

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
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 <u>x</u>			
Does this item include the use of federal funds:	Yes _____	No <u>x</u>			

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

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

* There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: Karen Sykes

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 OFMB 2/20/18 2/20/18 2/16/18	 Contract Development and Control 2/22/18
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B. Legal Sufficiency:

Ad Colton 2/20/18
 Assistant County Attorney

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 JUSTICE, FEDERAL BUREAU OF INVESTIGATIONS ("FBI").

WITNESSETH

WHEREAS, the County and the FBI are continually identifying more effective service delivery methods which result in overall savings to the taxpayers of the County and the United States; 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 the FBI 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 the FBI 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 the FBI 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 FBI Equipment: Also known as "agency radios," are FBI 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 Manager: An employee within the County's Electronic Services & Security Division of the Department of Facilities Development & Operations with the title Radio System Manager 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 Manager will be the FBI'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 System Maintenance and Administration Plan 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 System Steering Committee (CRSSC), which is responsible for overseeing and implementing the policies and procedures for the County's System.
- 2.03 The FBI 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 the FBI by the System Manager. The FBI 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 eleven (11) 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 R2015-1673, dated 11/17/15, 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. The FBI 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: FBI EQUIPMENT AND RESPONSIBILITIES

- 4.01 The FBI's equipment will be 700/800 MHz mobile, portable, and control station equipment programmed to be used on the County's System. The equipment used will be compatible with Motorola 700/800 MHz P25 communication systems. The FBI will be required to keep its equipment in proper operating condition and the FBI is responsible for maintenance of its radio equipment.
- 4.02 The FBI will only program the Common Talk Groups and the individual unit ID numbers assigned by the System Manager as part of this Agreement. The FBI will **not** program into its radios the County operational talk groups without a letter of authorization from the user of the operational talk-groups or a signed agreement from the County.
- 4.03 The FBI 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 the FBI or its service provider until requested and approved in writing by the System Manager.

- 4.04 The FBI 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 considered to be exempt and confidential security system information under F.S.119.071(3) and must not be released to the public or unauthorized persons. The access codes are to be treated as confidential information and the FBI is responsible for safeguarding and protecting the confidentiality of the code information from release to unauthorized parties. All confidential security system information and data obtained, developed, or supplied by the County will be kept confidential by the FBI 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. The FBI 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 the FBI, 2) approved commercial service providers under contract with the FBI, 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 the FBI 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 The FBI will be responsible for ensuring that the commercial service provider adheres to the terms of this Agreement pertaining to the proper use of and protecting the confidentiality of access/programming codes and proper radio use.
- 4.08 The FBI is solely responsible for the performance and the operation of the FBI equipment and any damages or liability resulting from the use thereof. Should the County identify malfunctioning FBI owned equipment; the County will request that the FBI 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 the FBI in writing if the device is causing interference to the System.
- 4.09 In the case of lost or stolen equipment, the FBI will notify the System Manager by e-mail or fax authorizing the System Manager to disable the equipment. The authorization shall provide the County issued individual unit ID number and the serial number of the radio. The System Manager will advise back via e-mail when the radio has been disabled. A request by the FBI to re-activate a disabled unit will also be required by e-mail or fax to the System Manager.

SECTION 5: SUBSCRIBER UNIT INFORMATION TO BE PROVIDED BY FBI

- 5.01 The FBI 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 along with

the State issued ID numbers. The FBI 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 Manager will then compile this information and transmit back to the FBI a matrix of the County-wide Talk Groups, aliases that will be matched to the State issued ID numbers prior to the FBI's radios being activated on the County's Public Safety Radio System. The FBI 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 Manager. Once approved by the System Manager, 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 operations, 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: LIABILITY

- 7.01 The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions and negligence of the other party. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States or a waiver of the sovereign immunity of the County pursuant to §768.28, Florida Statutes.
- 7.02 The County makes no representations about the design or capabilities of the County's System. The FBI has decided to enter into this Agreement and use the County's System based on its review of the System design, System coverage, manufacturing and installation details and review of any subsequent field measurements and testing data as may exist. The County agrees to use its best efforts to provide the FBI with the use of the System described in the Agreement, but makes no guarantee as to the continual, uninterrupted use of the System, or its fitness for the communication needs of the FBI.
- 7.03 Neither the County nor the FBI shall be liable to each other or for any third party claim, which may arise out of the services provided hereunder or of the radio System itself, its operation or use, or its failure to operate as anticipated, upon whatever cause of action any claim is based. The 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 the agency which is providing such service and not necessarily either party to this Agreement.

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, the FBI 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 the FBI, the System Manager will proceed to disable the FBI's radios from the County's System. It will be the responsibility of the FBI to reprogram the FBI's radios removing the County's System information from the radios. The FBI will complete reprogramming the FBI's radios within sixty (60) days of the date of termination. Entities 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 Manager
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 the FBI:

Robert F. Lasky
Special Agent in Charge
2030 SW 145th Ave
Miramar, FL 33027

John W. Neiner
FBI Telecommunications Manager
2030 SW 145th Ave
Miramar, FL 33027

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 the FBI 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 FBI 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 the FBI'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 Agreement 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 Agreement, including but not limited to any citizen or employees of the County and/or FBI.

SECTION 19: NON-DISCRIMINATION

The FBI warrants and represents that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information.

SECTION 20: ASSIGNMENT

FBI may not assign, mortgage, pledge, or encumber this Agreement in whole or in part, without prior written consent of County, which may be granted or withheld at the County's absolute discretion. This provision shall be construed to include a prohibition against an assignment, mortgage, pledge, encumbrance or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

SECTION 21: SEVERABILITY

If any term of the Agreement or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

(This space 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**

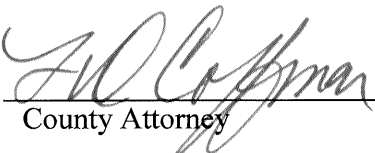
**PALM BEACH COUNTY, a political
subdivision of the State of Florida**

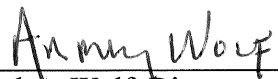

By: _____
Deputy Clerk

By: _____
Melissa McKinlay, Mayor

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

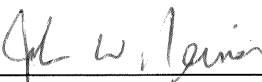
**APPROVED AS TO TERMS AND
CONDITIONS:**

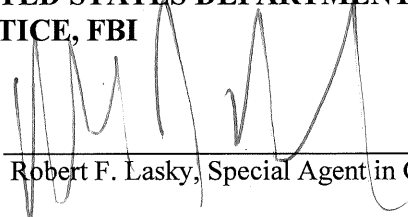
By:  _____
County Attorney

By:  _____
Audrey Wolf, Director
 Facilities Development & Operations

ATTEST:

**UNITED STATES DEPARTMENT OF
JUSTICE, FBI**

By:  _____
Signature of Witness
John W Neimer,
Printed name of Witness

By:  _____
Robert F. Lasky, Special Agent in Charge

Attachment I

PALM BEACH COUNTY
PUBLIC SAFETY RADIO SYSTEM
POLICIES AND PROCEDURES

Policy / Procedure Title

1. Countywide Use of 800 MHz System (O.P. # I-01)
 2. Countywide Use of 800 MHz System Talk Groups (O.P. # I-04)
 3. Monitoring and Evaluation of Public Safety Radio System Talk Groups (O.P. # I-05)
 4. Emergency Medical Communications (O.P. # I-06)
 5. Reporting of Problems and Modifications of the Public Safety Radio System (O.P. # I-07)
 6. Countywide Use of Public Safety Radio System During Times of Catastrophic Failure which result in non-trunking "conventional" operation (O.P. # I-10)
 7. System Maintenance and Administration Plan
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