

3S-2

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	August 17, 2021	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing

Department: Fire-Rescue

I. EXECUTIVE BRIEF




Motion and Title: Staff recommends motion to approve: a Memorandum of Understanding for Securing the Cities Agreement for the Procurement of Goods and Services under the Securing the Cities Initiative between the City of Miami and Palm Beach County, for a term commencing upon approval by both parties and continuing through October 30, 2029.

Summary: United States Department of Homeland Security ("DHS") Domestic Nuclear Detection Office ("DNDO"), has sub-granted the Securing the Cities (STC) Program 2019 to the City of Miami as sponsoring agency to provide funds to address the unique equipment, training, planning, exercise and operational needs for the region, and to assist in building an enhanced and sustainable capacity to prevent, respond to, and recover from threats or acts of terrorism; and other high- consequence events utilizing nuclear or other radiological materials that pose risk to homeland security in high-risk urban areas.

Palm Beach County Fire Rescue and the City of Miami intend to work together and in concert with the other agencies in the region, to design and implement systems for coordinated and integrated detection and interdiction of materials that may be used in a terrorist attack. The City of Miami as the sponsoring agency has received or expects to receive various forms of assistance from the federal government including funding and equipment to accomplish this initiative. Pursuant to this MOU, the City of Miami will provide Fire Rescue with STC program funded equipment, or reimbursement for equipment, and related training, as part of the STC program initiatives. This MOU may only be terminated by the parties for cause or upon mutual written agreement. Countywide (SB)

Background and Justification: The City of Miami will arrange with Palm Beach County Fire Rescue for employees of Palm Beach County Fire Rescue to receive training about the use of the goods and equipment supplied to Palm Beach County Fire Rescue pursuant to this MOU. The training will take place at a location and on a schedule to be agreed upon by the parties with due consideration for turnover of personnel and the like. Palm Beach County Fire Rescue shall not distribute or deliver equipment to other agencies unless they agree not to deploy such equipment without proper training.

Attachments: Memorandum of Understanding for Securing the Cities Agreement

Recommended by:		7/27/21
	Assistant Fire Chief	Date
Approved by:		
	Fire Rescue Administrator	Date
Approved by:		8/11/2021
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:


Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* 0	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	0	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X
 Does this item include the use of federal funds? Yes X No _____

Budget Account No.: Fund _____ Dept _____ Unit _____ Rev Source _____


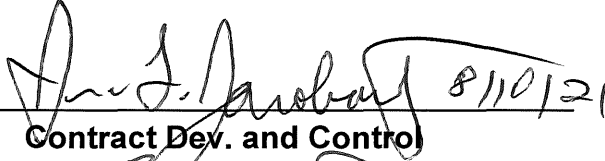
B. Recommended Sources of Funds/Summary of Fiscal Impact:

*There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

<u></u> OFMB <u>AP 7.27.21</u>	<u></u> 8/10/21 Contract Dev. and Control 8-10-21 TW
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B. Legal Sufficiency

 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 9/03
 ADM FORM 01
 (THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

**MEMORANDUM OF UNDERSTANDING FOR SECURING THE
CITIES AGREEMENT FOR THE PROCUREMENT OF GOODS AND
SERVICES UNDER THE SECURING THE CITIES INITIATIVE
BETWEEN THE CITY OF MIAMI AND PALM BEACH COUNTY**

This Memorandum of Understanding (“MOU”) is entered into this _____ day of _____, 2021, by and between the City of Miami, a municipal corporation of the State of Florida (“Sponsoring Agency”), as sponsoring agency and administrator that will have overall charge of the Securing the Cities (“STC”) Program (“Cooperative Agreement”) and Palm Beach County, acting by and through Palm Beach County Fire Rescue with a principal office 405 Pike Road, West Palm Beach, FL 33411 (“Participating Agency”) for the procurement and distribution of goods and services under this Securing the Cities Initiative.

RECITALS

WHEREAS, the United States Department of Homeland Security (“DHS”) Domestic Nuclear Detection Office (“DNDO”), has sub-granted the STC Program 2019 to the City of Miami as sponsoring agency, accepted pursuant to Resolution No. R-20-0183, adopted June 25, 2020, for the Project Period from March 4, 2020 through October 30, 2029 (“Project Period”), to provide funds to address the unique equipment, training, planning, exercise and operational needs for the region, and to assist in building an enhanced and sustainable capacity to prevent, respond to, and recover from threats or acts of terrorism; and other high- consequence events utilizing nuclear or other radiological materials that pose risk to homeland security in high-risk urban areas; and

WHEREAS, Securing-the-Cities Implementation Initiative is a coordinated effort by federal, state and local government entities to detect and prevent any transport of radiological materials into the South Florida region, by any group or person for the purpose of using those materials to attack any part of the region's critical infrastructures; and

WHEREAS, Palm Beach County Fire Rescue and the City of Miami intend to work together and in concert with the other agencies in the region, to design and implement systems for coordinated and integrated detection and interdiction of materials that may be used in a terrorist attack and recognize the need for mutual information sharing and cooperation to operate such systems effectively; and

WHEREAS, the City of Miami as the sponsoring agency has received or expects to receive various forms of assistance from the federal government including funding and equipment to accomplish this initiative; and

WHEREAS, in accordance with the STC Program, the participating agencies will uphold the Memorandum of Understanding which will now include the distribution of equipment which specifies responsibilities, use, maintenance, inventory, calibration and disposal responsibilities in accordance with the STC Program’s policies; and

WHEREAS, the City Commission, by Resolution No. R-20-0183 , adopted on June 25 , 2020, has authorized the City Manager to enter into this Agreement with the Participating Agency on behalf of the City of Miami;

NOW THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

PURPOSE

- A. The purpose of this MOU is to maintain cooperative and collaborative relationships with partner agencies within the region that will increase capabilities in identifying and responding to Radiological and Nuclear (“R/N”) threats. These efforts will require close collaboration, support and partnerships from all participants that ultimately will enhance the STC Program to the benefit of every organization/agency within the region.
- B. This MOU will be utilized by the City of Miami in collaboration with regional partners to reduce the risk of a successful deployment of a R/N weapon of mass destruction or the movement of materials into a major metropolitan area such as South Florida. Considering the region’s high-risk, it is critical and necessary to implement an expansive and multi-jurisdictional ability to discover and locate R/N threats, communicate information related to these threats and to develop a coordinated response with all principal partners.
- C. This MOU delineates the transfer of federal STC Program funded equipment from the Sponsoring Agency to the Participating agency.
- D. This MOU stipulates the Participating Agency's responsibilities for said equipment as per the Sponsoring Agency's and the STC Program's guidelines.
- E. This MOU describes the intent and sole purpose of equipment as used in coordination by the Participating Agency for the participation, use, and availability of "Regional" equipment. "Regional" equipment, for the purposes of this Program and it's participants includes, but is not limited to, equipment or training that shall benefit and be made available to STC participants as part of the collaboration of South Florida local and state first responder agencies in working effectively and efficiently together to prepare for, respond to, and reduce the risk of a successful deployment of a R/N terrorist weapon against a major metropolitan area in the United States by establishing sustainable capability within Global Nuclear Detection Architecture (“GNDA”) partner agencies to detect, analyze, and report R/N materials out of regulatory control within their jurisdictions.
- F. To the extent permitted by law, the parties agree to immediately notify and share security information with each other related to deployment and operation of equipment, goods and services provided pursuant to this MOU.
- G. Through this federal assistance, Palm Beach County Fire Rescue will select various goods or services to be submitted for approval, first through the City of Miami STC Program review process and then ultimately through the Cooperative Agreement.

1. Utilizing reimbursement from the STC Program, the City of Miami or its STC partners will procure selected goods or services, including, but not limited to, the purchase of R/N detection devices; the purchase of other equipment as requested by the Agencies and approved by the Cooperative Agreement for the purposes of this program, such as Personal Radiation Detectors (PRD's), Radioisotope Identification Devices (RIID's), Backpack-based Radiation Detectors or mobile R/N detection devices incorporated onto vehicles as an interdiction platform; this also encompasses items that require either advance funds for prepaying the vendor or the Agency or direct reimbursement to either the vendor or the Agency after purchase; the reimbursement of approved overtime incurred for purposes of training and exercise planning and execution; other items or equipment as described for each federal fiscal year allocation under the STC Initiative.
 2. Both the Grantor and the City of Miami as Sponsoring Agency, require that the process for purchases by the City of Miami must conform to the current Procurement Policy Rules of the City of Miami. Purchases made by the Palm Beach County Fire Rescue must conform to Palm Beach County Fire Rescue current Procurement Policy Rules that remain in compliance with 2 CFR 200.
- H. The City of Miami will arrange with Palm Beach County Fire Rescue for employees of Palm Beach County Fire Rescue to receive training about the use of the goods and equipment supplied to Palm Beach County Fire Rescue pursuant to this MOU. The training will take place at a location and on a schedule to be agreed upon by the parties with due consideration for turnover of personnel and the like. The Palm Beach County Fire Rescue shall not distribute or deliver equipment to other agencies unless they agree not to deploy such equipment without proper training.
- I. Utilizing reimbursement from the STC Program, training hours will be properly tracked, Palm Beach County Fire Rescue will be required to create a budget sheet and provide to the City of Miami or its contractor(s) pursuant to the terms of the Agreement. Palm Beach County Fire Rescue agrees to the following:
1. Prior to training, Palm Beach County Fire Rescue will submit to the City of Miami a projected Agency Funding Allocations budget sheet that will include:
 - a. the anticipated number of people in each rank who will provide training on an overtime basis as a Trainer (**Trainer overtime**);
 - b. the overtime cost structure for each rank;
 - c. the training hours required; and
 - d. the computed total cost, not to exceed Palm Beach County Fire Rescue allocation as identified by the City of Miami.
 2. Required submissions for Trainee (**Trainee overtime**) will follow the same procedures and terms as those stated above for Trainers, but **only** will be submitted for personnel who attend **allowable trainings, required drills, exercises, and tabletops.**

PARTICIPATING AGENCY'S RESPONSIBILITIES

- A. The Participating Agency shall not sell or otherwise dispose of equipment without the written consent of the Sponsoring Agency. If the Sponsoring Agency, approves of the Participating Agency selling or disposing of said equipment, it shall be the responsibility of the Participating Agency to dispose of equipment properly.
- B. The Participating Agency shall submit an inventory report to the Sponsoring Agency, when requested and in a timely manner. The inventory reports shall include, but not be limited to: the make, model, serial number, location, Point of Contact ("POC") who has functional authority, condition of equipment and any additional information as requested.
- C. The Participating Agency shall provide/make available the equipment for inventory and on-site monitoring visits as requested.
- D. The Participating Agency shall be fully responsible for the coordination of equipment in order to keep the "Regional" equipment in-service, fully operational, and available for use in the event requested by another Participating Agency ("Requesting Agency") and requiring the use of the listed equipment.
- E. Ensure that equipment obtained from the STC Program is readily available for use by personnel trained to use such equipment for actual emergencies or exercises. Also, ensure that such equipment is readily available for onsite monitoring by the Sponsoring Agency. If the Participating Agency is incapable of staffing the equipment, such equipment shall be made available to another Participating Agency for use during any actual emergencies or exercises. Failure to ensure equipment availability may result in loss of funding and/or equipment to the Participating Agency.
- F. All equipment obtained from the STC Program is the sole responsibility of the Sponsoring agency. This includes, where applicable, maintenance, replacement, calibration, training on equipment, and insuring of equipment, and compliance with intra-agency monthly or quarterly reporting requirements.

CONDITIONS: DEFAULT, REMEDIES, TERMINATION, TERM

- A. **EVENT OF DEFAULT** - If any of the responsibilities or obligations listed above in "Participating Agency's Responsibilities" are not met, provided for, or responded to in a timely manner, failure to meet same shall constitute a default and the Sponsoring Agency has the option to terminate the Agreement.
- B. **REMEDIES** - If an Event of Default occurs, then the Sponsoring Agency may, after thirty (30) calendar days written notice to the Participating Agency and upon the Participating Agency's failure to regain compliance within those thirty (30) calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:
 1. Terminate this Agreement, provided that the Participating Agency is given at least thirty (30) days prior written notice of the termination. The notice shall be effective

when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested;

2. Begin an appropriate legal or equitable action to enforce performance of this Agreement;
3. Require that the Participating Agency refund to the City of Miami, the Sponsoring Agency any monies used for ineligible purpose under the laws, rules and regulations governing the use of these funds;
4. Request additional information from the Participating Agency to determine the reasons for or the extent of non-compliance or lack of performance;
5. Require that the Participating Agency return all distributed equipment to the Sponsoring Agency

C. **TERMINATION** - The Sponsoring Agency may terminate the MOU for cause after thirty (30) calendar days written notice. Cause can include misuse of funds, fraud, lack of compliance with "Participating Agency's Responsibilities" and any other applicable laws, rules, and regulations, failure to timely perform, and refusal by the Participating Agency to permit public access to any document, record, information, or other material subject to public records disclosure under Chapter 119, Florida Statutes, as amended. The Participating Agency may terminate this MOU for cause upon thirty (30) calendar days written notice.

The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

In the event that this Agreement is terminated, the Participating Agency will not incur new obligations for the terminated portion of the Agreement after the Participating Agency has received the notification of termination. The Participating Agency will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. Participating Agency will return any and all equipment furnished under this Agreement and the Sponsoring Agency may require Participating Agency to refund any monies used for ineligible purposes under the laws, rules, and regulations governing the use of these funds.

D. **TERM** - Unless sooner terminated as provided for herein, this MOU shall commence upon approval by both parties and continue through the end of the Project Period, as may be extended or sooner terminated in accordance with the Cooperative Agreement.

Confidentiality

In order to ensure the safety of Participating Agencies, all parties to the MOU agree to adhere to the confidentiality expectations as outlined in the Cooperative Agreement to the extent permitted by law.

To the extent permitted by law, the parties agree that all information concerning the equipment, goods, and services provided through this MOU shall remain confidential. Access to all confidential information relating to this Agreement shall be strictly controlled by Palm Beach County Fire Rescue minimize disclosure outside of what may be required by law. Any unauthorized disclosure of confidential information by employees of any party to this MOU shall be immediately reported to the Sponsoring Agency.

In the event that Palm Beach County Fire Rescue becomes legally compelled to disclose any confidential information pertaining to this Agreement, Palm Beach County Fire Rescue shall provide the Sponsoring Agency with prompt, prior written notice of such requirement so that the Sponsoring Agency may seek a protective order or other appropriate remedy.

The City of Miami as designated Sponsoring Agency and administrator of the STC Program accepts full responsibility for the performance of the collaborative organizations/agencies.

This MOU is the complete agreement between the City of Miami, as Sponsoring Agency, and Palm Beach County Fire Rescue, as may be amended by written agreement only signed by each of the parties involved.

MISCELLANEOUS PROVISIONS

A. Changes and Modifications

Changes and/or modifications to this MOU shall be in writing and signed by the authorized agents of all Parties, or their duly authorized designee within the scope of their authority. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this MOU. All requests for interpretation or modification shall be made in writing.

B. Public Records; Maintenance of Records

This MOU shall be subject to Florida's Public Records Laws, Chapter 119, Florida Statutes, as amended. The Parties understand the broad nature of these laws and agree to comply with Florida's Public Records Laws, and laws relating to records retention.

C. Compliance with the Law

The Parties shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing their respective duties, responsibilities, and obligations pursuant to this MOU. The Parties shall not unlawfully discriminate in the performance of their respective duties under this Agreement.

D. Governing Law

This MOU shall be governed by the laws of the State of Florida. Venue in any proceedings shall be in Miami-Dade County or Palm Beach County, Florida and each Partner shall be responsible for its own attorneys' fees.

E. Counterparts; Electronic Signatures

This MOU and any amendments hereto may be executed in counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument, each of which shall be an original as against either Party whose signature appears thereon, but all of which taken together shall constitute but one and the same instrument. An executed facsimile or electronic scanned copy of this MOU shall have the same force and effect as an original. The parties shall be entitled to sign and transmit an electronic signature on this MOU (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed MOU upon request.

F. Dispute Process

If possible, disputes should first be resolved by informal discussion between the Parties. The Parties will attempt to resolve their disputes and controversies arising under this MOU by the procedural options afforded by the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes, as amended. This will be a condition precedent to any civil action between the Parties arising out of this MOU.

G. Indemnification

1. Pursuant to Section 768.28, Florida Statutes, the Sponsoring Agency assumes any and all risks of personal injury, bodily injury and property damage attributable to the negligent acts or omissions of the Sponsoring Agency and its officers, employees, servants, and agents thereof. The Sponsoring Agency warrants and represents that it is self-funded for liability insurance, or has liability insurance, both public and property, with such protection being applicable to the Sponsoring Agency and its officers, employees, servants and agents while acting within the scope of their employment with the Sponsoring Agency.

2. Pursuant to Section 768.28, Florida Statutes, the Participating Agency assumes any and all risks of personal injury, bodily injury and property damage attributable to the negligent acts or omissions of the Participating Agency and its officers, employees, servants, and agents thereof. The Participating Agency warrants and represents that it is self-funded for liability insurance, or has liability insurance, both public and property, with such protection being applicable to the Participating Agency and its officers, employees, servants and agents while acting within the scope of their employment with the Participating Agency.

H. E-Verify – Employment Eligibility

Each party warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended. Each party has registered with and uses, and shall continue to use, the E-Verify System (E-Verify.gov), to electronically verify the employment eligibility of all newly hired employees. If either party has a good faith belief that the other party has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, said party shall terminate this Agreement with the violating party.

I. Nondiscrimination.

Palm Beach 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, Sponsoring Agency 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.

J. Availability of Funds.

Each party's performance and obligations to pay under this contract for subsequent fiscal years are contingent upon annual appropriations for its purpose by their governing boards.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized on the date above written.

ATTEST:

Joseph Abruzzo, Clerk of the Circuit Court
& Comptroller

By: _____
Deputy Clerk


**PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS**

by: _____
Dave Kerner, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By:  _____
Fire Rescue

“Sponsoring Agency”

ATTEST:

CITY OF MIAMI,
a Florida municipal corporation

By: _____
Todd B. Hannon, City Clerk

By: _____
Arthur Noriega V, City Manager

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

By: _____
Victoria Méndez, City Attorney

**APPROVED AS TO INSURANCE
REQUIREMENTS:**

By: _____
Ann-Marie Sharpe, Director
Department of Risk Management