

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

Meeting Date: May 5, 2020 **Consent** **Regular**
 Ordinance **Public Hearing**

Department: **Facilities Development & Operations**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Amended and Restated Agreement (“Agreement”) with the West Palm Beach VA Medical Center (“Hospital”), allowing for interoperable communications through the countywide EMS and common talk groups of the County’s Public Safety Radio System (“County’s System”) to the Hospital retroactively from May 3, 2019 through May 2, 2024.

Summary: This Agreement provides the terms and conditions under which the Hospital can program into its radios and utilize the countywide EMS and common talk groups for certain types of inter-Agency communications. This Agreement is intended to replace Agreement R2004-0791 between County and Hospital, amended by First Amendment R2009-0419, and by Second Amendment R2014-0774. The County’s System will not be utilized for routine operational communications by the Hospital. The terms of the Agreement are standard and have been offered to all municipalities and local branches of state and federal agencies and ambulance service providers with 800 MHz trunked radio capabilities. There are no charges associated with this Agreement. The Hospital is required to pay all costs associated with the Hospital’s subscriber units and to comply with the established operating procedures for the County’s System. This Agreement provides for an initial term of five (5) years with two (2) renewal options, each for a period of five (5) years. This Agreement may be terminated by either party, with or without cause, upon ten (10) days prior written notice to the other party. **(ESS) Countywide (LDC)**

Background and Justification: This Agreement provides interoperability via use of the countywide EMS and common talk groups, which is the lowest level of interoperability approved by the Communications Systems and Operations Policy Advisory Committee. The Hospital has utilized interoperable communications through the countywide EMS and common talk groups since 2004. The Hospital will only be able to access the EMS and common talk groups for specified types of communications and will conduct routine operational communications on its own radio system. As such, there is no capacity impact to the County and hence no charges associated with this Agreement.

Attachments:

Amended and Restated Agreement

Recommended By: MB Army Wolf 4/5/2020
 Department Director **Date**

Approved By: _____ VBaker 4/14/2020
 County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
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 _____
 Does this item include the use of federal funds: Yes _____ No _____

Expense Budget Fund ____ Dept ____ Unit ____ Object ____
 Account No:
 Revenue Budget Fund ____ Dept ____ Unit ____ Rev ____
 Account No:

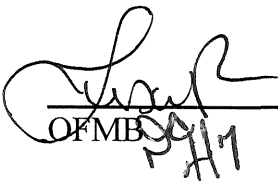
B. Recommended Sources of Funds/Summary of Fiscal Impact:

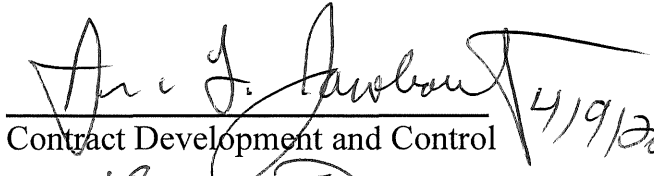
*There is no fiscal impact associated with this item

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 4/8/2020
 OFMB PHH LKH

 4/19/2020
 Contract Development and Control
 4-8-2020 TW

B. Legal Sufficiency:

Anne Adelant 4-9-2020
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

AMENDED AND RESTATED AGREEMENT

THIS AMENDED AND RESTATED AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (“County”) and the West Palm Beach VA Medical Center (“Hospital”), an agency of the United States Department of Veterans Affairs.

WITNESSETH

WHEREAS, on May 4, 2004, the County and the Hospital entered into an Agreement R2004-0791, that was subsequently amended by the First Amendment to Agreement (R2009-0419) on March 17, 2009 and by the Second Amendment to Agreement (R2014-0774) on June 3, 2014 (Collectively the 2004 Agreement) setting forth the terms and conditions by which the County would provide interoperable radio communications through the countywide and EMS common talk groups to the Hospital; and

WHEREAS, to set forth the terms and conditions for all interoperable radio communications, this Agreement amends and restates, in its entirety, and replaces, the 2004 Agreement; and

WHEREAS, the County is continually identifying more effective service delivery methods which result in enhanced public safety services and overall savings to the taxpayers of the County; and

WHEREAS, the County has purchased, designed, installed, and operates a Public Safety 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 Hospital 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 Hospital can access the Emergency Medical Services (EMS) and Common Talk Groups established on the County’s Public Safety Radio System to receive the public safety benefit of EMS communications and 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

The purpose of this Agreement is to set forth the parameters under which the County will provide access to the EMS and 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 conditions of use, the monitoring requirements, and ability of the Hospital to participate in the operational decisions relating to the use of the EMS and Common Talk Groups.

SECTION 2: DEFINITIONS

2.01 Common Talk Groups: Talk groups established on the County's 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.

2.02 County Talk Groups: Talk groups established on the County's 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.

2.03 EMS Talk Groups: Talk groups established on the County's System that are made available for emergency service personnel to communicate directly with hospitals in and around Palm Beach County.

2.04 Hospital Equipment: Also known as "Hospital Radios," are Hospital owned 800 MHz handheld and mobile radios and control stations that have the ability to be programmed and used on the County's System.

2.05 Radio Alias: The unique name assigned to an operator's radio that displays on the dispatcher's console when a radio transmits.

2.06 SmartZone Controller: The SmartZone Controller is the central computer that controls the operation of the County's Public Safety Radio System. The SmartZone Controller manages access to System features, functions, and talk-groups.

2.07 System: The Public Safety Radio System funded, purchased, installed, maintained and owned by the County.

2.08 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 3: ADMINISTRATION

3.01 System Contact. The Palm Beach County Electronic Services & Security Division's System Manager will be the Hospital'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.

3.02 CRSSC. 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.

3.03 Compliance with System Policies and Procedures. The Hospital 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 Hospital by the System Manager. The Hospital agrees to comply with any enforcement actions required by these policies and procedures for misuse or abuse of the County's System.

SECTION 4: COUNTY SYSTEM & RESPONSIBILITIES

4.01 County System. 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.

4.02 Coverage for Common Talk Groups. The County System provides seamless County-wide portable and mobile radio coverage for the EMS and Common Talk Groups. The radio coverage for the EMS and Common Talk Groups is identical to that of other County Talk Groups that reside on the County's System.

4.03 County Responsibilities for System Maintenance and Operations. The County shall be responsible for the maintenance and operation of the County's System, including all costs associated with permitting and licensing.

4.04 Scheduled Outages. The County shall maintain the coverage 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 Hospital shall be notified of scheduled preventive maintenance, pursuant to the policies and procedures referenced on Attachment I hereto.

4.05 Management. 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 5: HOSPITAL EQUIPMENT AND RESPONSIBILITIES

5.01 Hospital Equipment. The Hospital'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. The Hospital is required to keep its equipment in proper operating condition and the Hospital is responsible for maintenance of its radio equipment.

5.02 Agreement Limited to EMS and Common Talk Groups. The Hospital will only program the EMS and Common Talk Groups and the individual unit ID numbers assigned by the System Manager as part of this Agreement. The Hospital will **not** program into its radios the County operational talk groups without a letter of authorization or a signed agreement from the County.

5.03 Hospital Contacts. The Hospital 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 Hospital or its service provider until requested and approved in writing by the System Manager.

5.04 County Confidential Information. The Hospital shall receive certain access codes to the County's System to enable the EMS and Common Talk Groups to be programmed into the Hospital's 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 Hospital 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 ("Confidential Information") will be kept confidential by the Hospital 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 Hospital 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.

5.04.01 Authorized Parties. Service staff directly employed by the Hospital shall be considered authorized to receive access and programming codes for the maintenance of the Hospital's radio equipment. Commercial service providers are not considered authorized to receive access to programming codes for the System. If the Hospital plans to use commercial services for its system or subscriber unit maintenance, the Hospital must include confidentiality requirements in their contracts with the commercial service providers acceptable to the System Manager before access or programming codes may be released to these companies.

5.04.02 Commercial Service Providers. Commercial maintenance service providers are **not** considered authorized to receive access to programming codes for the

County's System, unless meeting the requirements of Section 5.04.03 and/or 5.04.04 below. If the Hospital does not have employees capable of programming Hospital radio equipment or prefers to have others program Hospital radio equipment, it may request that the Palm Beach County Sheriff's Office, Palm Beach County Fire Rescue or Palm Beach County Electronic Services & Security Division program Hospital's radio equipment under the terms of a separate agreement.

5.04.03 County Review of Existing Service Provider Agreements. If the Hospital uses a commercial service provider to program Hospital radio equipment at the time of execution of this Agreement, and desires that the commercial service provider program the Hospital radio equipment with the EMS and Common Talk Groups, the Hospital must submit its existing contract with the commercial service provider to the System Manager for review. The review will focus on whether the contract terms between the Hospital 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. Notwithstanding the previous statement, the County retains the right, in its sole opinion with or without written reason or cause, to approve or disapprove the use of a commercial service provider. If approved, the System Manager will release the access and programming codes to the commercial service provider. The Hospital will be responsible for ensuring that the commercial service provider adheres to the terms of this Agreement pertaining to the proper use of programming codes and radio equipment and pertaining to the safeguarding and protection of the confidentiality of the access codes. If not approved, the Hospital shall use the Palm Beach County Sheriff's Office, Palm Beach County Fire Rescue, or the Palm Beach County Electronic Services & Security Division to program Hospital radio equipment with EMS and Common Talk Groups.

5.04.04 Review of Bid Documents for Service Provider. If the Hospital intends to use a commercial service provider to program Hospital radio equipment with the EMS and Common Talk Groups, the Hospital shall submit the appropriate bid documents/contract to the System Manager for approval prior to soliciting a bid or quote from the commercial service provider. The System Manager will work with the Hospital to develop the appropriate language for the contract which will allow for approval of the commercial service provider. Notwithstanding the previous statement, the County retains the right, in its sole opinion with or without written reason or cause, to approve or disapprove the use of a commercial service provider. If approved, the System Manager will release the access and programming codes to the commercial service provider. The Hospital will be responsible for ensuring that the commercial service provider adheres to the terms of this Agreement pertaining to the proper use of the programming codes and radio equipment use and the terms requiring the safeguarding and protection of the confidentiality of the access codes. If not approved, the Hospital shall use the Palm Beach County Sheriff's Office, Palm Beach County Fire Rescue, or Palm Beach County Electronic Services & Security Division to program Hospital radio equipment with EMS and Common Talk Groups.

5.04.05 Survival. The provisions of this section regarding the Hospital's duty to keep the County's access codes confidential shall survive the termination or expiration of this Agreement.

5.05 Malfunctioning Hospital Equipment. The Hospital is solely responsible for the performance and the operation of the Hospital equipment and any damages or liability resulting from the use thereof. Should the County identify malfunctioning Hospital owned equipment; the County will request that the Hospital 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 Hospital in writing if the device is causing interference to the System.

5.06 Stolen or Lost Hospital Radios. In the case of lost or stolen equipment, the Hospital will notify the System Manager by e-mail 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 via e-mail when the radio has been disabled. A request by the Hospital to re-activate a disabled radio must be in writing by e-mail to the System Manager.

SECTION 6: SUBSCRIBER UNIT INFORMATION TO BE PROVIDED BY HOSPITAL

The Hospital will be required to provide to the County an initial inventory of the radios that are proposed to be programmed for use of the EMS and Common Talk Groups. The Hospital will provide the following information to the County:

- Radio manufacturer and model numbers.
- Radio serial numbers.
- Requested aliases to be programmed.

The System Manager will then compile this information and transmit back to the Hospital a matrix of the County-wide Talk Groups, aliases, and radio ID numbers prior to the Hospital's radios being activated on the County's Public Safety Radio System. The Hospital 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 7: UTILIZATION AND MONITORING OF EMS AND COMMON TALK GROUPS

7.01 Purpose of EMS Talk Groups. The EMS Talk Group was implemented specifically for emergency medical communications between the emergency providers and hospitals in and around Palm Beach County. The usage of the talk groups are defined below.

7.01.01 Typical Usage Scenario: A field unit requiring communications with a hospital will request communications through the County's Fire Rescue Dispatch Center on its currently assigned talk-group or on a MED Control talk-group.

- The Fire Rescue Dispatch Center will approve the request that the field unit change talk-groups to the requested hospital talk-group.
- The field unit will then switch to the appropriate talk-group.
- At the conclusion of the communications the field unit will switch back to its assigned talk-group and advise the Fire Rescue Dispatch Center of its return.

7.02 Hospital Talk Groups and UHF MED Channels. Each Hospital will be assigned its own talk-group that will be available for incoming medical units to be able to communicate. This talk-group will be considered the Hospital's Main Talk-Group for EMS communications and will be shared with any other distant emergency room facility not directly attached to the main Hospital facility. Each Hospital will also have access to an Intra-Hospital Talk-Group for communications between Hospitals (Hospital-Common). This talk-group may be used for secondary administrative communications between hospitals during declared emergencies and is not to be utilized for internal hospital communications. Each Hospital retains the statutory requirement to have the ability to operate on the assigned UHF MED channels as assigned by the State of Florida, Department of Management Services. The foregoing requirement, while secondary to the County's EMS Communications Plan as referenced in Attachment I, supersedes any local communication requirement and must be installed and maintained.

7.03 Purpose of Common Talk Groups. 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.

7.03.01 Typical Usage Scenario:

- A unit requesting to coordinate a multi-jurisdictional operation or call for mutual assistance, places a call on the Call Talk Group for the appropriate discipline (i.e. Law Enforcement, Fire Rescue, or Local Government) to the dispatch center of the required agency(ies).
- The responding dispatch center assigns one of the Common Talk Groups to the requesting unit and contacts its agency's unit(s) and requests that the user switch to the corresponding talk group.
- The participating units would communicate on the Common Talk Group(s) and upon completion of the operation; the talk-group is cleared of all radio traffic and put back into the pool for other agencies.

7.03.02 Approved Uses. 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.

7.03.03 Prohibited Uses. 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.

7.03.04 Required Monitoring. Agencies requesting to use 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 8: INDEMNIFICATION AND LIABILITY

8.01 No Representation as to Fitness. The County makes no representations about the design or capabilities of the County's System. The Hospital 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 agrees to use its best reasonable efforts to provide the Hospital with full use of the EMS and Common Talk Groups but makes no guarantee as to the continual, uninterrupted use of the System, or its fitness for the communication needs of the Hospital.

8.02 No Waiver of Sovereign Immunity. 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 the sovereign immunity of the County under §768.28, Florida Statutes or of the Agency under 28 USC 1346 et.seq. Each party shall be liable for its own actions and negligence. The parties acknowledge that 31 USC 1341 and 41 USC 11 prohibit Federal agencies from entering any agreement that requires a Federal user to indemnify and/or hold harmless another party where the amount of the government's liability is indefinite, indeterminate or potentially unlimited. The Agency is a self-insured Federal 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 caused by the negligent or wrongful acts or omissions of any employee of the government while acting within the scope of his or her office.

8.03 No Consequential Damages. 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 Hospital waives all other remedies, including, but not limited to, consequential and incidental damages.

8.04 No Responsibility for Third Party Claims. Neither the County nor the Hospital 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.

8.05 Survival. The provisions of this section shall survive the termination or expiration of this Agreement.

SECTION 9: OWNERSHIP OF ASSETS

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

SECTION 10: TERM OF AGREEMENT

10.01 Initial Term. The initial term of this Agreement is for five (5) years and shall commence retroactively on May 3, 2019. This Agreement is intended to replace the former Agreement R2004-0791 as amended by R2009-0419 and R2014-0774 and maintain continuous services.

10.02 Renewals. The Agreement may be renewed for two (2) additional terms of five (5) years each. At least six (6) months prior to the expiration of this Agreement's term, the Hospital 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 11: AMENDMENTS TO THIS AGREEMENT

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

SECTION 12: TERMINATION

This Agreement may be terminated by either party, with or without cause upon ten (10) days written notice to the other party. Upon notice of termination, the System Manager will proceed to disable the Hospital's radios from the County's System. It will be the responsibility of the Hospital to reprogram the Hospital's radios removing the County's System information from the radios. The Hospital will complete reprogramming the Hospital's radios within sixty (60) days

of the date of termination. A hospital with greater than one hundred (100) radios will be given ninety (90) days to re-program its radios.

SECTION 13: CONFIDENTIALITY

County recognizes and acknowledges that, by virtue of entering into this Agreement and providing the services to Hospital hereunder, County may have access to certain information of Hospital that is confidential and constitutes valuable, special and unique property of Hospital. County agrees that County will not at any time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without Hospital's express prior written consent, except pursuant to County's duties hereunder, any confidential or proprietary information of Hospital, including, but not limited to, information which concerns Hospital's patients, costs, or treatment methods developed by Hospital, and which is not otherwise available to the public. This provision is in no way intended to limit Palm Beach County Fire Rescue's use of such information to comply with its role as an EMS provider.

County shall not disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Hospital in writing, any patient or medical record information regarding Hospital patients, and County shall comply with all federal and State laws and regulations, and all bylaws, rules, regulations, and policies of Hospital regarding the confidentiality of such information. County acknowledges that in receiving or otherwise dealing with any records of information from Hospital about patients receiving treatment for alcohol or drug abuse, County is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 C.F.R. Part 2, as amended from time to time). This provision is in no way intended to limit County Fire Rescue's use of such information to comply with its role as an EMS provider.

County agrees to comply with the application provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. section 1320d through d-8 ("HIPAA"), and the requirements of any regulations promulgated thereunder including without limitation the federal privacy regulations as contained in 45 C.F.R. Part 164 (the "Federal Privacy Regulations") and the federal security standards as contained in 45 C.F.R. Part 142 (the "Federal Security Regulations"), when it becomes applicable to County. County agrees not to use or further disclose any protected health information, as defined in 45 C.F.R. 164.5001, concerning a patient, obtained from the Hospital, other than as permitted by this Agreement or the requirements of HIPAA or regulations promulgated under HIPAA including without limitation the Federal Privacy Regulations and the Federal Security Regulations. County will implement appropriate safeguards to prevent the use or disclosure of a patient's Protected Health Information other than as provided for by this Agreement or the requirements of HIPAA or regulations promulgated under HIPAA. County will promptly report to Hospital any use or disclosure of a patient's Protected Health Information not provided for by this Agreement or in violation of HIPAA, the Federal Privacy Regulations, or the Federal Security Regulations of which County becomes aware. In the event County, with Hospital's approval, contacts with any agents to whom County provides a patient's Protected Health Information obtained from the Hospital, County shall include provisions in such agreements whereby County agrees to the same restrictions and conditions that apply to County with respect

to such patient's Protected Health Information. County will make its internal practices, books, and records relating to the use and disclosure of a patient's Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the Federal Privacy Regulations and the Federal Security Regulations. Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by County or Hospital by virtue of this Subsection. This provision is in no way intended to limit Palm Beach County Fire Rescue's use of such information to comply with its role as an EMS provider.

The provisions of this Section shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

SECTION 14: 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 Hospital:

Chief of Police Services
7305 North Military Trail
West Palm Beach, FL 33410

SECTION 15: APPLICABLE LAW

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

SECTION 16: FILING

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

SECTION 17: ENTIRE AGREEMENT

This Agreement and any Attachments attached hereto constitute all agreements, conditions and understandings between the County and the Hospital concerning access to the EMS and 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 Hospital unless reduced to writing and signed by them.

SECTION 18: 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 Hospital's officers.

**SECTION 19: 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 20: 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 Hospital.

SECTION 21: NON-DISCRIMINATION

The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Hospital warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

SECTION 22: ASSIGNMENT

Hospital 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 23: 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.

SECTION 24: COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

SECTION 25: ANNUAL BUDGETARY FUNDING/CANCELLATION

This Agreement and all obligations of County and Hospital hereunder requiring the expenditure of funds are subject to and contingent upon annual budgetary funding and appropriations.

SECTION 26: EFFECTIVE DATE

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all Parties and approved by the Palm Beach County Board of County Commissioners.

THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY

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: _____
Dave Kerner, Mayor

**APPROVED AS TO LEGAL
SUFFICIENCY:**

**APPROVED AS TO TERMS AND
CONDITIONS:**

By: Anne Helgand
County Attorney

By: MD Audrey Wolf
Audrey Wolf, Director
Facilities Development & Operations

HOSPITAL

WITNESS:

**VETERANS AFFAIRS WEST PALM
BEACH MEDICAL CENTER**

By: _____

By: Cory P. Price
Cory P. Price, FACHE
Interim Medical Center
Director

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