

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 9, 2026 [X] Consent [] Regular
[] Ordinance [] Public Hearing

Department: Department of Public Safety
Submitted By: Department of Public Safety
Submitted For: Division of 911 Program Services

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve the Florida Emergency Communications Board (FECB) 9-1-1 State Grant Program application for \$929,800 to implement Next Generation 9-1-1 Tactical Mapping and Analytics for a two (2) year period to include implementation, training and services; and

B) delegate authority to the County Administrator or designee to accept, approve, execute and submit, electronically or otherwise, on the County's behalf, the grant award, representations, certifications, acknowledgements, assurances, reports, standard forms and documents, reimbursement requests, amendments, time frame changes, and other necessary documents that do not substantially change the scope of work, terms, or conditions of the grant.

Summary: The Public Safety Department, 911 Program Services Division, is responsible for deploying and maintaining the technical infrastructure that provides the communications network and call taking equipment to 16 Public Safety Answering Points (PSAPs) across Palm Beach County. This grant request is for reimbursement of costs to implement the RapidDeploy Tactical Mapping and Analytics Project (RapidDeploy) which is a part of an existing service agreement with AT&T. RapidDeploy is a unique cloud-based Software-as-a-Service (SaaS) platform that assists public safety agencies in reducing response times, improving situational awareness, call processing times, resource performance, and data analytics reporting when responding to time-critical incidents. Through a partnership with AT&T, the platform is interoperable to the existing Call Handling Equipment at the PSAPs and will provide a common mapping product for real-time situational awareness in daily operations and large-scale incidents and emergencies. Should the grant be awarded by the FECB, a contract will be issued and will be presented to the Board of County Commissioners via the Office of Technology & Innovation as part of the AT&T master service agreement. **No County matching funds are required for this grant. Countywide (SB)**

Background and Justification: These funds come from the Emergency Communications Trust Fund (Laws of Florida, Chapter 2024-231). The funds allow for system upgrades to develop and maintain statewide 911 routing, geographic, and management information systems, next-generation 911 services and equipment, in accordance with Florida Statute 365.173 Emergency Communications Trust Fund.

Attachment:

- 1) Florida Emergency Communications Board Grant Application

Recommended By:  5/4/26
Department Director Date

Approved By:  5/18/26
Deputy County Administrator Date

911 Grant Programs

Application and instructions for 911 Grant Programs, revised May 2023
W Form 3A, incorporated by reference in Fla. Admin. Code R. 60FF1-5.003 911 Grant Programs

Application

County

Palm Beach

Total Amount Requested: \$929,800.00

Project Title: Tactical Mapping and Analytics Project

1. Chair, Board of County Commissioners: Sara Baxter, Mayor

Mailing Address: 301 N Dixie Hwy

City: West Palm Beach

State: FL Zip: 33401 -

Phone: (561) 355-2206 Fax:

Email Address: SBaxter@pbc.gov

2. County, 911 Coordinator: Daniel Koenig

Mailing Address: 50 S Military Tr Suite 1S-115

City: West Palm Beach

State: FL Zip: 33415 -

Phone: (561) 712-6486 Fax:

Email Address: DKoenig@pbc.gov

3. Federal Tax ID Number: 59-6000785

4. County information

Number of PSAPs	13 Primary, 3 Secondary
Number of Call-taking Positions per PSAP	2 – 50; see attached breakdown
PSAP(s) in which grant funding will apply.	Atlantis, Boca Raton, Boynton Beach, Delray Beach, Florida Atlantic University, Lantana, Manalapan, Ocean Ridge, Palm

	Beach, Palm Beach Gardens, Palm Springs, Riviera Beach, and West Palm Beach.
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5. Financial Information

- a. What are the current annual costs for your 911 system (e.g., circuits, customer records, hardware and software, etc.) not including maintenance?
\$2,659,987.57
- b. What are the current annual costs for maintenance of items included in 5a?
\$1,526,002.67
- c. Total amount of 911 fee revenue received in the preceding year. This does not include any special disbursement, Rural County supplements or training disbursements.
\$8,072,300.49
- d. Total amount of county carry-forward funding retained in the preceding fiscal year.
\$712,324.00
- e. Total amount of county carry forward funding your county currently has accrued?
\$10,963.515
- f. Two-year maximum calculated amount for applied carry forward funding. (2 times the amount calculated on your Form 6A, item 9, in rule 60FF1-5.006)
\$5,268,180.30
- g. Subtract the amount in 5f from the amount in 5e.
\$5,695,334.70
- h. If the amount in 5g is greater than zero, insert that number in the Budget Report as "carry forward funds applied."

6. Describe your county's existing 911 system. Include specific information on existing system equipment upgrades and when the installation of this equipment was completed. Please include the PSAP(s) that the grant will be implemented at to include the type of PSAP(s), primary system, and number of position seats. Please state if this is a part of a group or regional project and how you will be interoperable.

Palm Beach County has thirteen (13) primary and three (3) secondary PSAPs on a single ESINet. These PSAPs are interoperable with both voice and text-to-911 calls.

Our Call Handling Equipment (CHE) is Intrado VIPER v.7 and Motorola Vesta v.8.4. The diverse CHE provides an added layer of redundancy.

- All PSAPs were migrated to our current ESINet in December 2023.
- We are consolidating our Belle Glade and Eagle Communications Center to a single location at the Eagle Communications. This will operate as a backup PSAP for PBSO or other PSAPs.
- We are currently hardware refreshing equipment at PBSO – Eagle Communications Center and PBC Fire-Rescue.
- Aside from dual circuitry, FirstNet connections are provided at several PSAP for tertiary connectivity.
- We are implementing PSAP-initiated video, transcription and live translation through our current CHE providers.

The grant will be implemented in our municipal PSAPs and Florida Atlantic University on the Intrado VIPER system. PBSO, PBCFR and FHP will be implemented as part of our Vesta hardware refresh.

- 7. Describe the scope of work for the proposed project including any goal(s) and objectives. Include the tasks to be performed as part of the project. Provide scope of work in quantifiable units of deliverables that shall be received and accepted. For each deliverable specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. For any scope of work that includes milestones, please describe in detail what deliverables are expected to be provided in each milestone.**

RapidDeploy's Next Generation (NG911) Bundle works in tandem with the GIS Data Project. The NG911 Bundle combines Tactical Mapping and Data Analytics in a unique cloud-based Software-as-a-Service (SaaS) platform that assist public safety agencies in reducing response times, improving situational awareness, call processing times, call routing, resource performance, and data analytics reporting when responding to time-critical incidents. It will also provide the county with real-time situational awareness solving the challenge of effective real-time multi-agency communication between Call-Takers, Dispatchers and First Responders. The NG911 Bundle combines an advanced tactical mapping solution that leverages rich GIS data, more than 20 base map and feature layers and supplemental device location data with an analytics platform enabling data analysis, reporting on PSAP call performance, benchmarking and trend analysis into a single platform. This project allows for a single cloud-based solution to aggregate all sources into one platform. The RapidDeploy platform is agnostic and can be deployed with our VIPER and Vesta CHE.

- 8. Justification of the need for the proposed project. Provide detailed information on the existing systems/components that need replacement. Document the condition with details to justify any system with an expected lifespan of less**

than one year. Each component on the system, (e.g. memory, hardware, size of drives), updates of software and/or replacement versions needed, standalone equipment, and additional upgrades (include UPS) must be listed in the requests.

Palm Beach County will move to a standard 9-1-1 mapping product across the county. The move to RapidDeploy will provide extra layers of interoperability and resilience with the features in its NG911 bundle. The use of a cloud-based system will provide real-time uploads of GIS data with the need to upload data at each site.

The NG911 Bundle is a cloud-based solution using its RadiusPlus tactical mapping platform to provide ANI/ALI data, supplemental device location data through partnerships with Apple EED and Google ELS, and the ability to identify a 911 call placed within the PSAP's jurisdiction and mistakenly misrouted to a neighboring PSAP. RapidDeploy has also been able to deliver ANI/ALI data during carrier or core services outages.

In the event of a PSAP evacuation or outage, call takers can log into the RadiusPlus platform from any accessible internet accessible computer and access data specific to their county and region.

9. Describe why your county, group of counties or region will not be able to complete this project without this grant funding.

Palm Beach County is currently making the following upgrades and projects:

- Implementation of PSAP initiated video, transcription, and live translation.
- Consolidating PBSO Belle Glade and PBSO Eagle Communications Center into a single location.
- Hardware refresh of Vesta back room at the two (2) hosts.
- Hardware refresh of Vesta 9-1-1 CHE at Eagle Communications Center and Palm Beach County Fire Rescue.
- Implementation of a GIS Repository to align Region 7 and integrate with Region 6.

The following projects are currently being planned.

- Replace current dispatch console furniture at Palm Beach County Fire-Rescue.
- Move of Riviera Beach Police Department PSAP to a permanent location.
- Move of West Palm Beach PSAP due to mold remediation.
 - A remodel and replacement of 911 workstations will be required.
- Implementation of satellite back-up at PBSO Headquarters.

Palm Beach County 9-1-1 revenues and capital funds will be used for the above projects. We have seen different 9-1-1 allocations trend downward over the past few years, along with an increase in monthly expenses for the 9-1-1 CHE and services. This has created a need to use grant funds for this project.

10. Describe the required steps with an anticipated time schedule which includes procurement and payment milestones and a total project completion date.

Upon notification of grant award, Palm Beach County will initiate a supplemental pricing schedule with AT&T. Contingent on any unexpected delays or issues, the anticipated schedule is:

000-090 Days – Procure hardware and services. Equipment order, awaiting delivery of equipment, and preparation of the work area to accommodate the new PC's.

091-120 Days –System configuration, installation, integration of local authoritative GIS data and testing.

121- 150 Days – Training, final acceptance test and system commissioning, final completion and payment and begin the 1st year maintenance and services.

11. If applicable, sole source justification must meet the state procurement guidelines and chapter 287.057 (3), F.S.

Palm Beach County will be utilizing an existing Master Agreement to purchase and install this equipment as an addition to their current infrastructure. Palm Beach County Purchasing Policy and Procedures # CW-L-008, and AT&T Master Agreement 1588UA are attached to this application. AT&T is an authorized reseller of RapidDeploy. This will also allow the county to use their current AT&T maintenance agreement for service.

12. If applicable, please include your previous service dates for any maintenance or support services.

13. RESERVED

14. Assurances

ACCEPTANCE OF TERMS AND CONDITIONS: The grantee accepts all grant terms and conditions. Grantee understands that grants are contingent upon the availability of funds.

DISCLAIMER: The grantee certifies that the facts and information contained in this application and any attached documents are true and correct. If this requirement is violated, the grantee is subject to revocation of the grant and return of all grant funds and interest accrued (if any), pursuant to the E911 Board authority and any other remedy provided by law.

NOTIFICATION OF AWARDS: The grantee understands and accepts that the notice of award will be advertised on the Florida E911 website.

MAINTENANCE OF IMPROVEMENT AND EXPANSION: The grantee agrees that any improvement, expansion or other effect brought about in whole or part by grant funds will be maintained. No substantial changes or departures from the original proposal shall be permitted unless the E911 Board gives prior written authorization. Any unauthorized change will necessitate the return of grant funds, and accrued interest (if any) to the E911 Board.

The county certifies that all applicable state procurement rules/procedures have been met.

Failure to use grant funds as represented jeopardizes the grantee's eligibility to be considered for future funding.

15. Authority

I hereby affirm my authority and responsibility for the use of funds requested.

SIGNATURE – MAYOR, BOARD OF COUNTY COMMISSIONERS DATE
OR COUNTY MANAGER/ADMINISTRATOR

Printed Name

Position

Regional Signatures if Applicable (add additional lines if needed)

Approved as to Terms and Conditions

By: 
Department Director

Approved as to Legal Sufficiency

By: 
Assistant County Attorney

911 Grant Program

Appendix I: Authorized Expenditures of E911 Fee, Chapter 365.172, F.S.

NO requests for funding will be acknowledged for any items not specified in Section 365.172, Florida Statutes, Emergency communication number “E911”; paragraph (10) (shown below).

Section 365.172 (10), Florida Statutes: AUTHORIZED EXPENDITURES OF E911 FEE. —

(a) For purposes of this section, E911 service includes the functions of database management, call taking, location verification, and call transfer. Department of Health certification, recertification, and training costs for 911 public safety telecommunications, including dispatching, are functions of 911 services.

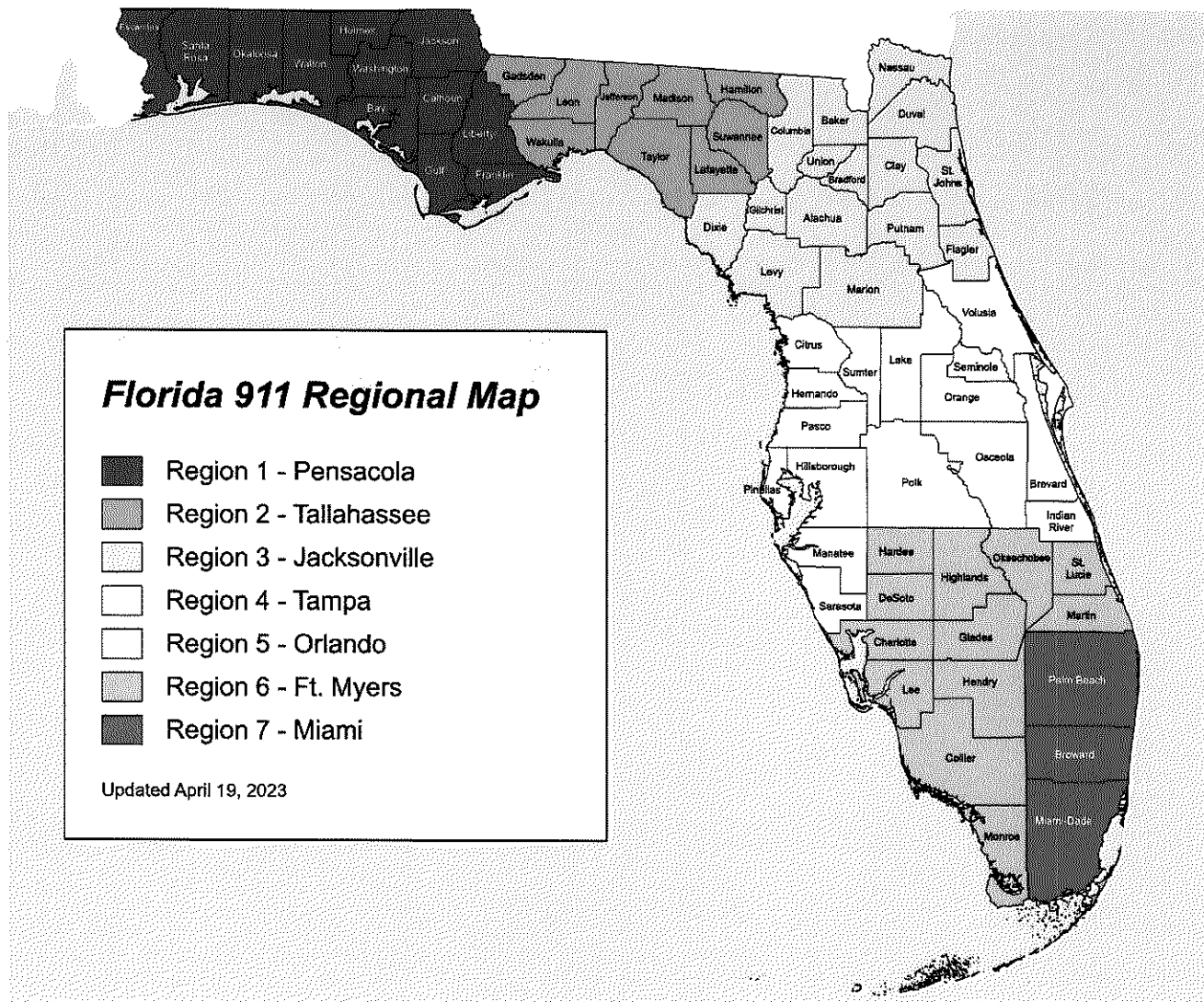
(b) All costs directly attributable to the establishment or provision of E911 service and contracting for E911 services are eligible for expenditure of moneys derived from imposition of the fee authorized by subsections (8) and (9). These costs include the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and E911 service features, as defined in the providers' published schedules or the acquisition, installation, and maintenance of other E911 equipment, including circuits; call answering equipment; call transfer equipment; ANI or ALI controllers; ANI or ALI displays; station instruments; E911 telecommunications systems; visual call information and storage devices; recording equipment; telephone devices and other equipment for the hearing impaired used in the E911 system; PSAP backup power systems; consoles; automatic call distributors, and interfaces, including hardware and software, for computer-aided dispatch (CAD) systems; integrated CAD systems for that portion of the systems used for E911 call taking; GIS system and software equipment and information displays; network clocks; salary and associated expenses for E911 call takers for that portion of their time spent taking and transferring E911 calls, salary, and associated expenses for a county, group of counties or region to employ a full-time equivalent E911 coordinator position and a full-time equivalent mapping or geographical data position, and technical system maintenance, database, and administration personnel for the portion of their time spent administering the E911 system; emergency medical, fire, and law enforcement prearrival instruction software; charts and training costs; training costs for PSAP call takers, supervisors, and managers in the proper methods and techniques used in taking and transferring E911 calls, costs to train and educate PSAP employees regarding E911 service or E911 equipment, including fees collected by the Department of Health for the certification and recertification of 911 public safety Telecommunicator's as required under s. 401.465; and expenses required to develop and maintain all information, including ALI and ANI databases and other information source repositories, necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the E911 call-taking and transferring function. Moneys derived from the fee may also be used for next-generation E911 network services, next-generation E911 database services, next-generation E911 equipment, and wireless E911 routing system(c)

The moneys should not be used to pay for any item not listed in this subsection, including, but not limited to, any capital or operational costs for emergency responses. Even any which occur after the call transfer to the responding public safety entity and the costs for constructing, leasing, maintaining, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and E911 equipment rooms.

**Application and instructions for 911 Grant Programs, revised May 2023
W Form 3A, incorporated by reference in Fla. Admin. Code R. 60FF1-5.003 911 Grant Programs**

911 Grant Program

Appendix II: Florida 911 Regional Map



Application and instructions for 911 Grant Programs, revised May 2023
W Form 3A, incorporated by reference in Fla. Admin. Code R. 60FF1-5.003 911 Grant Programs

E911 Grant Program

Addendum 2 : Funding Priorities

The criteria for determining acceptability for disbursement of funds from the state of Florida 911 Grant Programs will be made on a PRIORITY basis. Regional 911 system project requests related to systems and equipment will be considered the highest priority within each priority category. If you do not see your specific 911 project listed, you are still eligible to receive funding and can apply.

1.0 Prepaid and Wireless Funding Priorities

PRIORITY 1: Primary and Secondary PSAP systems that require immediate system replacement to provision enhanced 911 status or when the expected remaining life of the system is less than one year.

PRIORITY 2: Development and maintenance of 911 routing statewide, geographic, and management information systems.

- A)** Statewide routing system
- B)** Regional, as an incremental step towards systems statewide
 - 1. GIS Repository
 - 2. NGCS
 - 3. Map Display and Services
 - 4. Management information systems and services
- C)** GIS Services required for the delivery of a call
 - 1. GIS Data support-assisting counties in meeting the 98% NENA GIS Data minimum standards
 - 2. Creation of the required layers of the NENA GIS Data modelⁱ
 - 3. GIS Maintenance Tools- this includes software or software as a service
- D)** Management Information System and services
- E)** Cybersecurity
 - 1. Cybersecurity assessments
 - 2. Cybersecurity hardware and software
 - 3. Ongoing cybersecurity maintenance

PRIORITY 3: Implement and maintain next generation 911 services and equipment.

PRIORITY 4: Mapping system and services necessary for provisioning Geographic Information Systems (GIS). This includes the following, listed in order of funding priority:

- A) Map System Equipment - map generation hardware and software licensing are limited to components for two stations.
- B) GIS Centerline point generation and map accuracy systems
- C) Synchronization of GIS data and databases that support location repositories to meet a minimum 98% data accuracy for Geospatial call routing.
- D) Map display and services

PRIORITY 5: Develop and maintain Next Generation 911 services and equipment.

- A) Next Generation 911 Equipment and Emergency Services IP based network
- B) Next Generation Core Services

PRIORITY 6: Systems that require new or replacement of critical or necessary hardware or software. This includes the following back-up PSAP's system equipment, listed in order of funding priority A-H:

- A) Hardware and software for communications or terminal equipment located at a PSAP for 911 call processing, ANI and ALI display, and call answering.
- B) Map Display Equipment
- C) Logging Equipment
- D) Lightning Protection Equipment
- E) Uninterruptible Power Supply system and or Generator Equipment
- F) County, group of counties or region Standalone ALI Database Equipment
- G) 911 Call Taker Position Equipment
- H) Net clock

PRIORITY 7: GIS sub-addressing projects

PRIORITY 8: Aerial Photography, Overhead (Nadir) / Imaging

PRIORITY 9: Infrastructure cabling and building entrance buildout cost.

PRIORITY 10: 911 Call taker workstation console/furniture (the portion related to 911 operation)

ⁱ Provide the following layers: Road Centerlines, Site/Structure Address Points, PSAP Boundary, Emergency Service Boundary (This MUST include Law, Fire, and Emergency Service (EMS) as separate layers) and the Provisioning Boundary

Budget Report

Prepare an itemized Grant Budget ("Line Item" breakdown should include separated systems, i.e.; 911 system, logging recorder, centerline mapping, etc. and services items). If there is insufficient space, please include details in an attachment. Budget costs should match requested vendor quote

County: Palm Beach

Project Name: Tactical Mapping & Analytics

Budget Categories

Deliverables	Unit Price (\$)	Quantity	Total Amount (\$)
A. System (Hardware, Software, Equipment, & Labor)			
Rapid Deploy NG911 Bundle-60 seats-PSAP Mapping and PSAP Analytics per call handling position per month.	\$25,500.00	24	\$612,000.00
RapidDeploy Radius Mapping to NG911 Bundle Upgrade from Radius Mapping (911 Assist) to NG911 Bundle, adding Eclipse Analytics per Vesta call handling position per month.	\$12,075.00	24	\$289,800.00
RapidDeploy Emergency Data Gateway - Provisioning, Peripherals/Cabling and Shipping per device.	\$3,500.00	8	\$28,000.00
B. Services (Training, Maintenance, and Warranty Items)			
Overall Project Total			\$929,800.00
Carry Forward Funds Applied			
Grant Request Total Less Carry Forward Applied			

Notes:

Daniel Koenig

Signature, 911 County Coordinator

Digitally signed by Daniel Koenig
DN: cn=Daniel Koenig, o=911 County Coordinator, ou=Enterprise, ou=PSD, ou=Users, c=Palm Beach, FL
Date: 2023.06.08 10:27:42 -0500
Reason: I am the author of this document
PDF GENERATED BY: 12.1.0

TO: ALL COUNTY PERSONNEL
FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR
PREPARED BY: PROCUREMENT DEPARTMENT
SUBJECT: PROCUREMENT POLICY AND PROCEDURES
PPM #: CW-L-008

ISSUE DATE
January 29, 2025

EFFECTIVE DATE
November 16, 2024

PURPOSE:

To establish general policies and procedures relating to the County's procurement of non-construction related and non-exempt goods and services.

UPDATES:

Future updates to this PPM are the responsibility of the Director of Procurement.

AUTHORITY:

- Palm Beach County Code, Chapter 2, Article III, Sections 2-51 through 2-63, as may be amended ("County Procurement Code")
- Palm Beach County Code, Chapter 2 Article III, Sections 2-80.20 through 2-80.30, Palm Beach County Code, as may be amended, ("County Office of Equal Business Opportunity Code")
- Palm Beach County Code, Chapter 2 Article III, Sections 2-80.41 through 2-80.48, Palm Beach County Code, as may be amended, ("County Local Preference")
- PPM # CW-O-043, as may be amended, ("Small/Minority/Women Business Enterprise (S/M/WBE) Utilization for the Procurement of Goods and Services, Including Construction Related Goods and Professional Services")

DEFINITIONS:

For Definitions, see Attachment A.

POLICY:

It is the County's policy to provide fair and open competition among all persons desiring to do business with the County in a manner that reduces the appearance and opportunity for

favoritism, and inspires public confidence that contracts are awarded in an equitable manner. It is also the County's policy to provide, encourage, and promote fair and equitable treatment for all persons desiring to do business and who currently do business with the County, and to obtain goods and services of satisfactory quality and quantity at a reasonable cost.

Notwithstanding the above, all goods and services purchased or reimbursed with federal monies shall be procured in accordance with PPM CW-L-049, Procurement of All Non-Construction Related Goods or Services Purchased or Reimbursed with Federal Funds.

PROCEDURES:

I. IDENTIFYING THE NEED

The User County Department has the primary responsibility of identifying its procurement need(s).

A. The User County Department shall determine:

1. What good or service is required;
2. When the good or service is required;
3. How often the good or service will be required;
4. The estimated cost of the good or service;
5. The source of funding for the good or service; (If federal funds are to be utilized, the User County Department shall provide the Procurement Department will all applicable federal requirements (i.e., representations and certifications, regulations, etc.) to be included in the solicitation.)
6. If the good or service is exempt from the Procurement Code, which may require review and approval from the Procurement Director, as defined by the Procurement Code, Section 2-51 (f) (1);
7. If the good or service is available from the warehouse –
If yes, a stock requisition is used;
8. If the good or service is available from an existing term contract -
If yes, a Delivery Order (DO) is used;
9. If the cost of the good or service is under \$10,000 and NOT available from an existing term contract - *If yes, a Decentralized Purchase Order (DPO) is used;*

10. If the good or service is required to be approved by a Resource Manager -
If yes, the Resource Manager must review the request and approve it prior to submitting it to the Procurement Department;
11. If the good or service will be needed repetitively - *If yes, a term contract is appropriate;*
12. If the award of the good or service is dependent solely upon price - *If yes, an IFB or an RFQ is utilized;* and
13. If the award of the good or service is dependent upon established criteria which may include, but not be limited to, price – *If yes, an ITN, RFP or an RFS is utilized;*

B. Requisition Development.

1. At a minimum, the User County Department must complete the following before submitting a Requisition into the Advantage Financial ERP System:
 - a. Provide complete description of the good or service being requested
 - b. Provide complete, correct and updated manufacturer information, including part numbers
 - c. Provide a correct unit of measure
 - d. Provide correct procurement codes and CMA or KMA number, when applicable.
2. The User County Department must enter the Requisition into the Advantage Financial System **AT THE TIME** the supporting documentation has been forwarded to the Procurement Department. The Procurement Department will not begin working on a procurement until the Requisition for same has been received via the Advantage Financial System, with supporting documentation, including but not limited to the procurement checklist(s)

II. PROCESSES & PROCEDURES

- A. The Procurement Code governs the procurement of all construction and goods and services, including those goods and services that are revenue

generating.

- B. Construction related procurements - With the exception of resolving protests, the authority for construction related procurements is delegated under the Procurement Code to the following County Departments:
1. Engineering and Public Works (EPW)
 2. Water Utilities (WUD)
 3. Airports (DOA)
 4. Facilities Development and Operations (FDO)
 5. Environmental Resources Management (ERM)
- C. Exemptions to the Procurement Code - The Procurement Code does not apply to procurements listed as exempt in Section 2-51(f) of the Procurement Code; however, all exempt purchases shall, where possible, be competitively procured. The County's Affirmative Procurement Initiatives ("APIs") for small, minority and women-owned business enterprises ("S/M/WBE") and the Local Preference should be considered by User County Departments when making exempt purchases. Exempt purchases shall be made by written contract between the vendor and the Board of County Commissioners ("BCC") or an authorized designee; by direct payment in accordance with PPM #CW-L-035; or by purchase order. Each User County Department shall retain quotations obtained in reference to the exempt purchase(s), in accordance with the Florida Records Retention Laws.
- D. Authority of the Procurement Director - The Procurement Director may:
1. Execute any term contract, purchase order, or exempt contract on behalf of the County in an amount less than \$300,000.00 (per year) and for a duration not to exceed five (5) years;
 2. Authorize one-time increase of demand or usage up to 10% or less to the authorized expenditure amount of a BCC approved contract or a contract within the signatory authority and previously approved by the Director of Procurement whereby the new total amount of the contract does not exceed \$300,000 per annum;
 3. Authorize one-time increase of demand or usage up to 15% with the County Administrator's approval to the authorized expenditure amount of a BCC approved contract or a contract within the signatory authority and previously approved by the Director of Procurement whereby the new total amount of the contract does not exceed \$300,000 per annum;
 4. For contracts executed and approved by the BCC, the Director of Procurement may authorize decreases or increases to the authorized

revenue or expenditure amount(s) of a satisfactorily performing contract, including exempt and/or alternate source contracts, for increased demand or usage up to ten percent (10%) and with the Administrator's approval up to fifteen percent (15%); except that increases of more than fifteen percent (15%) to authorized expenditure amounts which have reached or exceeded three hundred thousand dollars (\$300,000) but are less than five hundred thousand dollars (\$500,000) per annum must be approved by the Contract Review Committee. After Contract Review Committee approval of an increased authorized expenditure amount, the Director of Procurement may authorize additional increases of up to ten percent (10%) and with the Administrator's approval up to fifteen percent (15%) of the increased authorized expenditure amount. Any individual increase to a Board approved contract that is equal to or exceeds \$500,000 must be approved by the Board.

5. Approve extensions of delivery dates and performance time on contracts up to a maximum of six (6) months for term contracts, including exempt and/or alternate source contracts. After Board approval of an extension of delivery dates or performance time, the Director of Procurement may authorize additional delivery dates or performance time extensions up to six (6) months. Further, changes to the Contract, including exempt and/or alternate source contracts, may be made by the Director of Procurement if considered minor or non-material in nature;
6. Terminate non-construction contracts, including exempt contracts, of any amount in accordance with the terms and conditions of the contract and in consultation with the County Attorney's Office ("CAO"), with the County Administration review and approval;
7. Submit to the Board, as a receive and file item, a list of contracts terminated, at least on a quarterly basis;
8. In consultation with the Director of Facilities Development and Operations, calculate and publish every 3 years an adjustment to the contract approval authority of \$300,000 based on the Engineering News Record's Building Cost Index;
9. Assist County Departments with the review and approval of internal PPMs regarding exempt purchases; and
10. Administer and manage a procurement/purchasing ("Pcard") program for County Departments' usage;

- E. Resource Manager - Requests for the following procurements must be reviewed and approved by the appropriate Resource Manager prior to submitting the request to the Procurement Department. This will ensure that the requested good or service meets established County standards:
1. **FDO** - moving services, furniture, storage space (rental/purchase/lease), and law enforcement services
 2. **FDO/ELECTRONIC SERVICES DIVISION** - radio, audio, video, fire, security systems and background checks
 3. **FDO/FLEET MANAGEMENT** - vehicle purchases
 4. **FDO/PREM** - appraisal services
 5. **PUBLIC AFFAIRS** - color copiers, printing services, video services, promotional items, stationery paper
 6. **ISS** - computer and telecommunications related goods and services
 7. **RISK MANAGEMENT** - insurance and occupational health related goods and services
 8. **PROCUREMENT/WAREHOUSE** – non-stationery paper products
- F. Authority of the BCC - All contracts valued at \$300,000 or more shall be approved by the BCC. The Procurement Director shall place said contracts on the BCC Agenda or Procurement's contract list for consideration during a regularly scheduled meeting or workshop.
- G. Alternate Source Selection - Alternate Source Selections have procurement processes that are different from an ITN, RFP, RFS, IFB or RFQ.
1. Small purchases - Any purchase for an amount over the Decentralized Purchase Order Amount and less than the Mandatory Bid or Proposal Amount shall be made in accordance with policies and procedures promulgated by the Procurement Department utilizing an RFQ or an RFS or other such procurement method authorized herein or in said policies and procedures. However, the Director of Procurement has the sole discretion to utilize the IFB, ITN, RPQ or the RFP processes if the procurement is complex or for other sound reason, even though the specific good or service is budgeted less than the Mandatory Bid or Proposal Amount.

2. Sole-source purchase - Where there is **only** one (1) good or service that meets an essential requirement of the User County Department, as determined by a reasonable and thorough analysis of the marketplace, and it is available from **only** one (1) source. A competitive process will not be conducted. In summary, the following is required:
 - a. A requisition within the ERP/Advantage system is required. Additionally, written documentation, signed by the Director of the User County Department justifying why the requested good or service is the **only** one (1) that will meet the Department's specific need;
 - b. Written documentation from the vendor/supplier stating that they are the **only** source of supply for the requested good or service. If the supplier is not the manufacturer, additional written documentation must be provided in which the manufacturer attests that the vendor is their sole supplier for the requested good or service;
 - c. Procurement will post a Notice of Intent to Designate a Sole Source for ten (10) business days, for goods and services NOT the subject of a Request for Information ("RFI") within the preceding six (6) months;
 - d. Written approval from the Procurement Director is required demonstrating approval of the requested sole source. This documentation **MUST** be completed, prior to the User County Department moving forward with the vendor;
 - e. The sole source may remain in place for up to five (5) years, after approval;
 - f. Annually, the User Department shall obtain new written documentation from the sole source vendor attesting the original conditions still exist; and
 - g. The User Department is responsible for monitoring the marketplace during the term of the sole source contract to ensure the goods and services are still a sole source.
 - h. Procedure for User County Departments:
 - (1) Establishment of a sole source procurement:

(a) The User County Department shall obtain written sole source justification/documentation from the vendor/manufacturer. This information must clearly establish that the vendor is a sole source provider for the goods or services sought.

(b) Upon receipt of the sole source justification/documentation from the User County Department, Procurement's Buying staff shall post a Notice of Intent to Designate a Sole Source for ten (10) business days, for goods and services sought, which WERE NOT subject to a Request for Information ("RFI") within the preceding six (6) months. Vendors shall have up to ten (10) business days after posting of the Notice to submit written explanation or other documentation contesting that proposed designation as a Sole Source. The Director of Procurement or designee shall consider such submittals and notify all submitting vendors of the decision whether the procurement will be designated as a Sole Source, which decision shall not be subject to objection, protest, or appeal under the Procurement Code.

i. If no vendor responses are received, the Procurement Director shall continue the review and approval of the Sole source, utilizing a Form B.

Once receipt of the Procurement Director's approval of a sole source, Purchasing staff shall submit the County's terms and conditions to the Vendor for review.

(2) If the Sole Source Provider ACCEPTS the County's standard terms and conditions (i.e., boilerplate) and does not provide its own terms and conditions to the Procurement Department:

(a) Procurement's Buyer staff assemble the

contract and send it directly to the Sole Source Provider for signature. Any contract sent to a Sole Source Provider electronically **MUST** be in pdf format.

The Sole Source Provider shall return the executed contract to the Procurement Buying staff.

- (b) Once legal review, if applicable, is complete and all necessary signatures are obtained, the contract shall be processed for final approval and signature.
- (3) If, the Vendor does **NOT** accept the County's standard terms and conditions (i.e., boilerplate) and provides its own terms and conditions:
- (a) Upon receipt of the Sole Source Provider's terms and conditions, the Procurement Department shall submit these terms to the User County Department for review. If they are *not* acceptable, the User County Department must work with the Sole Source Provider to arrive at acceptable terms and conditions. The User County Department shall involve the CAO for assistance when terms and conditions submitted by the Sole Source Provider are different from the County's standard terms and conditions. The User County Department is to work with the CAO until a mutually acceptable agreement is reached between the User County Department and the Sole Source Provider. Once finalized, the agreed upon terms and conditions and the proposal/scope of work/specifications are submitted to the Procurement Buying staff, with the CAO's written approval of the negotiated terms and conditions.
 - (b) Insurance: The Procurement and Risk Management Departments have developed a process for resolving insurance related issues pertaining to sole source contracts. If insurance *is an issue*, the User County Department should contact Risk Management

as soon as possible. The User Department shall submit all approvals for insurance to the Buying staff for the procurement file.

- (c) The Procurement Buying staff shall assemble the contract and send it to the Sole Source Provider for final signature. Any contract sent to a Sole Source Provider electronically **MUST** be in pdf format.
 - (d) Once signed by the vendor, the Buyer will forward the contract to the CAO for review, signature, and approval as to legal form and sufficiency. Upon signature of the Sole Source Provider and the Assistant County Attorney, the Buyer will process the contract for final County approval.
3. Proprietary Purchase - Where there is **only** one (1) good or service that meets an essential requirement of the User County Department, as determined by a reasonable and thorough analysis of the marketplace; however, the good or service is available from **more** than one (1) source. A competitive process shall be conducted based on the proprietary specification. The following is required:
- a. Written documentation, signed by the Director of the User County Department justifying why the requested good or service is the **only** one (1) good or service that will meet the Department's specific need; and
 - b. Verification that there is more than one (1) potential vendor that can provide the good or service.
 - c. Procurement Buying staff will complete market research to verify the information and submit for the Procurement Director's review and approval.
4. Emergency Purchase - An emergency purchase is a procurement made in response to a need when the delay incident to complying with all governing rules, regulations or procedures would be detrimental to the interests, health, safety, or welfare of the County. A contract for an emergency purchase is generally necessary when the need for the good(s) or service(s) is imminent and time does not allow for a solicitation to be conducted. A confirming order is utilized when, due to the nature of the emergency, it was necessary for the User County Department to immediately procure the good(s) or service(s), and the

only work that needs to be done is the processing of the invoice for payment via a purchase order.

- a. The Director of the User County Department must submit written verification of the emergency to the Procurement Director. The Procurement Director may authorize emergency purchases under \$300,000. Emergency purchases of \$300,000 or more shall be approved by the BCC or, in the event of exigent circumstances, approved by the Procurement Director and then ratified by the BCC.
 - b. If the Request for an emergency purchase is not considered by the Procurement Director to be based upon an emergency (i.e., created by lack of planning by the User County Department), then the request may be forwarded to County Administration for approval prior to issuing the purchase order or contract.
 - c. To ensure effective future strategic planning for purchases occurs, including contingencies for emergencies, the User Department and Procurement Buying staff shall work collaboratively to identify cooperative or piggyback contracts or complete newly solicited bid(s) to better manage future emergency purchases/contracts.
5. Piggyback Purchases - Notwithstanding any requirements of the Procurement Code, the purchase of goods or services under contract with a federal, state or municipal government or any other governmental agency, political subdivision, or government-related association, may be piggybacked or purchased off contracts of other entities providing that:
- a. The County Department, in consultation with the Director of Procurement, has determined that the piggyback purchase is deemed advantageous to the County;
 - b. The contractor (i) extends the terms and conditions specified in the originating contract to the County and the County accepts the terms and conditions specified; and (ii) in the event the County requires additional contract language, the vendor agrees to such additional County terms and conditions;
 - c. The goods or services available under the originating contract meet the County's needs and specifications;
 - d. The specifications of the goods or scope of services being

purchased from the originating contract do not substantially differ from the specifications or scope in the originating contract;

- e. For originating contracts not procured by cooperatives or which are not indefinite quantity contracts, the Director of Procurement, in consultation with the CAO, will determine whether the quantity needed by the County can be purchased under the originating contract;
- f. The Procurement and County Department determines and documents that the impact to local vendors is minimally negative or is a benefit to the County that positively outweighs any negative impact to local vendors;
- g. There are no certified S/M/WBE vendors, with capacity, that can provide the service as required, and to the extent required by the County Department; and
- h. The originating entity utilized a competitive process similar to the County's, as determined by the Director of Procurement. However, this provision is not applicable to contracts procured or solicited by the State of Florida or the Florida Sheriff's Association or the U.S. General Services Administration (GSA Schedules).
- i. Documentation from the Procurement Department determining that the originating entity utilized a competitive process similar to the County's. The Procurement Buying staff will utilize an addendum requiring the County's terms and conditions, which is reviewed and approved by the CAO.

The User County Department must review and approve the usage of the originating piggyback contract and provide the documentation requested in the above paragraphs to the Procurement Department. Procurement Buying staff must obtain the review and approval of the contract, solicitation and addendum from the County's Attorney office. Upon approval, the Procurement staff shall complete the process by either obtaining the required contract signatures, BCC approval or delegated signature authority from the Procurement Director.

- 6. Cooperative Purchases - The County may participate in, sponsor, conduct, or administer a cooperative purchase with other governmental entities for the procurement of goods or services. In this instance, the County would join one (1) or more entities that share the same requirement and combine their estimated usages with a

common goal to achieve the best price based on economies of scale.

7. Direct Purchases - In the event that **no** bids are received, and that **no** significant alterations in the specifications, qualifications, or terms and conditions can be made to encourage competition, the Procurement Director may directly purchase the goods or services from any qualified vendor that is able to meet the original bid specifications.
8. Prequalification of Vendors - Prospective vendors may be pre-qualified for specified types of goods or services when deemed advantageous to the County regardless of whether the amount of each order for a good or service will be above or below the County's Mandatory Bid or Proposal Amount; however, projects over the Mandatory Bid or Proposal Amount must be advertised on the County's vendor self-service website.
9. Items for Resale - All applicable User County Departments, working jointly with the Procurement Department, shall implement policies and procedures regarding the procurement of items for resale. The User County Department, with Procurement staff review and approval, shall conduct a thorough market research analysis of the available items for resale in order to determine the specific types of goods to be procured. A marketing analysis shall not result in the purchase of goods without a competitive or alternate source selection process conducted by the Procurement Department.
10. Sales tax recovery program for construction-related purchases – A purchase order for the procurement of a good or service that is included in a capital improvement project may be approved by the Procurement Director or by the Director of the appropriate Construction Department in accordance with the County's sales tax recovery program.
11. Informal Competitive Solicitation Process - Solicitations for goods or services valued at less than the Mandatory Bid or Proposal Amount shall be made in accordance with policies and procedures established by the Procurement Department for Requests for Quotes and Requests for Submittals. However, the Director of Procurement has the sole discretion to utilize the IFB process or the RFP process or ITN process if the procurement is complex or for other sound reason, even though the specific good or service is budgeted less than the Mandatory Bid or Proposal Amount.

III. SPECIFICATIONS/SCOPE OF WORK

- A. Elements of a Good Specification/Scope of Work:
1. Identifies minimum requirements in a clear and concise manner;
 2. Requirements are based upon a justifiable County need - not upon a preference or bias;
 3. Allows for a competitive solicitation;
 4. Are measurable in order to ensure compliance; and
 5. May include regularly scheduled reporting requirement(s) from the vendor.
- B. Types of Specifications/Scope of Work:
1. Design Specification/Scope of Work - Usually used in construction (i.e. buildings, bridges, etc.) and tells the vendor how the product/project is to be manufactured/built. Design specifications/scope of work are restrictive by nature and limit competition.
 2. Performance or Functional Specification/Scope of Work - Defines levels of performance without detailing how and what will be used to accomplish the end result. Performance specifications/scopes of work allow for maximum competition.
 3. Combination Specification/Scope of Work (design/ performance) - Defines levels of performance in addition to specific design features.
 4. Brand Name or Equal Specification/Scope of Work - Used when specifications of a specific brand or its equivalent are required. Brand Name or Equal Specifications/Scopes of Work allow for full and open competition. Prior to writing the specification/scope of work, the User County Department, working jointly with Procurement staff, is encouraged to research, for comparison purposes, two (2) or three (3) acceptable products so as not to be restrictive in its specifications.
- C. Specification/Scope of Work Responsibilities:
1. User County Department staff shall:
 - a. Write specifications/scopes of work
 - b. Submit specifications/scopes of work to Resource Manager, EBO Goal Setting Committee, if required, Procurement Department in a timely manner to ensure timely solicitation

of the awarded bid or contract, so to avoid possible gaps in services.

2. Resource Manager shall:
 - a. Ensure that specifications/scopes of work are within the approved County standards for that particular good or service.
 - b. Submit approval of specifications/scopes of work in a timely manner.
3. Procurement Department staff shall:
 - a. Ensure that specifications/scopes of work are open and competitive.
 - b. Resolve issues raised by prospective bidders/proposers regarding flawed or restrictive specifications/scopes of work.

IV. SBE and Local Preferences

A. Small Business Enterprise

1. The SBE program ensures that those SBEs certified by the OEBO have the maximum opportunity to participate in the County's purchasing processes.
2. Generally, in the case of IFBs and RFQs, a responsive, responsible certified SBE meeting or exceeding the established goal shall supplant the non-SBE bidder as long as the SBE bid does not exceed the low bid amount by 10%.
3. Generally, in the case of RFPs, ITNs and RFSs, certified SBE's shall be eligible to receive points, not to exceed 15% of the total number of possible points awarded, for SBE participation, as determined by the Goal Setting Committee.
4. The OEBO is responsible for reviewing all IFB and RFP responses as to compliance with SBE requirements. Award recommendations cannot be finalized until this evaluation is received and considered.
5. The OEBO Department is responsible for reviewing all RFQ and RFS responses with regard to compliance with SBE requirements.

Award recommendations cannot be finalized until this evaluation is completed.

6. The OEBO Department may be responsible for reviewing quote responses to Requests for Prequalification solicitations as to compliance with SBE requirements. Award recommendations cannot be finalized until this evaluation is complete.
7. The SBE Preference takes precedence over the Local Preference and the Glades Local Preference.

B. Local Preference (“LP”)

1. The Local Preference Code applies to procurements equal to or greater than \$10,000.
2. A preference is given to bidders/proposers who have a permanent place of business in Palm Beach County prior to the County’s issuance of a solicitation for the purchase of goods or services. Please refer to the Local Preference Code for specific details.
3. In the case of an IFB or an RFQ, a responsive, responsible local bidder who meets the above referenced requirements shall supplant the non-local bidder as long as the local vendor's bid does not exceed the low bid amount by 5%.
4. In the case of an RFP, ITN or an RFS, local vendors shall be eligible to receive points, not to exceed 5% of the total number of possible points awarded), which will be set forth in the RFP or RFS as an evaluation/scoring criteria entitled “business location”.
5. Glades Local Preference: A Glades Local Preference is given to Glades businesses responding to County solicitations for goods and services that are specifically utilized for County projects in the Glades. This Preference is administered according to the information set forth in sub-paragraphs 1. through 4. hereinabove.

V. **PROTEST PROCESS**

- A. Right to protest – As stated within the Procurement Code, Section 2-55, any actual or prospective bidder or proposer who is aggrieved in connection with a pending award of an IFB, RFP or an ITN may submit a written protest to the Procurement Director within five (5) business days of the posting of the notice of award recommendation. *The procurement in dispute is stayed and no award will be made until the Protest is resolved.*

- B. The protest shall be in writing and shall identify the protestor and the solicitation, shall include a factual summary of the basis of the protest and shall include a protest bond in the amount of: 1) one thousand five hundred dollars (\$1,500) for solicitations less than one million dollars (\$1,000,000); 2) three thousand dollars (\$3,000) for solicitations one million dollars (\$1,000,000) to less than five million dollars (\$5,000,000) or 3) five thousand dollars (\$5,000) for solicitations five million dollars (\$5,000,000) or greater, which bond shall be remitted in the form of a money order, a certified check, a cashier's check, or a bank check payable to Palm Beach County.
- C. A protest is considered filed when it is received and date/time stamped by the Department of Procurement. The date/time stamp of the Procurement Department shall control when determining whether the protest was received by the Director of Procurement within the time frame specified for the notice of protest. Neither the Director of Procurement nor a special master shall consider any issue not submitted in writing within the time frame specified for the notice of protest.
- D. The Procurement Director shall review the written protest and will either uphold or deny the protest. The Office of EBO will be involved in the protest when the protestor is a certified SBE or if the protest involves an SBE issue.
- E. If the protest is denied by the Procurement Director, the protestor may request a hearing before a Special Master. The request for a hearing shall be in writing to the Director of Procurement and must be received by the Director of Procurement within five (5) business days of issuance of the Director of Procurement's determination. The Special Master shall make a determination with regard to the protest. During the time, the protestor's bond is held by the Procurement Department, pending the outcome of the Special Master.
- F. If the protestor does not accept the decision of the Special Master, the protestor may appeal the decision to the 15th Judicial Circuit Court.
- G. The protest may be upheld based upon a violation of the provisions of this Procurement/Purchasing Code or of any other County Ordinance, resolution, policy, or procedure, or upon discovery of an irregularity or procedural flaw that is so severe as to render the process invalid. If the upholding of the protest will result in a change of the recommended awardee, a new recommended award shall be posted. If the upholding of the protest will result in a cancellation of the protested solicitation, a recommendation to uphold the protest and cancel the solicitation will be made to the Administrator, who may then direct the cancellation of the solicitation. If the protest is upheld, the Procurement Department shall return the protestor's bond to the protestor.

VI. VENDOR PERFORMANCE

- A. A vendor has failed to perform when a specification, term, or condition of the contract has not been met. In this case, the User County Department must:
1. Notify the vendor's contact person of the failure or infraction;
 2. Document the vendor's failure or infraction when noticed;
 3. Timely notify the Procurement Department and complete a Vendor Performance Report (<https://pbcportal.pbcgov.org/purchasing/Procurement/Forms/Form sandInformation.aspx>).
The User County Department should advise the Procurement Department of the vendor performance problem well in advance of requesting termination of that vendor's contract.
 4. Be aware of the termination clause in the contracting document - the vendor is typically given ten (10) days to cure a default; and
 5. Consider suspension or debarment of vendor. Upon receipt of the Vendor Performance Report and supporting documentation, the Procurement Department will, in a timely manner, contact the vendor in an effort to resolve the non-performance issue(s). The User County Department will be kept informed of all activity conducted by the Procurement Department with regard to the Vendor Performance Report.
- B. The administration and monitoring of all procurement contracts is the sole responsibility of the User County Department. For satisfactory vendor performance, communication between the User County Department, the vendor, and the Procurement Department is of the utmost importance.

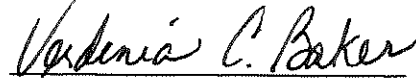
VII. CONTRACT CLOSEOUT

- A. The User County Department shall adhere to the terms and conditions, as noted within the County's standard terms and conditions related to contract closeout. The language is as follows:

Contractor shall submit any pending invoice(s) and/or report(s), along with any required documents, to the County within forty-five (45) business days after the termination or expiration of the contract in order to close-out the contract ("Closeout Period"). These invoice(s) and/or report(s), including but not limited to vendor performance report(s), shall reflect work required and completed during the contract term. The County shall deem invoices

received during and prior to the expiration of the Closeout Period as final billing for goods and services provided under the contract. Contractor's failure to submit pending invoices during the Closeout Period shall serve as an admission that no pending invoices remain. Nothing herein shall limit the County's discretion to make the final determination whether payment may be made to Contractor after the expiration or termination of the contract.

It is the responsibility of the User County Department to ensure timely payments, receipt of all required documents/reports pertaining to the contract, up to forty-five (45) days after the contract expiration date.


VERDENIA C. BAKER
COUNTY ADMINISTRATOR

Supersession History:

1. PPM# CW-L-008, effective 07/01/1988
2. PPM# CW-L-008, effective 02/08/1994
3. PPM# CW-L-008, effective 10/30/1998
4. PPM# CW-L-008, effective 10/01/2006
5. PPM# CW-L-008, effective 06/15/2009
6. PPM# CW-L-008, effective 01/22/2015
7. PPM# CW-L-008, effective 03/20/2018

ATTACHMENT A

Centralized Purchase Order (“CPO”) - a contracting method generated from a requisition for a one-time purchase of goods or services and generally established through procurement methods such as an IFB, RFP, RFQ or RFS.

Consultant/Contractor/Supplier/Vendor – a provider of goods and/or services to the County Department(s). These terms may be used interchangeably.

Contract - a binding written agreement, enforceable by law, between two (2) or more parties for the purchase or sale of goods or services. A purchase order is a contract.

Contract Administration - the functions that are performed after all parties have signed a contract. Typical contract administration activities are goal-oriented and are aimed at ensuring compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract. Contract Administration also involves payment for goods and services through the usage of invoice(s).

Contract Review Committee - the committee established by Board Resolution R89-633, as may be amended, the duties and responsibilities of which are set forth in County policies and procedures, as may be amended.

Debarment - the exclusion for cause of a vendor or contractor from responding to any County solicitation or from doing business with the County directly or indirectly.

Decentralized Purchase Order (“DPO”) – a contracting method of procuring purchases valued under \$10,000 issued by the User County Department. A competitive process is encouraged, and Resource Manager approval is required, if applicable. The SBE Preference is applicable to DPOs, and the Local Preference should also be considered when making a small dollar purchase. A DPO cannot be used for goods or services that: are equal to or in excess of \$10,000; available under a term contract; available from the Procurement Warehouse or from Graphics; require pre-payment, unless authorized; or, are repetitive. Further, no purchase shall be artificially divided so as to constitute a small purchase.

Direct Special Payable Purchase Orders (“SPO”) / Exempt Purchase Orders (“EPO”) - a form of purchase order used only for the one time purchase of goods and services exempt from the Procurement Code.

Emergency Purchase - a procurement made in response to a need when the delay incident to complying with all governing rules, regulations, or procedures would be detrimental to the interests, health, safety, or welfare of the County.

Equal Business Opportunity Ordinance - the EBO Ordinance, as adopted by the Board and implemented through the Office of Equal Business Opportunity.

Equal Business Opportunity Program Policies and Procedures - the EBO PPM, as implemented through the Office of Equal Business Opportunity.

Exempt Purchase - a procurement identified as an exempt purchase in Section 2-51(f)(1) of the Procurement Code.

Goods - any tangible personal property other than services or real property.

Invitation for Bid ("IFB") - a solicitation used in the formal competitive bid process to solicit sealed bids for the purchase of goods or services that are equal to or greater than the Mandatory Bid or Proposal Amount, \$150,000, where price is the determining factor for award. The specifications for IFBs are detailed and well defined. All IFBs are advertised on the vendor self-service website, specifically Published Solicitations. IFBs are normally used for complex procurements notwithstanding the value, and for all procurements exceeding the Mandatory Bid or Proposal Amount. A formal protest process is available to bidders. Awards are made to the lowest responsive, responsible bidder and within the guidelines established by the County's EBO and the Local Preference Ordinances.

Invitation to Negotiate ("ITN") - a formal competitive proposal process to solicit sealed proposals for a good or service that is equal to or greater than the Mandatory Bid or Proposal Amount and where the evaluation is based on established criteria which may include, but is not limited to, price. All ITNs are advertised on the vendor self-service website, specifically under Published Solicitations. After receipt of proposals, the County may short-list one or more responsive proposers to negotiate the best value.

Local Preference Ordinance - an ordinance adopted by the Board that applies a local preference to responses submitted by local vendors to solicitations for construction and non-construction goods and services as defined in Sections 2-80.41 through 2-80.48 of the Palm Beach County Code.

Mandatory Bid or Proposal Amount - all purchases equal to or greater than \$150,000 require a formal competitive bid or proposal process.

Notice of Award Recommendation - a written notice publicly posted, in a designated location(s) or on a designated website, prior to announcing the award of a contract to notify interested parties of the intended award. The protest period shall commence upon posting of the Notice of Award Recommendation.

Posting - an act whereby the County publicly notices, in a designated location(s) or on a designated website, the recommended awardee of an Invitation for Bid, Invitation to Negotiate, or a Request for Proposal.

Procurement or Purchasing (the terms will be used interchangeably throughout this PPM) - purchasing, renting, leasing, or otherwise obtaining any goods or services; includes all functions that pertain to the procurement, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration. Also, procurement encompasses the combined functions of purchasing,

inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage, and disposal operations.

Purchase Order— a contract used to authorize a purchase from a vendor that includes specific goods or services ordered, applicable terms as to payment, discounts, date of performance and transportation; and other factors pertinent to the transaction. A Purchase Order is referred to herein as a Contract, which is generated from a requisition and generally established through procurement methods such as an IFB, ITN, RFP, RFQ, or RFS. The County utilizes various forms of purchase orders, such as Decentralized Purchase Orders (“DPO”), Centralized Purchase Orders (“CPO”), Exempt Purchase Orders (“EPO”), Direct Special Payable Purchase Orders (“SPO”) and Contract Notice Purchase Orders (“KPO”).

Request for Information (“RFI”) - a non-binding and non-competitive process used to obtain comments, feedback, information or reactions from potential vendors prior to the County issuing a solicitation.

Generally, exact or specific pricing or cost is not required. Vendor feedback may include best practices, industry standards, licensing requirements, technology matters, etc. The RFI is used to inform the County on what procurement method is needed, if any, and assist the County in determining requirements or specifications for any subsequent solicitation.

Request for Quotation (“RFQ”) - a solicitation used in the informal competitive bid process to solicit quotations for a specific good or service that is less than the Mandatory Bid or Proposal Amount where price is the determining factor. No protest process is available for RFQs. All RFQs are advertised on the vendor self-service website, specifically Published Solicitations. Awards are made to the lowest responsive, responsible quoter and within the guidelines established by the County’s EBO and the Local Preference Ordinance.

Request for Proposal (“RFP”) - a solicitation used in the formal competitive proposal process to solicit sealed proposals for a good or service that is equal to or greater than the Mandatory Bid or Proposal Amount, \$150,000, and where the evaluation is based on established criteria which may include, but is not limited to, price. All RFPs are advertised on the vendor self-service website, specifically Published Solicitations. A formal protest process is available for RFPs. Evaluation of proposals is conducted by a Selection Committee and is based on previously established criteria which may include, but is not limited to, price. Generally, awards are made to a responsive, responsible proposer and within the guidelines established by the County’s EBO and the Local Preference Ordinances.

Request for Submittal (“RFS”) - an informal competitive submittal process for services or goods valued under \$150,000. All RFSs are advertised on the vendor self-service website, specifically under Published Solicitations. No protest process is available for RFSs. Evaluation of an RFS is done by the User County Department and the award is based on previously established criteria which may include, but is not limited to, price. Generally, awards are made to a responsive, responsible respondent and within the guidelines established by the County’s SBE Ordinance and the Local Preference Code.

Resource Manager - the director of a County Department or designee, who has the joint

responsibility with the Procurement Department to monitor and approve the County's procurements of specific commodity groups as specified in the Procurement Department's policies and procedures.

Responsible Bidder, Quoter, Proposer, or Respondent - a bidder, quoter, proposer, or respondent who is fully capable of meeting all the requirements contained in the solicitation.

Responsive Bid, Quote, Proposal, Submittal, or Response - a bid, proposal, submittal, quotation, or response that conforms in all material respects to the solicitation.

Services - the furnishing of labor, time, or effort by a contractor wherein the provisions of goods or other specific end products (other than reports, studies, plans, advisories, contractual documents, or other documents relating to the required performance) is secondary. Construction is a form of services.

Shall - denotes mandatory.

Small/Minority/Women Business Enterprise ("S/M/WBE") - a business as defined in the EBO Ordinance and the EBO PPM.

Sole Source - denotes there is only one (1) good or service that meets the need of the County Department and that good or service is available through only one (1) source as determined by a reasonably thorough analysis of the marketplace.

Specification - the description within a solicitation or contract for the good or service to be provided by a Contractor.

Suspension - the suspending for cause of a Vendor or Contractor from responding to any County solicitation, or from doing any new business with the County, for up to a two-year period.

Scope of Work – a narrative description of a project's goals/agenda. The Scope of Work describes the basic framework within which a vendor is expected to operate, i.e., the work to be performed and/or the results to be achieved. It should include a summary of the statutory, regulatory and programmatic basis of the project.

Term Contract ("CMA"/"KMA") - a contracting method in which delivery times and quantities to be purchased may not be known at the time of contracting. Term contracts may also be awarded for those goods or services requiring fixed fees and fixed time frames. Term contracts can be awarded for a term of up to five (5) years.

County E911 Fiscal Information

Item No. E911 Fee Revenue

1	County	Palm Beach	Fiscal Year	2025
2	Wireless Fee Revenue	\$6,473,026.85		
3	Non-Wireless Fee Revenue	\$1,361,047.69	(LEC, Wireline, & VoIP)	
4	Pre-Paid Fee Revenue	\$946,225.95		
5	Total Fee Revenue	\$8,780,300.49	Carry Forward Fee Revenue Calculation (Item #2 + Item #3 + Item #4)	

Item No. E911 Allowable Expenditures

6	Fee Revenue Expenditures	8,072,081.00
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Item No. E911 Carry Forward & Excess Carry Forward

9	Allowable Carry Forward	\$2,634,090.15	Maximum Allowable (30% of Item #5)
10	Actual Carry Forward	\$712,324.00	Limited by Para 365.173(2)(d). Florida Statutes. Assure amount is equal (=) to or less than (<) Item #9
11	Excess Carry Forward Recovery	\$0.00	

Item No. Contact Information

12	Preparer's Name	Daniel Koenig
13	Preparer's Title / Position	Senior Manager - 911
14	Telephone Number	561-712-6486
15	Preparer's Email	dkoenig@pbc.gov
16	Date	

In accordance with Paragraph 365.173(2)(d) and 365.172(6)(a)3., Florida Statutes

County E911 Fiscal Information Incorporated by reference in Fla Admin. Code Rule 60FF1-5.006
 Requirements for County Carry Forward Funds & Excess Funding
 04/2020



R2023 0958 JUL 11 2023

PCS ID: 20230615-055

MASTER AGREEMENT

Customer Palm Beach County Street Address: 301 North Olive Avenue, 8 th Floor City: West Palm Beach State/Province: FL Zip Code: 33401 Country: USA	AT&T AT&T Corp.
Customer Contact (for notices) Name: Michael Butler Title: Director of Network Services Street Address: 301 North Olive Avenue, 8 th Floor City: West Palm Beach State/Province: FL Zip Code: 33401 Country: USA Telephone: 561-355-4610 Fax: Email: mbuffer@pbccgov.org	AT&T Contact (for notices) Street Address: 321 SE 2 nd Street City: Delray Beach State/Province: FL Zip Code: 33483 Country: USA With a copy to: AT&T Corp. One AT&T Way Bedminster, NJ 07921-0752 ATTN: Master Agreement Support Team Email: mast@att.com

This Master Agreement ("Master Agreement"), between the customer named above ("Customer") and the AT&T entity named above ("AT&T"), is effective when signed by both Customer and AT&T. This Master Agreement rescinds and replaces the previous master agreement between the parties with an effective date of June 30, 2009 (133405UA), and identified as Palm Beach County agreement R-2009-1055. All outstanding Pricing Schedules, Orders, and other documents relating to and/or referencing R-2009-1055 shall now be governed by the terms of this Master Agreement.

This Pricing Schedule signed by AT&T first, is effective upon Customer signature provided that such fully signed Pricing Schedule is returned to AT&T not more than sixty (60) days after AT&T's signature date. Any change made to this document renders the Pricing Schedule null and void, except for changes expressly authorized by the terms of this Pricing Schedule.

Customer (by its authorized representative)	AT&T (by its authorized representative)
By:	By: eSigned - Veronica Danao
Name: Gregg Weiss	Name:
Title: Mayor	Title: Contract Specialist, as signatory for AT&T
Date: JUL 11 2023	Date: 16 Jun 2023

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By:
Archie Satchell, CIO, ISS

mx142v

MASTER AGREEMENT**1. INTRODUCTION**

1.1 **Overview of Documents.** This Master Agreement and the following additional documents (collectively, the "Agreement") shall apply to all products and services AT&T provides Customer pursuant to this Agreement ("Services") and shall continue in effect so long as Services are provided under this Agreement:

- (a) **Pricing Schedules.** A "Pricing Schedule" means a pricing schedule (including related attachments) or other document that is attached to or is later executed by the parties and references this Master Agreement. A Pricing Schedule includes the Services, the pricing (including discounts and commitments, if applicable) and the pricing schedule term ("Pricing Schedule Term").
- (b) **Tariffs and Guidebooks.** "Tariffs" are documents containing the descriptions, pricing and other terms and conditions for a Service that AT&T or its Affiliates file with regulatory authorities. "Guidebooks" are documents (designated as Guidebooks or Price Lists) containing the descriptions, pricing and other terms and conditions for a Service that were but no longer are filed with regulatory authorities. Tariffs and Guidebooks can be found at att.com/servicepublications or other locations AT&T may designate.
- (c) **Acceptable Use Policy.** AT&T's Acceptable Use Policy ("AUP") applies to (i) Services provided over or accessing the Internet and (ii) wireless (*i.e.*, cellular) data and messaging Services. The AUP can be found at att.com/aup or other locations AT&T may designate.
- (d) **Service Guides.** The descriptions, pricing and other terms and conditions for a Service not covered by a Tariff or Guidebook may be contained in a Service Guide, which can be found at att.com/servicepublications or other locations AT&T may designate.

1.2 **Priority of Documents.** The order of priority of the documents, in the event of conflict, that form this Agreement is: this Master Agreement; the applicable Pricing Schedule or Order; the AUP; and Tariffs, Guidebooks and Service Guides; provided that Tariffs will be first in priority in any jurisdiction where applicable law or regulation does not permit contract terms to take precedence over inconsistent Tariff terms.

1.3 **Revisions to Documents.** Subject to Section 8.2(b) (Materially Adverse Impact), AT&T may revise Service Publications at any time.

1.4 **Execution by Affiliates.** An AT&T Affiliate or Customer Affiliate may sign a Pricing Schedule in its own name, and such Affiliate contract will be a separate but associated contract incorporating the terms of this Agreement. Customer and AT&T will cause their respective Affiliates to comply with any such separate and associated contract.

1.5 **Term of Agreement.** This Agreement shall be effective on the day of execution by the Palm Beach County Board of County Commissioners ("Effective Date"). Unless terminated early as provided herein, the term of this Agreement is for five (5) years from the Effective Date.

2. AT&T DELIVERABLES

2.1 **Services.** AT&T will either provide or arrange to have an AT&T Affiliate provide Services to Customer and its Users, subject to the availability and operational limitations of systems, facilities and equipment. Where required, an AT&T Affiliate authorized by the appropriate regulatory authority will be the service provider. If an applicable Service Publication expressly permits placement of an order for a Service under this Master Agreement without the execution of a Pricing Schedule, Customer may place such an order using AT&T's standard ordering processes (an "Order"), and upon acceptance by AT&T, the Order shall otherwise be deemed a Pricing Schedule under this Master Agreement for the Service ordered.

2.2 **AT&T Equipment.** Services may be provided using equipment owned by AT&T that is located at the Site ("AT&T Equipment"), but title to the AT&T Equipment will remain with AT&T. Customer must provide adequate space and electric power for the AT&T Equipment and keep the AT&T Equipment physically secure and free from liens and encumbrances. Customer will bear the risk of loss or damage to the AT&T Equipment (other than ordinary wear and tear), except to the extent caused by AT&T or its agents.

2.3 **Purchased Equipment.** Except as specified in a Service Publication, title to and risk of loss of Purchased Equipment shall pass to Customer on delivery to the transport carrier for shipment to Customer's designated location.

2.4 **License and Other Terms.** Software, Purchased Equipment and Third-Party Services may be provided subject to the terms of a separate license or other agreement between Customer and either the licensor, the third-party service provider or the manufacturer. Customer's execution of the Pricing Schedule for or placement of an Order for Software, Purchased Equipment or Third-Party Services is Customer's agreement to comply with such separate agreement. Unless a Service Publication specifies otherwise, AT&T's sole responsibility with respect to Third-Party Services is to place Customer's orders for Third-Party Services, except that AT&T may invoice and collect payment from Customer for the Third-Party Services.

3. CUSTOMER'S COOPERATION

3.1 **Access Right.** Customer will in a timely manner allow AT&T access as reasonably required for the Services to property and equipment that Customer controls and will obtain at Customer's expense timely access for AT&T as reasonably required for the Services to property controlled by third parties such as Customer's landlord. AT&T will coordinate with and, except in an emergency, obtain Customer's consent to enter upon Customer's property and premises, which consent shall not be unreasonably withheld. Access rights

MASTER AGREEMENT

mean the right to construct, install, repair, maintain, replace and remove access lines and network facilities and the right to use ancillary equipment space within a building for Customer's connection to AT&T's network. Customer must provide AT&T timely information and access to Customer's facilities and equipment as AT&T reasonably requires for the Services, subject to Customer's reasonable security policies. Customer will furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities and other items as AT&T reasonably requires for the Services and will obtain any necessary licenses, permits and consents (including easements and rights-of-way). Customer will have the Site ready for AT&T to perform its work according to a mutually agreed schedule.

3.2 Safe Working Environment. Customer will ensure that the location at which AT&T installs, maintains or provides Services is a safe working environment, free of Hazardous Materials and reasonably suitable for the Services. "Hazardous Materials" mean any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal or release is regulated by any law related to pollution, to protection of air, water or soil or to health and safety. AT&T shall have no obligation to perform work at a location that is not a suitable and safe working environment or to handle, remove or dispose of Hazardous Materials.

3.3 Users. "User" means anyone who uses or accesses any Service provided to Customer. Customer will cause Users to comply with this Agreement and is responsible for Users' use of any Service unless expressly provided to the contrary in an applicable Service Publication.

3.4 Resale of Services. Customer may not resell the Services or rebrand the Services for resale to third parties without AT&T's prior written consent.

4. PRICING AND BILLING

4.1 Pricing and Pricing Schedule Term; Terms Applicable After End of Pricing Schedule Term. The prices listed in a Pricing Schedule are stabilized until the end of the Pricing Schedule Term and will apply in lieu of the corresponding prices set forth in the applicable Service Publication. No promotion, credit, discount or waiver set forth in a Service Publication will apply. Unless the Pricing Schedule states otherwise, at the end of the Pricing Schedule Term, Customer may continue Service (subject to any applicable notice or other requirements in a Service Publication for Customer to terminate a Service Component) under a month-to-month service arrangement at the prices, terms and conditions in effect on the last day of the Pricing Schedule Term. AT&T may change such prices, terms or conditions on 30 days' prior notice to Customer.

4.2 Additional Charges and Taxes. Prices set forth in a Pricing Schedule are exclusive of and Customer will pay all taxes (excluding those on AT&T's net income), surcharges, recovery fees, customs clearances, duties, levies, shipping charges and other similar charges (and any associated interest and penalties resulting from Customer's failure to timely pay such taxes or similar charges) relating to the sale, transfer of ownership, installation, license, use or provision of the Services, except to the extent Customer provides a valid exemption certificate prior to the delivery of Services. To the extent required by law, Customer may withhold or deduct any applicable taxes from payments due to AT&T, provided that Customer will use reasonable commercial efforts to minimize any such taxes to the extent allowed by law or treaty and will furnish AT&T with such evidence as may be required by relevant taxing authorities to establish that such tax has been paid so that AT&T may claim any applicable credit.

4.3 Billing. Unless a Service Publication specifies otherwise, Customer's obligation to pay for a Service Component begins upon availability of the Service Component to Customer. Customer will pay AT&T without deduction, setoff or delay for any reason (except for withholding taxes as provided in Section 4.2 - Additional Charges and Taxes or in Section 4.5 - Delayed Billing; Disputed Charges). At Customer's request, but subject to AT&T's consent (which may not be unreasonably withheld or withdrawn), Customer's Affiliates may be invoiced separately, and AT&T will accept payment from such Affiliates. Customer will be responsible for payment if Customer's Affiliates do not pay charges in accordance with this Agreement. AT&T may require Customer or its Affiliates to tender a deposit if AT&T determines, in its reasonable judgment, that Customer or its Affiliates are not creditworthy, and AT&T may apply such deposit to any charges owed.

4.4 Payments. Payment is due within 30 days after the date of the invoice (unless another date is specified in an applicable Tariff or Guidebook) and must refer to the invoice number. Charges must be paid in the currency specified in the invoice. Restrictive endorsements or other statements on checks are void. Customer will reimburse AT&T for all costs associated with collecting delinquent or dishonored payments, including reasonable attorneys' fees. AT&T may charge late payment fees at the lowest of (a) 1.5% per month (18% per annum), (b) for Services contained in a Tariff or Guidebook at the rate specified therein, or (c) the maximum rate allowed by law for overdue payments.

4.5 Delayed Billing; Disputed Charges. Customer will not be required to pay charges for Services initially invoiced more than 6 months after close of the billing period in which the charges were incurred, except for calls assisted by an automated or live operator. If Customer disputes a charge, Customer will provide notice to AT&T specifically identifying the charge and the reason it is disputed within 6 months after the date of the invoice in which the disputed charge initially appears, or Customer waives the right to dispute the charge. The portion of charges in dispute may be withheld and will not be considered overdue until AT&T completes its investigation of the dispute, but Customer may incur late payment fees in accordance with Section 4.4 (Payments). Following AT&T's notice of the results of its investigation to Customer, payment of all properly due charges and properly accrued late payment fees must be made within ten (10) business days. AT&T will reverse any late payment fees that were invoiced in error.

MASTER AGREEMENT

4.6 **Credit Terms.** AT&T retains a lien and purchase money security interest in each item of Purchased Equipment and Vendor Software until Customer pays all sums due. AT&T is authorized to sign and file a financing statement to perfect such security interest.

4.7 **MARC.** Minimum Annual Revenue Commitment ("MARC") means an annual revenue commitment set forth in a Pricing Schedule that Customer agrees to satisfy during each 12-consecutive-month period of the Pricing Schedule Term. If Customer fails to satisfy the MARC for any such 12-month period, Customer will pay a shortfall charge in an amount equal to the difference between the MARC and the total of the applicable MARC-Eligible Charges incurred during such 12-month period, and AT&T may withhold contractual credits until Customer pays the shortfall charge.

4.8 **Adjustments to MARC.**

(a) In the event of a business downturn beyond Customer's control, or a corporate divestiture, merger, acquisition or significant restructuring or reorganization of Customer's business, or network optimization using other Services, or a reduction of AT&T's prices, or a force majeure event, any of which significantly impairs Customer's ability to meet a MARC, AT&T will offer to adjust the affected MARC to reflect Customer's reduced usage of Services (with a corresponding adjustment to the prices, credits or discounts available at the reduced MARC level). If the parties reach agreement on a revised MARC, AT&T and Customer will amend the affected Pricing Schedule prospectively. This Section 4.8 will not apply to a change resulting from Customer's decision to use service providers other than AT&T. Customer will provide AT&T notice of the conditions Customer believes will require the application of this provision. This provision does not constitute a waiver of any charges, including monthly recurring charges and shortfall charges, Customer incurs prior to amendment of the affected Pricing Schedule.

(b) If Customer, through merger, consolidation, acquisition or otherwise, acquires a new business or operation, Customer and AT&T may agree in writing to include the new business or operation under this Agreement. Such agreement will specify the impact, if any, of such addition on Customer's MARC or other volume or growth discounts and on Customer's attainment thereof.

5. **CONFIDENTIAL INFORMATION**

5.1 **Confidential Information.** Confidential Information means: (a) information the parties or their Affiliates share with each other in connection with this Agreement or in anticipation of providing Services under this Agreement (including pricing or other proposals), but only to the extent identified as Confidential Information in writing; and (b) except as may be required by applicable law or regulation, the terms of this Agreement.

5.2 **Obligations.** A disclosing party's Confidential Information will, for a period of 3 years following its disclosure to the other party (except in the case of software, for which the period is indefinite): (a) not be disclosed, except to the receiving party's employees, agents and contractors having a need-to-know (but only if such agents and contractors are not direct competitors of the other party and agree in writing to use and disclosure restrictions as restrictive as this Section 5) or to the extent authorized to be revealed by law, governmental authority or legal process (but only if such disclosure is limited to that which is so authorized and prompt notice is provided to the disclosing party to the extent practicable and not prohibited by law, governmental authority or legal process); (b) be held in confidence; and (c) be used only for purposes of using the Services, evaluating proposals for new services or performing this Agreement (including in the case of AT&T to detect fraud, to check quality and to operate, maintain and enhance the network and Services).

5.3 **Exceptions.** The restrictions in this Section 5 will not apply to any information that: (a) is independently developed by the receiving party without use of the disclosing party's Confidential Information; (b) is lawfully received by the receiving party free of any obligation to keep it confidential; or (c) becomes generally available to the public other than by breach of this Agreement.

5.4 **Privacy.** Each party is responsible for complying with the privacy laws applicable to its business. AT&T shall require its personnel, agents and contractors around the world who process Customer Personal Data to protect Customer Personal Data in accordance with the data protection laws and regulations applicable to AT&T's business. If Customer does not want AT&T to comprehend Customer data to which it may have access in performing Services, Customer must encrypt such data so that it will be unintelligible. Customer is responsible for obtaining consent from and giving notice to its Users, employees and agents regarding Customer's and AT&T's collection and use of the User, employee or agent information in connection with a Service. Customer will only make accessible or provide Customer Personal Data to AT&T when it has the legal authority to do so. Unless otherwise directed by Customer in writing, if AT&T designates a dedicated account representative as Customer's primary contact with AT&T, Customer authorizes that representative to discuss and disclose Customer's customer proprietary network information to any employee or agent of Customer without a need for further authentication or authorization.

6. **LIMITATIONS OF LIABILITY AND DISCLAIMERS**

6.1 **Limitation of Liability.**

- (a) EITHER PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR DAMAGES ON ACCOUNT OF ANY CLAIM ARISING OUT OF AND NOT DISCLAIMED UNDER THIS AGREEMENT SHALL BE:
- (i) FOR BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TO TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY A PARTY'S NEGLIGENCE, PROVEN DIRECT DAMAGES;
 - (ii) FOR BREACH OF SECTION 5 (Confidential Information), SECTION 10.1 (Publicity) OR SECTION 10.2 (Trademarks), PROVEN DIRECT DAMAGES;

MASTER AGREEMENT

- (iii) FOR ANY THIRD-PARTY CLAIMS, THE REMEDIES AVAILABLE UNDER SECTION 7 (Third Party Claims);
 - (iv) FOR CLAIMS ARISING FROM THE OTHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVEN DAMAGES; OR
 - (v) FOR CLAIMS OTHER THAN THOSE SET FORTH IN SECTION 6.1(a)(i)-(iv), PROVEN DIRECT DAMAGES NOT TO EXCEED, ON A PER CLAIM OR AGGREGATE BASIS DURING ANY TWELVE (12) MONTH PERIOD, AN AMOUNT EQUAL TO \$500,000.
- (b) EXCEPT AS SET FORTH IN SECTION 7 (Third Party Claims) OR IN THE CASE OF A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS.
- (c) THE LIMITATIONS IN THIS SECTION 6 SHALL NOT LIMIT CUSTOMER'S RESPONSIBILITY FOR THE PAYMENT OF ALL PROPERLY DUE CHARGES UNDER THIS AGREEMENT.

6.2 Disclaimer of Liability. AT&T WILL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, DATA, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR ANY SERVICE ERROR OR INTERRUPTION, INCLUDING INTERRUPTIONS OR ERRORS IN ROUTING OR COMPLETING ANY 911 OR OTHER EMERGENCY RESPONSE CALLS OR ANY OTHER CALLS OR TRANSMISSIONS (EXCEPT FOR CREDITS EXPLICITLY SET FORTH IN THIS AGREEMENT); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S (OR ITS AFFILIATES', USERS' OR THIRD PARTIES') APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORKS OR SYSTEMS.

6.3 Purchased Equipment and Vendor Software Warranty. AT&T shall pass through to Customer any warranties for Purchased Equipment and Vendor Software available from the manufacturer or licensor. The manufacturer or licensor, and not AT&T, is responsible for any such warranty terms and commitments. ALL SOFTWARE AND PURCHASED EQUIPMENT IS OTHERWISE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS.

6.4 Disclaimer of Warranties. AT&T MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY ARISING BY USAGE OF TRADE OR BY COURSE OF DEALING. FURTHER, AT&T MAKES NO REPRESENTATION OR WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING CALLS TO 911 OR ANY SIMILAR EMERGENCY RESPONSE NUMBER) AND MAKES NO GUARANTEE REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR SUBJECT TO LOAD BALANCING OR THAT AT&T'S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO CUSTOMER'S DATA AND INFORMATION.

6.5 Application and Survival. The disclaimer of warranties and limitations of liability set forth in this Agreement will apply regardless of the form of action, whether in contract, equity, tort, strict liability or otherwise, of whether damages were foreseeable and of whether a party was advised of the possibility of such damages and will apply so as to limit the liability of each party and its Affiliates and their respective employees, directors, subcontractors and suppliers. The limitations of liability and disclaimers set out in this Section 6 will survive failure of any exclusive remedies provided in this Agreement.

7. THIRD PARTY CLAIMS

7.1 AT&T's Obligations. AT&T agrees at its expense to defend and either to settle any third-party claim against Customer, its Affiliates and its and their respective employees and directors or to pay all damages that a court finally awards against such parties for a claim alleging that a Service provided to Customer under this Agreement infringes any patent, trademark, copyright or trade secret, but not where the claimed infringement arises out of or results from: (a) Customer's, its Affiliate's or a User's content; (b) modifications to the Service by Customer, its Affiliate or a third party, or combinations of the Service with any non-AT&T services or products by Customer or others; (c) AT&T's adherence to Customer's or its Affiliate's written requirements; or (d) use of a Service in violation of this Agreement.

7.2 Customer's Obligations. Customer agrees at its expense to defend and either to settle any third-party claim against AT&T, its Affiliates and its and their respective employees, directors, subcontractors and suppliers or to pay all damages that a court finally awards against such parties for a claim that: (a) arises out of Customer's, its Affiliate's or a User's access to or use of the Services and the claim is not the responsibility of AT&T under Section 7.1; (b) alleges that a Service infringes any patent, trademark, copyright or trade secret and falls within the exceptions in Section 7.1; or (c) alleges a breach by Customer, its Affiliate or a User of a Software license agreement.

7.3 Infringing Services. Whenever AT&T is liable under Section 7.1, AT&T may at its option either procure the right for Customer to continue using, or may replace or modify, the Service so that it is non-infringing.

7.4 Notice and Cooperation. The party seeking defense or settlement of a third-party claim under this Section 7 will provide notice to the other party promptly upon learning of any claim for which defense or settlement may be sought, but failure to do so will have no

MASTER AGREEMENT

effect except to the extent the other party is prejudiced by the delay. The party seeking defense or settlement will allow the other party to control the defense and settlement of the claim and will reasonably cooperate with the defense. The defending party will use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim where relief against the party being defended is limited to monetary damages that are paid by the defending party under this Section 7.

7.5 AT&T's obligations under Section 7.1 shall not extend to actual or alleged infringement or misappropriation of intellectual property based on Purchased Equipment, Software, or Third-Party Services.

8. SUSPENSION AND TERMINATION

8.1 **Termination of Agreement.** This Agreement may be terminated immediately upon notice by either party if the other party becomes insolvent, ceases operations, is the subject of a bankruptcy petition, enters receivership or any state insolvency proceeding or makes an assignment for the benefit of its creditors. Additionally, this Agreement may be terminated, in whole or in part, by Customer with cause upon five (5) business days' written notice, or without cause upon ten (10) business days' written notice. Upon such termination notice, AT&T shall, except as otherwise directed in writing by Customer, (a) stop work on the date and to the extent specified; (b) terminate and settle all orders relating to the terminated work; (c) transfer all work in process, completed work, and other materials related to the terminated work to the Customer; and (d) continue and complete all parts of the work that have not been terminated.

8.2 **Termination or Suspension.** The following additional termination provisions apply:

- (a) **Material Breach.** If either party fails to perform or observe any material warranty, representation, term or condition of this Agreement, including non-payment of charges, and such failure continues unremedied for 30 days after receipt of notice, the aggrieved party may terminate (and AT&T may suspend and later terminate) the affected Service Components and, if the breach materially and adversely affects the entire Agreement, terminate (and AT&T may suspend and later terminate) the entire Agreement.
- (b) **Materially Adverse Impact.** If AT&T revises a Service Publication, the revision has a materially adverse impact on Customer and AT&T does not effect revisions that remedy such materially adverse impact within 30 days after receipt of notice from Customer, then Customer may, as Customer's sole remedy, elect to terminate the affected Service Components on 30 days' notice to AT&T, given not later than 90 days after Customer first learns of the revision to the Service Publication. "Materially adverse impacts" do not include changes to non-stabilized pricing, changes required by governmental authority, or assessment of or changes to additional charges such as surcharges or taxes.
- (c) **Internet Services.** If Customer fails to rectify a violation of the AUP within 5 days after receiving notice from AT&T, AT&T may suspend the affected Service Components. AT&T reserves the right, however, to suspend or terminate immediately when: (i) AT&T's suspension or termination is in response to multiple or repeated AUP violations or complaints; (ii) AT&T is acting in response to a court order or governmental notice that certain conduct must be stopped; or (iii) AT&T reasonably determines that (a) it may be exposed to sanctions, liability, prosecution or other adverse consequences under applicable law if AT&T were to allow the violation to continue; (b) such violation may harm or interfere with the integrity, normal operations or security of AT&T's network or networks with which AT&T is interconnected or may interfere with another customer's use of AT&T services or the Internet; or (c) such violation otherwise presents an imminent risk of harm to AT&T, AT&T's customers or its or their respective employees.
- (d) **Fraud or Abuse.** AT&T may terminate or suspend an affected Service or Service Component and, if the activity materially and adversely affects the entire Agreement, terminate or suspend the entire Agreement, immediately by providing Customer with as much advance notice as is reasonably practicable under the circumstances if Customer, in the course of breaching the Agreement: (i) commits a fraud upon AT&T; (ii) uses the Service to commit a fraud upon another party; (iii) unlawfully uses the Service; (iv) abuses or misuses AT&T's network or Service; or (v) interferes with another customer's use of AT&T's network or services.
- (e) **Infringing Services.** If the options described in Section 7.3 (Infringing Services) are not reasonably available, AT&T may at its option terminate the affected Services or Service Components without liability other than as stated in Section 7.1 (AT&T's Obligations).
- (f) **Hazardous Materials.** If AT&T encounters any Hazardous Materials at the Site, AT&T may terminate the affected Services or Service Components or may suspend performance until Customer removes and remediates the Hazardous Materials at Customer's expense in accordance with applicable law.

8.3 Effect of Termination.

- (a) Termination or suspension by either party of a Service or Service Component does not waive any other rights or remedies a party may have under this Agreement and will not affect the rights and obligations of the parties regarding any other Service or Service Component.
- (b) If a Service or Service Component is terminated, Customer will pay all amounts incurred prior to the effective date of termination.

MASTER AGREEMENT**8.4 Termination Charges.**

- (a) If Customer terminates this Agreement or an affected Service or Service Component for cause in accordance with the Agreement or if AT&T terminates a Service or Service Component other than for cause, Customer will not be liable for the termination charges set forth in this Section 8.4.
- (b) If Customer or AT&T terminates a Service or Service Component prior to Cutover other than as set forth in Section 8.4(a), Customer (i) will pay any pre-Cutover termination or cancellation charges set out in a Pricing Schedule or Service Publication, or (ii) in the absence of such specified charges, will reimburse AT&T for time and materials incurred prior to the effective date of termination, plus any third party charges resulting from the termination.
- (c) If Customer or AT&T terminates a Service or Service Component after Cutover other than as set forth in Section 8.4(a), Customer will pay applicable termination charges as follows: (i) 50% (unless a different amount is specified in the Pricing Schedule) of any unpaid recurring charges for the terminated Service or Service Component attributable to the unexpired portion of an applicable Minimum Payment Period; (ii) if termination occurs before the end of an applicable Minimum Retention Period, any associated credits or waived or unpaid non-recurring charges; and (iii) any charges incurred by AT&T from a third party (*i.e.*, not an AT&T Affiliate) due to the termination. The charges set forth in Sections 8.4(c)(i) and (ii) will not apply if a terminated Service Component is replaced with an upgraded Service Component at the same Site, but only if the Minimum Payment Period or Minimum Retention Period, as applicable, (the "Minimum Period") and associated charge for the replacement Service Component are equal to or greater than the corresponding Minimum Period and associated charge for the terminated Service Component, respectively, and if the upgrade is not restricted in the applicable Service Publication.
- (d) In addition, if Customer terminates a Pricing Schedule that has a MARC, Customer will pay an amount equal to 50% of the unsatisfied MARC for the balance of the Pricing Schedule Term.

9. IMPORT/EXPORT CONTROL

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under this Agreement (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

10. MISCELLANEOUS PROVISIONS

10.1 Publicity. Neither party may issue any public statements or announcements relating to the terms of this Agreement or to the provision of Services without the prior written consent of the other party.

10.2 Trademarks. Each party agrees not to display or use, in advertising or otherwise, any of the other party's trade names, logos, trademarks, service marks or other indicia of origin without the other party's prior written consent, which consent may be revoked at any time by notice.

10.3 Independent Contractor. Each party is an independent contractor. Neither party controls the other, and neither party nor its Affiliates, employees, agents or contractors are Affiliates, employees, agents or contractors of the other party.

10.4 Force Majeure. Except for payment of amounts due, neither party will be liable for any delay, failure in performance, loss or damage due to fire, explosion, cable cuts, power blackout, earthquake, flood, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism, acts of God, acts of a public enemy, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies or other causes beyond such party's reasonable control.

10.5 Amendments and Waivers. Any supplement to or modification or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties. A waiver by either party of any breach of this Agreement will not operate as a waiver of any other breach of this Agreement.

10.6 Assignment and Subcontracting.

- (a) Customer may, without AT&T's consent but upon notice to AT&T, assign in whole or relevant part its rights and obligations under this Agreement to a Customer Affiliate. AT&T may, without Customer's consent, assign in whole or relevant part its rights and obligations under this Agreement to an AT&T Affiliate. In no other case may this Agreement be assigned by either party without the prior written consent of the other party (which consent will not be unreasonably withheld or delayed). In the case of any assignment, the assigning party shall remain financially responsible for the performance of the assigned obligations.
- (b) AT&T may subcontract to an Affiliate or a third party work to be performed under this Agreement but will remain financially responsible for the performance of such obligations.
- (c) In countries where AT&T does not have an Affiliate to provide a Service, AT&T may assign its rights and obligations related to such Service to a local service provider, but AT&T will remain responsible to Customer for such obligations. In certain countries, Customer may be required to contract directly with the local service provider.

10.7 Severability. If any portion of this Agreement is found to be invalid or unenforceable or if, notwithstanding Section 10.11 (Governing Law), applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties

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will negotiate in good faith to substitute for such invalid, illegal or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

10.8 **Injunctive Relief.** Nothing in this Agreement is intended to or should be construed to prohibit a party from seeking preliminary or permanent injunctive relief in appropriate circumstances from a court of competent jurisdiction.

10.9 **Legal Action.** Any legal action arising in connection with this Agreement must be filed within two (2) years after the cause of action accrues, or it will be deemed time-barred and waived. The parties waive any statute of limitations to the contrary.

10.10 **Notices.** Any required notices under this Agreement shall be in writing and shall be deemed validly delivered if made by hand (in which case delivery will be deemed to have been effected immediately), or by overnight mail (in which case delivery will be deemed to have been effected one (1) business day after the date of mailing), or by first class pre-paid post (in which case delivery will be deemed to have been effected five (5) days after the date of posting), or by facsimile or electronic transmission (in which case delivery will be deemed to have been effected on the day the transmission was sent). Any such notice shall be sent to the office of the recipient set forth on the cover page of this Agreement or to such other office or recipient as designated in writing from time to time.

10.11 **Governing Law.** This Agreement will be governed by the law of the State of Florida, without regard to its conflict of law principles, unless a regulatory agency with jurisdiction over the applicable Service applies a different law. Any legal action necessary to enforce this Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. The United Nations Convention on Contracts for International Sale of Goods will not apply.

10.12 **Compliance with Laws.** Each party will comply with all applicable laws and regulations and with all applicable orders issued by courts or other governmental bodies of competent jurisdiction.

10.13 **No Third Party Beneficiaries.** This Agreement is for the benefit of Customer and AT&T and does not provide any third party (including citizens of the Customer and/or any Users) the right to enforce it or to bring an action for any remedy, claim, liability, reimbursement or cause of action or any other right or privilege.

10.14 **Survival.** The respective obligations of Customer and AT&T that by their nature would continue beyond the termination or expiration of this Agreement, including the obligations set forth in Section 5 (Confidential Information), Section 6 (Limitations of Liability and Disclaimers) and Section 7 (Third Party Claims), will survive such termination or expiration.

10.15 **Agreement Language.** The language of this Agreement is English. If there is a conflict between this Agreement and any translation, the English version will take precedence.

10.16 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter. Except as provided in Section 2.4 (License and Other Terms), this Agreement supersedes all other agreements, proposals, representations, statements and understandings, whether written or oral, concerning the Services or the rights and obligations relating to the Services, and the parties disclaim any reliance thereon. This Agreement will not be modified or supplemented by any written or oral statements, proposals, representations, advertisements, service descriptions or purchase order forms not expressly set forth in this Agreement.

10.17 **Vendor Registration Account.** In order to do business with Customer, AT&T is required to create a Vendor Registration Account OR activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service (VSS) system, which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. If AT&T intends to use subcontractors, AT&T must also ensure that all subcontractors are registered in VSS. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS. Customer will not finalize a contract award until the Customer has verified that AT&T is registered in VSS.

10.18 **Availability of Funds.** Customer's performance and obligation to pay under this Agreement or any Pricing Schedules or Orders for subsequent fiscal years are contingent upon annual appropriations for its purpose by the Board of County Commissioners.

10.19 **Truth in Negotiation Certificate.** Signature of this Agreement by AT&T shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement or any Pricing Schedules or Orders are accurate, complete and current as of the date of the document and no higher than those charged AT&T's most favored customer for the same or substantially similar service. The said rates and costs shall be adjusted to exclude any significant sums should the Customer determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The Customer shall exercise its rights under this Article 4 within three (3) years following final payment.

10.20 **Insurance.** AT&T shall maintain at its sole expense, in force and effect at all times during the term of this Agreement, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least the required insurance shall be considered default of the Agreement. The requirements contained herein, as well as Customer's review or acceptance of insurance maintained by AT&T, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by AT&T under the Agreement. AT&T agrees to notify the Customer at least ten (10) days prior to cancellation, non-renewal or material change to the required insurance coverage. Where the policy allows, coverage shall apply on a primary and non-contributory basis.

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- (a) **Commercial General Liability:** AT&T shall maintain Commercial General Liability at a limit of liability not less than \$500,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, " Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to Customer upon request.

- (b) **Workers' Compensation Insurance & Employer's Liability:** AT&T shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.
- (c) **Professional Liability:** AT&T shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, Customer reserves the right, but not the obligation, to review and request a copy of AT&T's most recent annual report or audited financial statement. For policies written on a "claims-made" basis, AT&T warrants the Retroactive Date equals or precedes the Effective Date of this Agreement. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this Agreement, AT&T shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the contract term. The requirement to purchase a SERP shall not relieve AT&T of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.
- (d) **Waiver of Subrogation:** Except where prohibited by law, AT&T hereby waives any and all rights of Subrogation against the Customer, its officers, employees and agents for each required policy except Professional Liability. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then AT&T shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should AT&T enter into such an agreement on a pre-loss basis.
- (e) **Certificates of Insurance:** On execution of this Agreement, within forty-eight (48) hours of a request by Customer, and upon expiration of any of the required coverage throughout the term of this Agreement, AT&T shall deliver to the Customer a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this Agreement have been obtained and are in force and effect. Certificates shall be issued to: Palm Beach County Board of County Commissioners, c/o Information System Services, 301 N. Olive Avenue, West Palm Beach, Florida 33401
- (f) **Right to Revise or Reject:** Customer, by and through its Risk Management Department in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements.

10.21 **Federal and State Tax.** The Customer is exempt from payment of Florida State Sales and Use Taxes. The Customer will sign an exemption certificate submitted by AT&T. AT&T shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the Customer, nor is AT&T authorized to use the Customer's Tax Exemption Number in securing such materials. AT&T shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

10.22 **Arrears:** AT&T shall not pledge the Customer's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. AT&T further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

10.23 **Access and Audits:** AT&T shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this Agreement. Customer shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at AT&T's place of business located in Palm Beach County.

10.24 **Inspector General:** 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 AT&T, its officers, agents, employees, and lobbyists in order to ensure compliance with contract 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.

10.25 **Nondiscrimination:** Customer 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, AT&T warrants and represents

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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.

As a condition of entering into this Agreement, AT&T represents and warrants that it will comply with the Customer's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, AT&T shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall AT&T retaliate against any person for reporting instances of such discrimination. AT&T shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the Customer's relevant marketplace in Palm Beach County. AT&T understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification or debarment of the company from participating in Customer contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. AT&T shall include this language in its subcontracts.

10.26 Public Entity Crimes: As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, AT&T certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

10.27 Criminal History Records Check: AT&T, AT&T's employees, subcontractors of AT&T and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolutions R2013-1470 and R2015-0572, as amended. AT&T is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, AT&T acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the Customer. This Agreement may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and above referenced Resolutions, as amended. Customer staff representing the Customer department will contact AT&T and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. AT&T shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the Customer. If AT&T or its subcontractor(s) terminates an employee who has been issued a badge, AT&T must notify the Customer within two (2) hours. At the time of termination, AT&T shall retrieve the badge and shall return it to the Customer in a timely manner. The Customer reserves the right to suspend AT&T if AT&T 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not contact the Customer regarding a terminated AT&T employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

10.28 Regulations; Licensing Requirements: AT&T shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. AT&T is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

10.29 Scrutinized Companies: As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, AT&T certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if AT&T is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Agreement may be terminated at the option of the Customer.

When contract value is greater than \$1 million: As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, AT&T certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

To the extent AT&T is engaged in business operations in Cuba or Syria, pursuant to F.S. 287.135(4)(b)(1), Customer hereby makes a finding that Customer would be unable to obtain the goods or services for which this Agreement is offered, absent granting an exception to AT&T to enter into this Agreement despite such business operations.

If the Customer determines, using credible information available to the public, that a false certification has been submitted by AT&T, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Agreement renewal, if applicable.

10.30 E-verify – Employment Eligibility: AT&T warrants and represents 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 beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of AT&T's

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subconsultants performing the duties and obligations of this Agreement are registered with the E-Verify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

AT&T 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. AT&T 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 Agreement which requires a longer retention period.

Customer shall terminate this Agreement if it has a good faith belief that AT&T has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If Customer has a good faith belief that AT&T's subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, Customer shall notify AT&T to terminate its contract with the subcontractor and AT&T shall immediately terminate its contract with the subcontractor. If Customer terminates this Agreement pursuant to the above, AT&T shall be barred from being awarded a future contract by Customer for a period of one (1) year from the date on which this Agreement was terminated. In the event of such contract termination, AT&T shall also be liable for any additional costs incurred by Customer as a result of the termination.

10.31 Public Records: Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if AT&T: (i) provides a service; and (ii) acts on behalf of the Customer as provided under Section 119.011(2) F.S., AT&T shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. AT&T is specifically required to:

- A. Keep and maintain public records required by the Customer to perform services as provided under this Agreement.
- B. Upon request from the Customer's Custodian of Public Records, provide the Customer with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. AT&T further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if AT&T does not transfer the records to the public agency.
- D. Upon completion of the Agreement, AT&T shall transfer, at no cost to the Customer, all public records in possession of AT&T unless notified by Customer's representative/liaison, on behalf of the Customer's Custodian of Public Records, to keep and maintain public records required by the Customer to perform the service. If AT&T transfers all public records to the Customer upon completion of the Agreement, AT&T shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If AT&T keeps and maintains public records upon completion of the Agreement, AT&T shall meet all applicable requirements for retaining public records. All records stored electronically by AT&T must be provided to Customer, upon request of the Customer's Custodian of Public Records, in a format that is compatible with the information technology systems of Customer, at no cost to Customer.

Failure of AT&T to comply with the requirements of this article shall be a material breach of this Agreement. Customer shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. AT&T acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF AT&T HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO AT&T'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.

11. DEFINITIONS

"Affiliate" of a party means any entity that controls, is controlled by or is under common control with such party.

"API" means an application program interface used to make a resources request from a remote implementer program. An API may include coding, specifications for routines, data structures, object classes, and protocols used to communicate between programs.

"AT&T Software" means software, including APIs, and all associated written and electronic documentation and data owned by AT&T and licensed by AT&T to Customer. AT&T Software does not include software that is not furnished to Customer.

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"Customer Personal Data" means information that identifies an individual, that Customer directly or indirectly makes accessible to AT&T and that AT&T collects, holds or uses in the course of providing the Services.

"Cutover" means the date Customer's obligation to pay for Services begins.

"Effective Date" of a Pricing Schedule means the date on which the last party signs the Pricing Schedule unless a later date is required by regulation or law.

"MARC-Eligible Charges" means the recurring and usage charges (including amounts calculated from unpaid charges that are owed under Section 8.4(c)(i)), after deducting applicable discounts and credits (other than outage or SLA credits), that AT&T charges Customer for the Services identified in the applicable Pricing Schedule as MARC-contributing. The following are not MARC-Eligible Charges: (a) charges for or in connection with Customer's purchase of equipment; (b) taxes; and (c) charges imposed in connection with governmentally imposed costs or fees (such as USF, PICC, payphone service provider compensation, E911 and deaf relay charges).

"Minimum Payment Period" means the Minimum Payment Period identified for a Service Component in a Pricing Schedule or Service Publication during which Customer is required to pay recurring charges for the Service Component.

"Minimum Retention Period" means the Minimum Retention Period identified for a Service Component in a Pricing Schedule or Service Publication during which Customer is required to maintain service to avoid the payment (or repayment) of certain credits, waived charges or amortized charges.

"Purchased Equipment" means equipment or other tangible products Customer purchases under this Agreement, including any replacements of Purchased Equipment provided to Customer. Purchased Equipment also includes any internal code required to operate such Equipment. Purchased Equipment does not include Software but does include any physical media provided to Customer on which Software is stored.

"Service Component" means an individual component of a Service provided under this Agreement.

"Service Publications" means Tariffs, Guidebooks, Service Guides and the AUP.

"Site" means a physical location, including Customer's collocation space on AT&T's or its Affiliate's or subcontractor's property, where AT&T installs or provides a Service.

"Software" means AT&T Software and Vendor Software.

"Third-Party Service" means a service provided directly to Customer by a third party under a separate agreement between Customer and the third party.

"Vendor Software" means software, including APIs, and all associated written and electronic documentation and data AT&T furnishes to Customer, other than AT&T Software.