with the County and available upon request.

SECTION 6: UTILIZATION AND MONITORING OF COMMON TALK GROUPS

- 6.01 The Common Talk Groups were implemented specifically for inter-agency communication among multiple agencies, regardless of their specific discipline or affiliation. They were also created to allow communications between agencies without requiring cross-programming operational talk groups in each agency's radios. Usage of the Common Talk Groups is authorized to coordinate multi-jurisdictional fire/law enforcement/disaster recovery operations such as fires requiring multi-agency responses, police pursuit through multiple jurisdictions and coordination and response to local emergencies and disasters. Other authorized uses include undercover operations, investigations, perimeter communications, fire ground coordination, scene security and landing zone communications requiring participation of multiple agencies and disciplines.

In addition, the Common Talk Groups can be used by any agency experiencing catastrophic failures of their own communication system for a determined amount of time. A request to utilize the Common Talk Groups for this situation requires permission of the System Administrator. Once approved by the System Administrator, the Common Talk Groups can be temporarily utilized until repair of the agency's communication system is complete.

- 6.02 The Common Talk Groups shall not be used for every-day routine communications or as an extra talk group for agencies that have cross programming agreements and duplicated talk groups programmed into their radios. Other prohibited uses include communications for special events and

soperations, use as an additional dispatch, administrative or a car to car talk group for a single agency.

- 6.03 Agencies requesting to utilize the Common Talk Groups by this Agreement have a requirement to monitor the Calling Talk Group in their respective dispatch center to respond to calls for assistance from field units. The dispatch centers which combine more than one discipline in their dispatch center are required to monitor the disciplines which are dispatched. Agencies which do not utilize their own dispatch center are not required to monitor the Calling Talk Group.

SECTION 7: INDEMNIFICATION AND LIABILITY

The County makes no representations about the design or capabilities of the County's System. Participant has decided to enter into this Agreement and use the County's System on the basis of having interoperability with the County and /or other municipalities during times of mutual aid and/or joint operations. The County's System is designed to assist qualified law enforcement, fire, and other emergency service professionals. It is not intended to be a substitute for the exercise of judgment or supervision of these professionals. Both parties acknowledge that the responsibility for providing law enforcement, fire, or other emergency services rests with Participant, which is providing such service, and not with the other party to this Agreement.

The parties acknowledge that Title 31, United States Code, Section 1341 and Title 41, United States Code, Section 11 prohibit Federal agencies from entering any agreement that requires a Federal agency to indemnify and/or hold harmless another party where the amount of the government's liability is indefinite, indeterminate or potentially unlimited. The Participant is a component of the United States Department of Homeland Security, and as such, it is a self insured entity supported by the U.S. Government. Under the Federal Tort Claims Act, Title 28 U.S.C 1346 et seq., the U.S. Government accepts liability for the loss or destruction of property or personal injury or death by the negligent or wrongful acts or omissions of any employee of the government while acting within the scope of his or her office or employment.

The terms and conditions of this Agreement incorporate all the rights, responsibilities, and obligations of the parties to each other. The remedies provided herein are exclusive. The County and Participant waive all other remedies with respect to each other, including, but not limited to, consequential and incidental damages. The County agrees to use its best reasonable efforts to provide Participant with full use of the Common Talk Groups but makes no guarantee as to the continual, uninterrupted use of the radio communication system, or its fitness for the communication needs of Participant.

SECTION 8: OWNERSHIP OF ASSETS

All assets maintained under this Agreement will remain assets of the respective party.

SECTION 9: TERM OF AGREEMENT

The initial term of this Agreement is for five (5) years and shall commence immediately upon full execution of this Agreement. The Agreement may be renewed for three (3) additional terms of five (5) years each. At least six (6) months prior to the expiration of this Agreement's term, Participant shall provide the County with a request to renew this Agreement. Such renewal will require approval of both parties and the County may not unreasonably withhold its approval of the renewal.

SECTION 10: AMENDMENTS TO THIS AGREEMENT

This Agreement may be amended from time to time by written amendment as agreed to by all parties.

SECTION 11: TERMINATION

This Agreement may be terminated by either party, with or without cause upon ten (10) days written notice to the other party. Upon request of termination by Participant, the System Administrator will proceed to disable Participant's radios from the County's System. It will be the responsibility of Participant to reprogram Participant's radios removing the County's System information from the radios. Participant will complete reprogramming Participant's radios within sixty (60) days of the date of termination. Cities with greater than one hundred (100) radios will be given ninety (90) days to re-program its radios.

SECTION 12: NOTICES

Any notice given pursuant to the terms of this Agreement shall be in writing and be delivered by Certified Mail, Return Receipt Requested. The effective date of such notice shall be the date of receipt, as evidenced by the Return Receipt. All notices shall be addressed to the following:

As to the County:

County Administrator
301 North Olive Avenue
West Palm Beach, FL 33401

Director, Facilities Development & Operations
2633 Vista Parkway
West Palm Beach, FL 33411-5603

With a copy to:

Radio System Administrator
Palm Beach County Electronic Services & Security Division
2601 Vista Parkway
West Palm Beach, FL 33411-5610

County Attorney's Office
301 North Olive Avenue
West Palm Beach, FL 33401

As to Participant:

Marc J. Moore, Field Office Director
Department of Homeland Security
Immigration and Customs Enforcement
865 S.W. 78th Avenue, 1st Floor
Plantation, FL 33324

SECTION 13: APPLICABLE LAW

This agreement shall be governed by the laws of the State of Florida.

SECTION 14: FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

SECTION 15: ENTIRE AGREEMENT

This Agreement and any Attachments attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between the County and Participant concerning access to the Common Talk Groups. All representations, either oral or written, shall be deemed to be merged into this Agreement, except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon the County or Participant unless reduced to writing and signed by them.

SECTION 16: DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of the Constitutional or Statutory duties of the County's or Participant's officers.

**SECTION 17: PALM BEACH COUNTY OFFICE OF THE INSPECTOR
GENERAL AUDIT REQUIREMENTS**

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General is authorized with the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

SECTION 18: NO THIRD PARTY BENEFICIARY

No provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract, including but not limited to any citizen or employees of the County and/or Participant.

SECTION 19: NON-DISCRIMINATION

Pursuant to Resolution R-2014-1421, as amended, it is the policy of the Board of County Commissioners of Palm Beach County that Palm Beach County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information.

Participant has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if Participant does not have a written non-discrimination policy, or one that conforms to the County's policy, it has affirmed through a signed statement provided to County that Participant will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

(Remainder of the page intentionally left blank)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

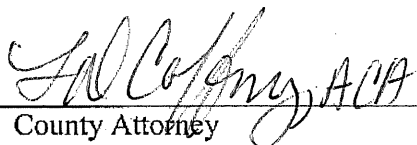
**PALM BEACH COUNTY, a political
subdivision of the State of Florida**

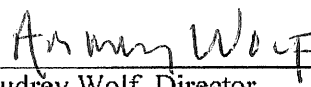
By: _____
Deputy Clerk

By: _____
Mary Lou Berger, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

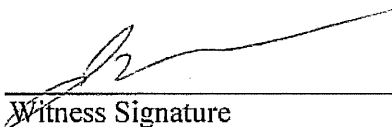
**APPROVED AS TO TERMS AND
CONDITIONS:**

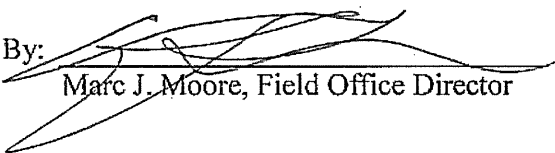
By: 
County Attorney

By: 
Audrey Wolf, Director
Facilities Development & Operations

WITNESS:

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,
IMMIGRATION AND CUSTOMS
ENFORCEMENT, a federal agency**

By: 
Witness Signature
James Martin
Witness Print Name

By: 
Marc J. Moore, Field Office Director

Attachment I

PALM BEACH COUNTY
PUBLIC SAFETY RADIO SYSTEM
POLICIES AND PROCEDURES

June 2002

<u>Policy / Procedure Title</u>	<u>Last Revision Date</u>
1. Countywide Use of 800 MHz System (O.P. # I-01)	Oct. 1, 2001
2. Countywide Use of 800 MHz System Talk Groups (O.P. # I-04)	Oct. 1, 2001
3. Monitoring and Evaluation of Public Safety Radio System Talk Groups (O.P. # I-05)	Oct. 1, 2001
4. Emergency Medical Communications (O.P. # I-06)	Oct. 1, 2001
5. Reporting of Problems and Modifications of the Public Safety Radio System (O.P. # I-07)	Oct. 1, 2001
6. Countywide Use of Public Safety Radio System During Times of Catastrophic Failure which result in non-trunking "conventional" operation (O.P. # I-10)	Oct. 1, 2001
7. System Maintenance and Administration Plan	June 6, 2002