

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>
Personal Services	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Capital Expenditures	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	*	_____	_____	_____	_____

ADDITIONAL FTE

POSITIONS (Cumulative)	0	0	0	0	0
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Is Item Included In Current Budget? Yes _____ No _____
 Is this item using Federal Funds? Yes _____ No x
 Is this item using State Funds? Yes _____ No X

Budget Account Exp No: Fund _____ Dept. _____ Unit _____ Obj. _____ Prog. _____
 Rev No: Fund _____ Dept. _____ Unit _____ Rev. _____ Prog. _____

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

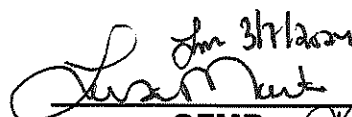
Grant:
 Fund:
 Unit:

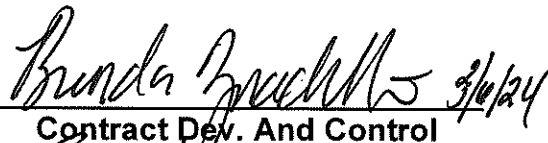
*The fiscal impact is indeterminable. This agreement is not intended to create financial obligations between the County and PBSC. In the event that costs are incurred as a result of either or both of the parties performing their duties or responsibilities under these Agreements, each party will be responsible for their own cost.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 2/14/2024
 OFMB 9/18/14 V.S. 2/14
3/7 3/7

 3/6/24
 Contract Dev. And Control
Tom 3/6/24

B. Legal Sufficiency:

 3/12/24
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

MEMORANDUM OF AGREEMENT

BETWEEN

PALM BEACH COUNTY AND PALM BEACH STATE COLLEGE

This Memorandum of Agreement (MOA) is entered into on this 2nd day of April, 2024 by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners ("County"), and the District Board of Trustees of Palm Beach State College ("PBSC") a political subdivision of the State of Florida, which are the parties hereto.

WITNESSETH

WHEREAS, this MOA formalizes the commitment of the parties to work together to provide crisis response, forensic examinations, advocacy & trauma-informed services to student and employee victims of sexual assault and to improve the overall response to victims of sexual assault at PBSC. The parties share the goal of preventing sexual assault on campus and in the community and responding appropriately to students and employees who have been victimized.

NOW THEREFORE, subject to controlling law, rules or regulations or to other governing policies and/or procedures, and in consideration of the mutual interests and understandings expressed herein, the parties agree as follows:

I. SCOPE OF AGREEMENT

Each party agrees to act in good faith to observe the terms of this MOA; however, nothing in this MOA is intended to require any unlawful or unauthorized act by any Party. No provision of this MOA shall form the basis of a cause of action of law or equity by any Party against any other Party, nor shall any provision of this MOA form the basis of a cause of action at law or equity by any third party.

County and PBSC agree to carry out their respective duties and responsibilities outlined below, subject to controlling law, policy(ies) and/or procedures, staffing and resource availability, and budgetary constraints.

II. TERM OF AGREEMENT

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.

This Agreement shall extend for a period of three (3) years thereafter unless terminated earlier in accordance to this MOA. This Agreement may be renewed for an additional two (2) year period, after the initial agreement term, upon the same terms and conditions contained herein, and upon agreement of both parties. Exercise of the renewal option is at each party's sole discretion. The renewal term shall be considered separate and shall require the execution of a renewal amendment that shall be signed by both parties.

III. SERVICES

PBSC and County agree to provide victim services to students and faculty/staff, in a manner that aligns with Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., the Violence Against Women Act (VAWA), P.L. 103-322, Violence Against Women Reauthorization Act (VAWRA) of 2013, P.L.

113-4, and Cleary Act, 20 U.S.C. 1092 (f), and best practice standards in the field of sexual violence victim services, and commensurate with services available to crime victims in the community at large.

A. Responsibilities of PBSC

1. Identify a point of contact for County to facilitate referrals for confidential services.
2. Collaborate with County on programs to prevent sexual violence and other crimes against persons on campus.
3. Appoint a representative to serve on the County Sexual Assault Response Team (SART).
4. Any time that an incident or allegation of sexual abuse is discovered or reported that requires the activation of this agreement, if requested by the student or faculty member, PBSC will call the County to request a victim advocate respond to accompany the victim during law enforcement interviews, sexual assault forensic exam and/or provide other advocacy services.
5. Assist in the elimination of perceived barriers for victims of sexual violence to receive necessary support and services by relaying contact information about County services to crime victims.
6. Ensure that the helpline phone number and brochures are available to students and faculty and placed in prominent areas.
7. Provide for logistical needs that the County may have when performing services under this agreement.
8. Respect the nature of privileged communication between County on sexual assault cases and abide by all state and federal laws governing confidentiality.
9. Remain committed to supporting students under Title IX, VAWA, and the Cleary Act.
10. Provide information/training to County about on-campus resources that are available to student and faculty victims of sexual assault, new developments/directives of federal and state requirement of colleges in responding to sexual assault to include reporting procedures, information on the student code of conduct and disciplinary process, and educational accommodations that can be provided to victims of sexual assault.
11. Communicate any questions or concerns to the County.

B. Responsibilities of County

1. Identify a point of contact for PBSC to facilitate referrals for confidential services.
2. Collaborate with County on programs to prevent sexual violence and other crimes against persons on campus.
3. Notify the PBSC representative of SART meetings.
4. Maintain privileged communication with clients as required by state and federal law and the County policy.

5. Obtain informed consent before releasing any information to PBSC, campus security, or local law enforcement, except as required by court order, subpoena or other legal requirement. Any release obtained will be written, informed, and reasonably limited in time.
6. Provide a 24/7 rape crisis helpline, staffed by certified rape crisis victim advocates.
7. Provide a certified rape crisis victim advocate to respond to requests for advocacy and accompaniment during sexual assault forensic exams and investigatory interviews.
8. Provide a sexual assault nurse examiner (SANE), if available, to conduct forensic examinations.
9. Provide follow-up crisis intervention, advocacy services, and therapy services to crime victims.
10. Support the training and professional development of staff at PBSC in terms of the victim centered approach and best practices.
11. Communicate any questions or concerns to the PBSC.

IV. FINANCIAL OBLIGATIONS

The parties acknowledge that this Agreement is not intended to create financial obligations between the parties. However, in the event that costs are incurred as a result of either or both of the parties performing their duties or responsibilities under this Agreement, each party agrees to be responsible for their own costs.

V. AGREEMENT MANAGEMENT

Changes to a designated contact contained in this section shall be made via written notification to the address set forth below.

A. County Agreement Administrator

The Agreement Administrator is responsible for maintaining the official Agreement file, processing any amendments or termination of the Agreement, and maintaining records of all formal correspondence between the parties regarding administration of this Agreement.

The address, e-mail, and telephone number of the County's Agreement Administrator is:

Nicole Bishop
Palm Beach County Board of County Commissioners
Director, Division of Victim Services
205 North Dixie Highway
West Palm Beach, FL 33401
561-355-1723 (office)
561- 723-4789 (cell)
nbishop@pbcgov.org(e-mail)

B. Agreement Managers

The parties have identified the following individuals as Agreement Managers. These individuals are responsible for enforcing performance of the Agreement terms and conditions and shall serve as liaison regarding issues arising out of this Agreement.

FOR PBSC

Penny J. McIsaac
Title IX Coordinator
4200 Congress Avenue
Lake Worth, FL 33461
Telephone: (561) 868-3842
Fax: (561)868-3141
E-mail:
mcisaacp@palmbeachstate.edu

FOR COUNTY

Earlene Boone, Victim Services Team
Supervisor
Division of Victim Services
4210 North Australian Avenue
West Palm Beach, FL 33407
Telephone: (561) 625-2568
Fax: (561) 845-4424

E-mail: eboone@pbcgov.org

C. Legal Notices To County

Palm Beach County Attorney's Office
Attn: Public Safety-Victim Services
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
Telephone: 561-355-2225
Fax: 561-659-7974

D. Legal Notice to PBSC

Palm Beach State College- Office of General Counsel
Attn: Kevin Fernander, Esq.
4200 Congress Avenue
Lake Worth, Florida 33461

VI. REVIEW AND MODIFICATION

On an annual basis upon request of either party, both parties will review this Agreement in order to determine whether its terms and conditions are still appropriate. If the parties mutually agree that the terms and conditions require update or revision, the parties may renegotiate terms and conditions hereof which shall be documented in an amendment to this Agreement executed by both parties. There is no obligation to agree to new or revised terms and conditions and both parties retain the right of termination as set forth in Section VII below.

Modifications to the provisions of this Agreement, with the exception of Section V, Agreement Management, shall be valid only through execution of a formal written amendment to the Agreement.

VII. TERMINATION

This Agreement may be terminated at any time upon the mutual consent of both parties or unilaterally by either party upon no less than thirty (30) calendar days' notice. Notice shall be delivered by express mail or other method whereby a receipt of delivery may be obtained, to the addresses in Section V.

VIII OTHER CONDITIONS

A. Public Records Law

The County and PBSC each agree to: (a) keep and maintain public records that would ordinarily and necessarily be required to perform the services or duties of this Agreement; (b) allow public access to records in accordance with the provisions of Chapter 119 and 945.10, Florida Statutes, or other applicable legal authority regarding access to public records, or confidentiality regarding student or academic records; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized or required by law. Upon completion of the MOA PBSC shall transfer, at no cost to the County, all public records in possession of PBSC unless notified by the County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If PBSC transfers all public records to the County upon completion of the Contract, PBSC shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If PBSC keeps and maintains public records upon completion of the MOA, PBSC shall meet all applicable requirements for retaining public records. All records stored electronically by PBSC must be provided to the County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of the County, at no cost to the County. PBSC and County agree to consult with each other regarding public record requirements prior to the dissemination or release of records in response to a public record request.

If PBSC has questions regarding the application of Chapter 119, Florida Statutes, to PBSC's duty to provide public records relating to this contract, please contact the custodian of public records at Records Request, Palm Beach County Public Affairs Department, 301 N. Olive Avenue, West Palm Beach, FL, 33401, by e-mail at recordsrequest@pbcgov.org or by telephone at 561-355-6680.

B. Indemnification

PBSC and County shall each be liable for its own actions and negligence and, to the extent permitted by law, each party shall indemnify, defend, and hold each other harmless against any actions, claims, or damages arising out of the other party's negligence in connection with this MOA. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful, and, or intentional acts or omissions. Nothing herein shall serve as a waiver of sovereign immunity.

C. Confidentiality

County shall ensure all staff assigned to this MOA maintains confidentiality with reference to individual participants receiving services in accordance with applicable local, state, and federal laws, rules and regulations. The PBSC and the County agree that all information and records obtained in the course of providing services under this MOA shall be subject to confidentiality and disclosure provisions of applicable federal and state statutes and regulations adopted pursuant thereto.

D. Disputes

Any dispute concerning performance of the terms of this Agreement shall be resolved informally by the Agreement Managers. Any dispute that cannot be resolved informally shall be reduced to writing and delivered to the Nicole Bishop, Director of Victim & Justice Services. The Director of Victim & Justice Services shall decide the dispute, reduce the decision to writing, and deliver a copy to the parties, the MOA Managers. If the decision is not acceptable to the PBSC, then MOA can be canceled immediately.

E. Data Sharing

PBSC and County acknowledge their separate obligations to store and disseminate data in compliance with the requirements of Public Records Law, Chapter 119, Florida Statutes, and with other applicable statutes that constitute express exceptions to the requirements of Section 119.07(1), Florida Statutes, by making certain categories of records confidential, exempt from disclosure, or accessible as prescribed by statute. The parties acknowledge that the data exchanged between them has been provided for official purposes and that public access to such data is limited and prescribed by statute. The parties therefore agree, consistent with public records law, to refer third parties requesting delivery of information to the originating party. The parties further agree to disseminate data only in compliance with confidentiality restrictions and in recognition of the exemptions from disclosure provided by law. Each party shall provide advance copies of documents involving the other party's data for review to provide opportunity for comment on confidential information as described herein prior to publication.

F. Notices

All notices required or permitted by this MOA shall be given in writing and by hand-delivery or email to the respective addresses of the parties as set forth in Section V above. All notices by hand-delivery shall be deemed received on the date of delivery and all notices by email shall be deemed received when they are transmitted and not returned as undelivered or undeliverable.

G. Health Insurance Portability and Accountability Act

The parties shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U. S. C. 1320d-8), and all applicable regulations promulgated there under. Execution of this MOA is evidence of agreement to comply with HIPAA.

H. Insurance/Liability

PBSC and County are political sub-divisions of the State subject to the limitations of Florida Statutes 768.28 as amended. Should either PBSC or County contract for services related to this MOA, then PBSC and, or County shall require its contractor to provide at least the insurance indicated below throughout contractor's performance of services, and to evidence such insurance to either PBSC or County upon request.

Commercial General Liability. Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include PBSC and the County as Additional Insureds. PBSC shall also require that the contractor include a Waiver of Subrogation against the County. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department.

Business Automobile Liability. Business Automobile Liability at a limit of liability not less than \$1,000,000 combined single limits for property damage and bodily injury per occurrence.

Workers' Compensation Insurance & Employer's Liability. PBSC shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440 with minimum limits of \$1,000,000 per each accident.

When requested, PBSC shall provide an affidavit or Certificate of Insurance evidence insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve PBSC of its liability and obligations under this MOA.

I. Employee Status

This MOA does not create an employee/employer relationship between the parties. It is the intent of the parties that the PBSC and County are independent contractors under this MOA and neither is the employee of the other for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The parties shall each retain sole and absolute discretion in the judgment of the manner and means of carrying out their activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this MOA shall be those of each individual party. Services provided by each party pursuant to this MOA shall be subject to the supervision of such party. In providing such services, neither party nor its agents shall act as officers, employees, or agents of the other party. The parties agree that they are separate and independent enterprises, and that each has the ability to pursue other opportunities.

This MOA shall not be construed as creating any joint employment relationship between the Parties and neither party will be liable for any obligation incurred by the other party, including, but not limited to, unpaid minimum wages and/or overtime premiums.

J. Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this MOA or interruption of performance resulting directly or indirectly from acts of God, pandemic/epidemic, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

K. Cooperation with Inspector General

In accordance with Section 20.055(5), Florida Statutes, the County understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.

Palm Beach County has established the Office of the Inspector General in County Code, Section 2-421 - 2-440, as may be amended. PBSC will cooperate with the County's Inspector General in any investigation, audit, inspection, review or hearing.

L. Nondiscrimination

Both Parties are committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. As such, both Parties warrant and represent that throughout the term of the Contract, 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 Contract.

M. E-VERIFY - EMPLOYMENT ELIGIBILITY

Both parties warrant and represent that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of each party's subconsultants performing the duties and obligations of this MOA are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

Each party shall obtain from each of its subconsultants an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. Each party shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this MOA which requires a longer retention period.

Either party shall terminate this MOA if it has a good faith belief that the other party has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If either party has a good faith belief that the other party's subconsultant has knowingly violated section 448.09(1), Florida Statutes, as may be amended, the non-violating party shall notify the violating party to terminate its contract with the subconsultant and the violating party shall immediately terminate its contract with the subconsultant.

N. Appropriations

Each party's performance and obligations under this MOA for subsequent fiscal years are contingent upon annual appropriations for its purpose.

IN WITNESS THEREOF, the parties hereto have caused this MOA to be executed by their undersigned officials as duly authorized.

ATTEST:

**JOSEPH ABRUZZO
CLERK AND COMPTRROLLER**

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

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

PALM BEACH STATE COLLEGE

By:  _____
County Attorney

By:  _____
James Duffie, CPA
Vice President of Finance and Administration

APPROVED AS TO TERMS
AND CONDITIONS

By: *Sepicha*
Department Director

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *Geovanni J. Denis*
Geovanni Denis, Esq
Associate General Counsel