

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>
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 X

Budget Account Exp No:
 Rev No:

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

Grant:
 Fund:
 Unit:

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

Departmental Fiscal Review: *[Signature]* 1/20/23

II. REVIEW COMMENTS

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

J. J. Jacobson
 2/15/23
ASDULL 2/15/23
 OFMB 9A 2/15

J. J. Jacobson
 2/22/23
Contract Administration
 MA 2/22/23

B. Legal Sufficiency:

Ru Bu 2/24/23
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

Background and Justification (continued from page one): Palm Beach County operates and maintains a Next Generation 9-1-1 system. The Board of County Commissioners is the responsible fiscal agent for E911 funds under Rule 60FF-6.004, F.A.C. Through the Public Safety Department, 911 Program Services Division, they ensure compliance with technical and operational standards under Rule 60FF-6.005, F.A.C. These responsibilities are outlined in the Florida State E911 Plan, as mandated by Florida Statute 365.171. Florida.

**AGREEMENT FOR THE
INSTALLATION, OPERATION AND MAINTENANCE OF
THE 9-1-1 EMERGENCY CALL HANDLING SYSTEM**

THIS AGREEMENT (“the Agreement”) is made as of the ____ day of _____, _____, by and between the Board of County Commissioners, Palm Beach County, a political subdivision of the State of Florida (herein referred to as “COUNTY”), and the _____, a municipal corporation or agency of the State of Florida (herein referred to as “AGENCY”).

WITNESSETH

WHEREAS, the Florida Legislature enacted the Emergency Communications Number E911 Act, Section 365.172, Florida Statutes, for the purpose of establishing and implementing a comprehensive statewide emergency telecommunications number system that will provide users of voice communications services with rapid direct access to public safety agencies via a 911 system and to provide funds to counties for certain costs associated with their 911 or E911 system; and

WHEREAS, Section 365.172, Florida Statutes, provides for the levy of a reasonable fee on users of voice communications services to establish and implement a comprehensive statewide emergency telecommunications number system to allow direct access to public safety agencies by accessing the telephone number “9-1-1;” and

WHEREAS, Section 365.172(2)(e), Florida Statutes, acknowledges the legislative intent that the E911 fee authorized and imposed does not necessarily provide the total funding required to accomplish these purposes; and

WHEREAS, Sections 365.172 and 365.173, Florida Statutes, establishes how E911 fees are collected in the State of Florida and redistributed to the appropriate counties to be used as specified; and

WHEREAS, Section 365.173(2)(d), Florida Statutes, establishes the COUNTY as the body charged with the appropriation of these funds; and

WHEREAS, the COUNTY and the AGENCY recognize the need and benefits to having and maintaining a single functional 9-1-1 network in several locations for emergency call handling and transfer as designated in the Florida Emergency Communications Number E911 State Plan, as may be amended from time to time (hereafter referred to as the “State E911 Plan”); and

WHEREAS, to accomplish this, the COUNTY desires to implement a 9-1-1 system in the AGENCY's Public Safety Answering Point (PSAP), also known as an Emergency Communications Center (ECC), which implementation includes the COUNTY's acquisition, installation and maintenance of select COUNTY systems and equipment, and which also may include an annual disbursement of funds to the AGENCY to offset permissible expenditures, and reimbursement of capital expenses for certain 9-1-1 related equipment purchased by the AGENCY, all to the extent permitted under Sections 365.171 and 365.172, Florida Statutes and the County budget adopted, or to be adopted, for the 9-1-1 system; and

WHEREAS, the COUNTY and AGENCY consider entering into and performing this Agreement to be in the best interest of their respective citizens and the health, safety, and welfare of such citizens;

Now, therefore, in consideration of the mutual promises contained herein, the COUNTY and AGENCY agree as follows:

ARTICLE 1 - PURPOSE.

The purpose of this Agreement is set forth in the above recitals, and same are hereby incorporated herein by reference. This Agreement provides for the installation and maintenance of a 9-1-1 system as described in the Palm Beach County E911 Plan on file with the Florida Department of Management Services; establishes minimum performance standards and other related procedures; establishes a disbursement/reimbursement procedure; and defines responsibilities pertaining to the 9-1-1 Call Handling System as they relate to the parties hereto. The subjects addressed herein, and the responsibilities assigned are not all inclusive and it is anticipated that the Palm Beach County 9-1-1 system will require future revisions and modifications. As a result, this Agreement does not represent a limitation of 9-1-1 issues and may be amended by mutual written agreement of the parties.

ARTICLE 2 -BAILMENT.

- a. The COUNTY hereby provides to the AGENCY, and the AGENCY hereby accepts possession of, the COUNTY 9-1-1 systems and equipment, including 9-1-1 Call Handling Equipment ("CHE"), identified on **Exhibit A** attached hereto and incorporated herein (hereinafter referred to as "COUNTY 9-1-1 Systems and Equipment"). Exhibit A may be updated and modified from time to time as agreed to in writing by the parties' Contract Monitors; and each party hereby authorizes its respective Contract Monitor to execute such modified Exhibit A on behalf of said party.
- b. This provision of the COUNTY 9-1-1 Systems and Equipment shall be considered a bailment for the mutual benefit of the COUNTY (bailor) and the AGENCY (bailee).

All COUNTY 9-1-1 Systems and Equipment provided by the COUNTY hereunder shall remain the property of the COUNTY, and the AGENCY shall use such COUNTY 9-1-1 Systems and Equipment only for the purposes contemplated by this Agreement.

ARTICLE 3 – OBLIGATIONS OF THE COUNTY

- a. The COUNTY, through the Department of Public Safety, Division of 9-1-1 Program Services, shall provide the COUNTY 9-1-1 Systems and Equipment to the AGENCY, which the AGENCY shall use for routing, delivery, and handling of 9-1-1 emergency calls.
- b. The COUNTY 9-1-1 system shall be a Next Generation 9-1-1 Emergency Services IP Network (ESINet) and Call Handling System (CHS), and is compliant with all standards required by the State E911 Plan.
- c. The COUNTY will provide on-demand language translation services; monitoring of the COUNTY 9-1-1 Systems and Equipment; PSAP data analytics; and call taker training to the AGENCY's 9-1-1 Public Safety Telecommunicators.
- d. The COUNTY shall provide for the installation of, as well as preventive monthly inspection (PMI), maintenance, upgrades, and emergency service for, the COUNTY 9-1-1 Systems and Equipment.
- e. The COUNTY will ensure all service technicians are fingerprint background checked and Criminal Justice Information Services (CJIS) certified, as required by the Florida Department of Law Enforcement (FDLE) for unescorted entry into secure/restricted areas within PSAPs.
- f. The COUNTY shall be responsible for maintaining a current Master Street Address Guide (MSAG).
- g. The COUNTY shall give priority, in the allocation of E911 fee revenue, to recurring operational expenses of the network and systems; updating and refreshing 9-1-1 equipment and technologies; and any other mandatory expenses.
- h. The COUNTY may provide for an equitable annual disbursement of any remaining E911 fee revenues, not previously encumbered, or of monies specifically designated by the COUNTY, to offset the AGENCY's cost of appropriate statutorily permissible expenditures under Section 365.172, Florida Statutes. Such disbursement, if any, will be calculated by the COUNTY pursuant to an equitable formula. The COUNTY will notify the AGENCY of the amount of any such disbursement on an annual basis.

ARTICLE 4 - OBLIGATIONS OF THE AGENCY

- a. The AGENCY shall provide security and back-up power, to include a UPS (uninterrupted power source) to the COUNTY 9-1-1 Systems and Equipment in accordance with the State E911 Plan.
- b. The AGENCY shall comply with appropriate cybersecurity protocols as stipulated by the COUNTY, specifically the Department of Public Safety, Division of 9-1-1 Program Services.
- c. The AGENCY shall provide a number of call takers sufficient to meet the requirements of section 5.3.1 of the State E911 Plan. Call takers must maintain current Florida Department of Health Public Safety Telecommunicators certification.
- d. The AGENCY shall promptly notify the COUNTY of any issue that impacts the delivery and answering of 9-1-1 calls. This may include equipment failures or damage and database failures or errors. The AGENCY shall be responsible for lost equipment or equipment damaged due to the AGENCY's negligence based on the value of such equipment at the time of loss or damage.
- e. The AGENCY shall notify the COUNTY of any service boundary, street name, building or unit number, or other addressing that has been changed within three (3) business days of the approval setting forth such changes.
- f. The AGENCY shall operate its PSAP in compliance, at minimum, with all standards established for PSAPs by the State E911 Plan.
- g. The parties acknowledge that the AGENCY's operation of its PSAP may require the AGENCY to procure capital equipment in addition to the COUNTY 9-1-1 Systems and Equipment provided by the COUNTY hereunder. The AGENCY may request from the COUNTY reimbursement of capital expenses relating to such purchase(s) of 9-1-1 related equipment authorized under Section 365.172(10), Florida Statutes; provided that the COUNTY's approval, in its sole discretion, has been obtained prior to the AGENCY's procurement of such equipment. The AGENCY shall be responsible for purchasing and acquiring the equipment, and then submitting for reimbursement to the COUNTY all documentation required by the Palm Beach County Clerk and Comptroller's Office. All requests for reimbursement will be made as soon as practical, but no later than August 31st of each fiscal year this Agreement is in effect.
- h. The AGENCY shall provide access to their COUNTY 9-1-1 Systems and Equipment to COUNTY designated service technicians for installation, preventive monthly inspection (PMI), maintenance, upgrades, and emergency service.
- i. The AGENCY will perform no self-service maintenance on COUNTY 9-1-1 Systems and Equipment. The AGENCY shall contact the COUNTY for all maintenance and repairs of the COUNTY 9-1-1 Systems and Equipment.

- j. The AGENCY shall return to the COUNTY all COUNTY 9-1-1 Systems and Equipment when in disrepair or no longer in use, and at the termination of this Agreement, for tracking and proper disposal.

ARTICLE 5 - TERM AND TERMINATION

The term of this Agreement, unless terminated as provided in this Article 5, is for a period of five (5) years commencing June 1, 2023, with three (3) one-year renewal options, under the same terms and conditions stated herein, upon written agreement of the parties.

The COUNTY reserves the right to terminate this Agreement for cause upon ninety (90) days' written notice to the AGENCY. The AGENCY may terminate this Agreement upon sixty (60) days' prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Agreement through no fault of the AGENCY.

ARTICLE 6 - CONTRACT MONITORS AND NOTICES

The COUNTY's Contract Monitor shall be the Public Safety Department Director, whose telephone number is (561)712-6400. The AGENCY's Contract Monitor shall be the AGENCY's Manager, whose telephone number is (561)_____.

Any notice, request, instruction, demand, consent, or other communication required or permitted to be given under this Agreement shall be in writing and shall be delivered either by hand with a receipt obtained, or by certified mail return receipt requested, or by other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Public Safety Department Director
20 South Military Trail
West Palm Beach, FL 33415

With a copy to:

Dan Koenig, Senior Manager, PBC 9-1-1 Program Services
20 South Military Trail
West Palm Beach, FL 33415

and

Palm Beach County Attorney's Office
301 North Olive Ave. - 6th Floor
West Palm Beach, FL 33401

If sent to the AGENCY, notices shall be addressed to:

With a copy to:

ARTICLE 7 - LIABILITY

Each party to this Agreement shall be liable for its own actions and negligence. To the extent permitted by law, the COUNTY shall indemnify, defend and hold harmless the AGENCY against any actions, claims or damages arising out of the COUNTY's negligence in connection with this Agreement, and the AGENCY shall indemnify, defend and hold harmless the COUNTY against any actions, claims or damages arising out of the AGENCY's negligence in connection with this Agreement, including its negligent use, care and/or possession of the COUNTY 9-1-1 Systems and Equipment provided hereunder. This provision does not constitute consent of either party to be sued by third parties and shall not be construed as a waiver of either party's sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes. Nor shall this provision be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

ARTICLE 8 - WAIVER

If either party shall waive any provisions of the Agreement or fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed a continuing waiver and shall never be construed as such; and such party shall thereafter have the right to insist upon the enforcement of such conditions or provisions.

ARTICLE 9 - SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be held by a court of competent jurisdiction to be

invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 10 - ENTIRETY OF AGREEMENT

The COUNTY and the AGENCY agree that this Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto or as specifically provided for herein.

ARTICLE 11 - AUDITS and PUBLIC RECORDS

The AGENCY and the COUNTY shall maintain records relating to this Agreement and performance hereunder in accordance with Florida's public records laws and any other applicable laws, including any applicable confidentiality laws. At a minimum, the AGENCY and the COUNTY shall maintain such records for at least five (5) years after the termination of this Agreement. If any inquiry, investigation, audit or litigation is underway at any time during the five (5) year period, the AGENCY and the COUNTY shall continue to maintain and preserve the records until the resolution of the inquiry, investigation, audit or litigation. The COUNTY and the AGENCY shall have the right, upon reasonable request and during normal business hours, to inspect, examine or copy the other's records, and each party shall make such records available to the other party in Palm Beach County.

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's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the AGENCY, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in 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.

ARTICLE 12 - NO AGENCY

Nothing contained herein is intended to, nor shall create an agency relationship between the COUNTY and the AGENCY.

ARTICLE 13 - EMPLOYEE FUNCTIONS

No employee of the COUNTY or the AGENCY shall perform any function or service which is not within the employee's scope of duties as defined or determined by the employee's employer.

ARTICLE 14 - RELATIONSHIP OF EMPLOYEES

No employee, officer, or agent of either party shall, in connection with this Agreement or the performance of services and functions hereunder, have a right to or claim any pension, workers' compensation, unemployment compensation, civil service, or other employee rights, privileges, or benefits granted by operation of law or otherwise except through and against the entity by whom they are employed. No employee of either party shall be deemed the employee of the other, for any purpose, whatsoever. Neither party is authorized to make or enter into any contract, agreement, or warranty for or on behalf of the other, unless the parties to this Agreement have entered into a written agreement expressly authorizing such.

ARTICLE 15 - ASSIGNMENT OF RIGHTS

Neither party shall assign, transfer or convey, in whole or in part, its rights, duties, or obligations without the prior written consent of the other; however nothing contained herein shall be construed to prevent COUNTY, in its sole discretion, from using subcontractors to perform its obligations under this Agreement without obtaining consent.

ARTICLE 16 - NONDISCRIMINATION

In Resolution 2017-1770, the COUNTY expressed its commitment to assuring equal opportunity by not conducting business with nor appropriating funds to entities that discriminate as set forth therein. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the 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.

ARTICLE 17 - ANNUAL APPROPRIATIONS

Each party's performance and obligation under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for the purposes hereunder.

ARTICLE 18 - REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 19 - JOINT PREPARATION

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely or as a matter of judicial constraint, be construed more severely against one of the parties than the other.

ARTICLE 20 - CAPTIONS

The captions and section headings appearing in this Agreement are for convenience only, are not part of this Agreement, and are not to be considered in interpreting this Agreement.

ARTICLE 21 - DELEGATION OF DUTY

This Agreement shall not in any way or manner whatsoever be deemed to constitute a transfer of powers or functions. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.

ARTICLE 22 - SURVIVABILITY

Any provision of this Agreement that is of a continuing nature, or which by its language or nature imposes an obligation or right that extends beyond the term of this Agreement, shall survive the expiration or earlier termination of this Agreement.

ARTICLE 23 - 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 AGENCY.

ARTICLE 24 - 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.

ARTICLE 25 - FORCE MAJEURE

The COUNTY and/or the AGENCY shall not be deemed in default or in breach of this Agreement to the extent it is unable to perform due to an event of Force Majeure. For the purpose of this Agreement, Force Majeure shall mean and include any strike, lockout, civil commotion, war-like operation, natural disaster, invasion, rebellion, pandemic, military power, sabotage, government regulations or controls over which COUNTY or AGENCY, as applicable, has no amendatory powers, inability to obtain any material, utilities, service or financing, through Acts of God or other cause beyond the reasonable control of the COUNTY or AGENCY, as applicable. Furthermore, the COUNTY and the AGENCY specifically acknowledge that neither shall have any liability whatsoever for any damages or injuries due to a Force Majeure.

ARTICLE 26 - TERMINATION OF PRIOR AGREEMENT

The prior Agreement for the Enhancement and Maintenance of the E9-1-1 Emergency Telephone Number System, entered into between the parties in 1992, shall be automatically terminated upon the commencement of this Agreement.

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IN WITNESS WHEREOF, the COUNTY and the AGENCY have each caused this Agreement to be executed by its duly authorized official as of the date first set forth above.

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

AGENCY:

By: _____
County Administrator or Designee

AGENCY Name

By: _____
AGENCY Signature

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

Typed Name & Title

ATTEST:

By: _____
Assistant County Attorney

By: _____
AGENCY CLERK Signature

AGENCY CLERK Name & Title

**APPROVED AS TO TERMS
AND CONDITIONS**

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Department Director

By: _____
AGENCY's Attorney

(corp. seal)

PSAP:

Back Room

HP Proliant G8 DL160 SE SERVER	4
Cisco 24-port Switch	2
4 ft IT Cabinet	1
Color Laser Printer	1

Workstations

Intrado A9C Call Handling Appliance	2
22" Touchscreen Monitor	2
22" Monitor	2
Genovation Keypad	2
Keyboard	2
Mouse	2

SAMPLE