

4A

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: October 20, 2009

Consent                       Regular  
 Public Hearing

Department

Submitted By: **PUBLIC SAFETY**

Submitted For: **Emergency Management / EMS**

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to approve:** an Amendment to Palm Beach County Fire Rescue's Certificate of Public Convenience and Necessity (COPCN) to include the Village of Palm Springs in their area of jurisdiction; enabling Palm Beach County Fire Rescue to be the Primary Provider of Advanced Life Support (ALS) Emergency Medical Services and Transportation in the Village of Palm Springs for the period of October 1, 2009 to December 31, 2010.

**Summary:** On August 27, 2009, the Village of Palm Springs entered into an Interlocal Agreement for Fire Protection and Emergency Medical Services with Palm Beach County Fire Rescue. The City of Palm Springs joined the MSTU (Municipal Service Taxing Unit) for services commencing Oct 1, 2009. The secondary EMS provider, Medics Ambulance Service, will provide Basic Life Support (BLS) transport. In order for Palm Beach County Fire Rescue to assume this responsibility, their COPCN must be amended to include the Village of Palm Springs in their jurisdiction. District 3 (DMA)

**Background and Policy Issues:** In order to improve and enhance the response times, coverage, and overall efficiency of Fire Rescue and EMS to their residents and visitors, the Village of Palm Springs has entered into an Interlocal agreement with the County to have Palm Beach County Fire Rescue provide said services. The County will provide primary ALS and ALS transport only. Medics Ambulance Service, the private ambulance service and secondary EMS agency for the area, will provide BLS transport. According to the EMS Ordinance (2006-040, Section 8), the Board of County Commissioners may approve the transfer, or assignment, of a COPCN. This Amendment of Palm Beach County Fire Rescue's COPCN will reflect the assignment of the Village of Palm Springs to Palm Beach County Fire Rescue's jurisdiction. This COPCN will be valid from October 1, 2009 to December 31, 2010.

**Attachments:**

1. Letter from Palm Beach County Fire Rescue
2. State Interlocal Agreement between PBC and Palm Springs
3. COPCN (2 copies)
4. Palm Beach Post – Proof of Publication

Recommended by: *Vincent Bonvento*                      9/24/09  
 Department Director                      Date

Approved by: *Vincent Bonvento*                      9/24/09  
 Assistant County Administrator                      Date

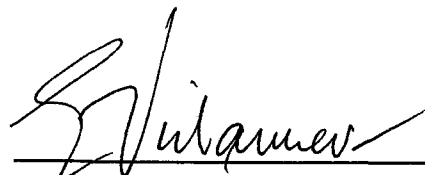
**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact**

Fiscal Years	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	<u>    *    </u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_ No \_\_\_  
 Budget Account No. Exp: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Rev: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_


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

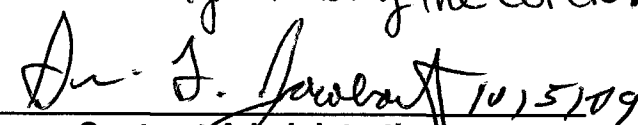
C. Departmental Fiscal Review: 

**III. REVIEW COMMENTS**

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

\* There is no fiscal impact associated with this agenda item. The impact was identified when the Board approved the interlocal agreement between the Village & PBC. The item is only amending the COPCN.

  
 8/29/09 OFMB 8/29/09

 10/5/09  
 Contract Administration 10/5/09

This Contract complies with our contract review requirements.

**B. Legal Sufficiency:**

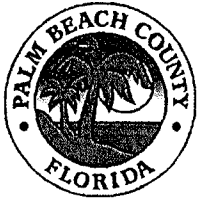
At the time of our review, the contract was not executed.

 10/6/09  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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



**Fire Rescue**

Chief Herman W. Brice

405 Pike Road  
West Palm Beach, FL 33411  
(561) 616-7000  
www.pbcgov.com



**Palm Beach County  
Board of County  
Commissioners**

Jeff Koons, Chairman  
Burt Aaronson, Vice Chairman

Karen T. Marcus  
Shelley Vana  
Steven L. Abrams  
Jess R. Santamaria  
Priscilla A. Taylor

County Administrator  
Robert Weisman



"An Equal Opportunity  
Affirmative Action Employer"

August 17, 2009

Emergency Management Division  
Division of EMS, Attn, Lynette Schurter  
20 South Military Trail  
West Palm Beach, FL 33415

Dear Ms. Schurter:

It is the intent of Palm Beach County Fire-Rescue to provide Emergency Medical Services for the municipalities of The Village of Palm Springs and the City of Lake Worth beginning October 1, 2009, at 0730 hours.

The Inter-Local agreements for this service are attached to present to the EMS Advisory Council to recommend to the Board of County Commissioners the amendment of Palm Beach County Fire-Rescues' Certificate of Public Convenience and Necessity (COPCN) to provide the services.

Additionally, if the EMS Advisory Council is not meeting this month to provide this recommendation, would you please prepare the agenda item for the Board meeting on September 15, 2009.

Should you have any questions, please do not hesitate to contact me at 616-7016.

Sincerely,

William R. Peters, Division Chief  
Rescue Operations  
Palm Beach County Fire-Rescue

**INTERLOCAL AGREEMENT FOR  
FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES  
BY AND BETWEEN  
THE VILLAGE OF PALM SPRINGS AND PALM BEACH COUNTY**

THIS INTERLOCAL AGREEMENT FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the VILLAGE OF PALM SPRINGS, a Florida municipal corporation, (hereinafter the "Village") and the BOARD OF COUNTY COMMISSIONERS of PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter the "County or "Fire-Rescue") for fire-rescue services.

**WITNESSETH**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population, and other factors influencing the needs and development of local communities; and

**WHEREAS**, Chapter 26, Article II, Division 3, of the Palm Beach County Code, in accordance with the authority set forth in Section 125.01(1)(q) and (r), Florida Statutes, established the Fire/Rescue Municipal Service Taxing Unit (hereinafter the "Fire/Rescue MSTU") as a mechanism for the provision and funding of County fire protection and emergency medical services; and

**WHEREAS**, in accordance with Section 125.01(2), Florida Statutes, the Palm Beach County Board of County Commissioners is the governing body of the Fire/Rescue MSTU; and

**WHEREAS**, Section 125.0101, Florida Statutes, authorizes counties to contract with municipalities to provide fire protection and other essential services; and

**WHEREAS**, the Village desires to receive fire protection and emergency medical services from the County, and the County desires to provide such services within the Village; and

**WHEREAS**, representatives of the Village and County have discussed the terms of a Fire Protection Agreement on numerous occasions; and

**WHEREAS**, in accordance with Village Ordinance No. 2008-21 and County Ordinance No 2008-061, the Village has opted into, and has been accepted by the County into, the Fire/Rescue MSTU for the provision of County fire-rescue services within the Village beginning October 1, 2009; and

**WHEREAS**, the Village and the County mutually desire to terminate their “Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services” (R2007-0904) dated June 5, 2007, as said agreement shall become obsolete upon the commencement of County fire-rescue services on October 1, 2009 through the Village’s participation in the Fire/Rescue MSTU and this Agreement; and

**WHEREAS**, both the Village and the County believe that the public interest is promoted by the Village opting into the Fire/Rescue MSTU as a method to receive and fund fire-rescue and related services from the County, while entering into this Agreement to outline certain parameters of the services to be provided.

**NOW, THEREFORE**, the Village and County, in consideration of the terms and conditions set forth herein and the benefits flowing from each to the other, do hereby agree as follows:

**SECTION 1. INCORPORATION OF FACTS**

The facts set forth above in the preamble to this Agreement are true and correct and are hereby incorporated into and made a part of this Agreement.

**SECTION 2. PURPOSE**

The purpose of this Agreement is to outline certain parameters regarding the provision of fire protection and emergency medical services within the Village by the County through the Fire/Rescue MSTU. To facilitate the purposes of this Agreement, the Village shall cooperate with and assist the County so as to ensure that the services provided by County are coordinated with other municipal services provided by the Village, and that complaints and/or inquiries regarding the County’s performance and the services delivered hereunder are appropriately addressed.

### **SECTION 3. REPRESENTATIVE AND CONTRACT MONITOR**

The County's representative and contract monitor during the term of this Agreement shall be the Fire-Rescue Administrator whose telephone number is 561-616-7001. The Village's representative and contract monitor during the term of this Agreement shall be the Village Manager whose telephone number is 561-965-4011.

### **SECTION 4. ADMINISTRATION**

#### **A. Contract for Services**

This Agreement is a contract relating to the provision of services and shall not in any manner whatsoever constitute a transfer of powers or functions in anyway whatsoever. This Agreement is solely an interlocal agreement relating to services as authorized by Chapters 163 and 125, Florida Statutes.

#### **B. Oversight by the Village**

The Village, through its Village Manager, shall oversee and monitor the County's performance of fire-rescue services within the Village. Notwithstanding the Village's ultimate authority and responsibility for the oversight of services provided hereunder, the rendition of services, standards of performance, discipline of County officers and County employees, and all other matters incidental to County's control of its personnel and the performance of services, including but not limited to equipment, facilities, agreements for automatic/mutual aid, and implementation of its policies and procedures, shall reside with the County.

### **SECTION 5. SERVICES TO BE PROVIDED**

The County, by and through the Fire/Rescue MSTU, shall provide within the Village the personnel and equipment necessary to provide fire suppression, emergency medical services, special operations, hazardous materials response and mitigation, emergency response communications, community education programs, confined space rescue, dive rescue, fire code inspection and testimony related thereto, response to all subpoenas related to fire-rescue activities, arson investigation, new construction inspection, and all other emergency and non-emergency services generally provided by the Palm Beach County Fire-Rescue Department, hereinafter called "Fire-Rescue". Notwithstanding anything in this Agreement that is or may be construed to the contrary, the specific services and levels of services to be provided within the

Village shall be determined by the County in its role of establishing the services and levels of services to be provided within the Fire/Rescue MSTU generally, as may be established and modified from time to time within the sole discretion of the County as the governing body of said MSTU.

The County and the Village hereby recognize that the County, through Fire-Rescue, provides fire-rescue services throughout Palm Beach County and those services, at the County's discretion, may be provided from facilities and with personnel and apparatus located within or outside the municipal boundaries of the Village.

## **SECTION 6. COUNTY RESPONSIBILITIES**

### **A. Staffing**

County agrees to hire those full-time Village employees who, as of 7:29 a.m. on October 1, 2009, are both employed by the Village's Fire Rescue Department and meet the County's minimum hiring standards, including but not limited to being both a Florida State Certified Firefighter II and a Florida State Certified Emergency Medical Technician, and successfully complete the County's pre-employment screening process; provided, however, that the number of employees hired by the County hereunder shall not exceed 19, which equals the full complement of the certified Firefighter positions within the Village's Fire Department, including both filled and vacant positions, at the time that this Agreement is approved by the parties. Said employees shall be terminated by the Village effective 7:30 a.m. on October 1, 2009. The County shall hire said employees as new employees of the County effective 7:30 a.m. on October 1, 2009.

The personnel assigned to staff Station #39 shall be within the sole discretion of the County. The Village understands that the County makes no representation or promise that the former Village employees hired by the County hereunder will be assigned to Station #39.

### **B. Equipment**

Station #39 shall have equipment capable of responding to both fire and medical calls.

### **C. Fire Prevention Services**

The County shall conduct fire inspections on applicable buildings and structures located within the incorporated boundaries of the Village in accordance with the Florida Fire Prevention Code and the Palm Beach County Local Amendments thereto (as may be hereinafter collectively

referred to as the “Fire Code”), all as may be amended from time to time.

Community Education programs shall be made available to any resident or business located within the incorporated boundaries of the Village. Fire-Rescue currently offers a wide variety of public education programs targeted to a variety of age groups and audience types. These programs shall be offered to Village residents in the same manner as they are offered to residents within the Fire/Rescue MSTU generally.

Fire-Rescue shall provide new construction plans review and new construction inspections.

Fire-Rescue shall conduct fire/arson investigations within the Village to determine cause and origin and will respond to subpoenas regarding same, and provide testimony if needed in code enforcement cases or in any other type of legal proceeding. Fire-Rescue will coordinate with the Village’s police department on any subsequent investigation that requires law enforcement assistance.

**D. Insurance**

Without waiving the right to Sovereign Immunity and pursuant to the provisions and limitations of Section 768.28, F.S., the County acknowledges that it is self-insured and that it shall self-insure for the duration of this Agreement its own General Liability, Wrongful Acts or Omissions and Automobile Liability under State Sovereign Immunity statutes with coverage limits of \$100,000 per person and \$200,000 per occurrence, or such monetary waiver limits as set forth by the Legislature.

The County shall provide first party physical damage insurance coverage for all County property located at Station #39. The County’s property shall be covered on an “All Risk” basis. The County shall be responsible for all deductibles or self-insured retention (SIR) for County property damage claims or losses. Furthermore, the County agrees to waive subrogation against the Village to the extent damages are payable under the County’s deductible, SIR or property insurance program.



## **SECTION 7. VILLAGES'S RESPONSIBILITIES**

### **A. Emergency Calls**

All calls for emergency services received by the Village which require a response by Fire-Rescue shall be immediately forwarded to the Palm Beach County Emergency Communications Center for operational dispatch.

### **B. Facilities**

Each obligation of the Village under this Section 7B shall be considered a material obligation of the Village under this Agreement. From October 1, 2009, at 7:30 a.m., until the expiration or earlier termination of this Agreement, the Village shall lease to the County the real property, including all buildings, structures, parking lots and other improvements located thereon, located at 228 Cypress Lane, Palm Springs, Florida (herein referred to as "Station #39"), as depicted in **Exhibit "1"** attached hereto and incorporated herein. Upon the Village's completion of the expansion of Station #39, all references to Station #39 in this Agreement shall include the expanded area and Exhibit 1 shall be updated to include the expanded area.

The County shall have exclusive use and possession of the entire Station #39 and shall pay the Village an annual gross lease of Fifty Thousand Dollars (\$50,000) for Station #39, on January 1<sup>st</sup> of each fiscal year. The Village hereby warrants that it has good, right title to Station #39 and authority to lease Station #39 free and clear of any liens, encumbrances, and other matters.

The County shall have the right to inspect Station #39 at any time prior to occupancy to determine the condition of Station #39. The Village shall make, at its own expense, any repairs to Station #39 as identified by the County as well as any necessary repairs known to the Village. The Village shall complete all such repairs prior to October 1, 2009, and prior to the County assuming any maintenance responsibilities. The Village shall take any other actions identified by the County as reasonably necessary to facilitate the County's occupancy and use of Station #39 commencing October 1, 2009.

The County shall obtain and pay for all utilities to Station #39 except that the Village shall provide and pay for trash collection to Station #39. The Village shall provide and pay for all exterior maintenance of Station #39, including but not limited to exterior walls, roof and foundation. The County's maintenance and repair obligations shall be limited to maintaining the interior of Station #39 in the same condition as it exists on the date that the County takes

possession of said Station #39, normal wear and tear and casualty excepted, including any necessary air conditioning and heating repairs. To the extent that any such repairs are covered under the Village's property insurance, the Village shall reimburse the County for any costs incurred by the County for such repairs.

The Village shall be responsible for all other repairs and maintenance of Station #39, including the grounds, landscaping and parking lots. Notwithstanding anything in this Agreement that is or may be construed to the contrary, the County shall have no obligation to repair any damage arising from any negligent or intentional act or omission of the Village, its employees, agents, invitees or third parties, which damage shall be promptly repaired by the Village.

The County shall be entitled to make alterations, improvements or additions to Station #39 at its own expense with the prior written approval of the Village Manager, which approval shall not be unreasonably withheld, delayed or conditioned. All such alterations, improvements or additions shall be made in accordance with applicable local ordinances, regulations and codes. Should the Village no longer receive its fire-rescue services through the County, the Village agrees to pay to the County the fair market value, based on an appraisal obtained by the County, of any such approved alterations, improvements or additions made to Station #39 by the County.

The Village hereby represents to the County that to the best of its knowledge there is not located in, on, upon, over, or under Station #39: (i) asbestos in any form; (ii) urea formaldehyde foam insulation; (iii) polychlorinated biphenyls; or (iv) any other chemical, material, or substance which is prohibited, limited, or regulated by federal, state, county, regional, or local authority. If said substance(s) exist, the Village shall promptly remove said substance(s) at its sole cost and expense. To the extent permitted by law, the Village shall indemnify, defend and hold harmless the County against any actions, claims, or damages arising from the existence of any such substances at Station #39, including environmental contamination.

**Radon Gas Disclosure:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

In the event that Station #39, or any portion thereof, including the site on which it is located, shall be destroyed, sustain such damage, or for any other reason cannot reasonably be occupied or used as a fire station for the purposes contemplated hereunder at any time during the term of this Agreement, as determined by the County in its sole discretion, then the County may require the Village to replace or restore the facility or provide another mutually agreeable site and building(s), at no cost to County, for the County to use as a fire station during the term of this Agreement. Any provision of this Agreement relating to Station #39 shall apply to any alternative fire station facility provided under this paragraph. Notwithstanding anything in this Agreement that is or may be construed to the contrary, the provisions of this paragraph, and the County's exercise of its rights hereunder, shall not be deemed to waive, or estop the enforcement of, any rights accruing to the County, including the County's right to serve the Village from a fire station outside of the Village or to terminate this Agreement.

Notwithstanding anything in this Agreement that is or may be construed to the contrary, should the Village continue to receive fire-rescue services from the County, through the Fire/Rescue MSTU or otherwise, beyond the expiration or earlier termination of this Agreement, then the provisions of this Section 7B, and any other rights and obligations arising from or relating to the provisions of this Section 7B, shall survive the expiration or earlier termination of this Agreement and shall continue in effect for as long as the Village remains in the Fire/Rescue MSTU or otherwise receives fire-rescue services from the County, unless and until the parties agree otherwise in writing or negotiate a new agreement relating to the County's use of Station #39 or other fire station facility.

**C. Transfer of Equipment**

Effective 7:30 a.m. on October 1, 2009, all fire-rescue apparatus and related equipment, staff vehicles, reserve equipment, maintenance and support equipment, and appliances/furnishings presently assigned to the Village's Fire Rescue Department, as identified in **Exhibit "2"** attached hereto and incorporated herein, which may be modified by mutual agreement between the County Fire Rescue Administrator and Village Manager, and any additional fire-rescue assets, including apparatus, equipment, vehicles, appliances and furnishings, that may be procured or received by the Village prior to the commencement of County services on October 1, 2009, (herein collectively referred to as the "Assets") shall be conveyed and transferred to, and shall become the property of, the County as of 7:30 a.m. on

October 1, 2009. The Village hereby represents and warrants that it has, and/or shall have on October 1, 2009, lawful authority to convey and transfer all such Assets to the County. The Village shall convey all such Assets to the County via a Bill of Sale in a form acceptable to the County. Any secured interests in the Assets to be conveyed shall be paid off, released or terminated by the Village, at its sole expense, prior to said conveyance. The Fire-Rescue Administrator is hereby authorized to accept said Assets on the County's behalf.

The Village hereby represents and stipulates that all Assets to be conveyed hereunder, including fleet and operating, shall be in good working condition upon delivery to the County at Station #39 at 7:30 a.m. on October 1, 2009. Any Assets not in good working condition, as reasonably determined by the County, as of October 1, 2009, shall promptly be made so at the Village's sole expense.

**D. Records**

The Village shall continue to maintain all records created or maintained by the Village, prior to the commencement of County services, regarding Fire and Rescue services. The Village shall, upon approval of this Agreement, provide County with access to, and copies of, all such records, including personnel records and related documents, as requested by the County and at no cost to the County. Both parties shall comply with Florida's public records laws.

**E. Salary and Benefits**

For those former Village employees who become County employees in accordance with Section 6A of this Agreement, the Village shall be responsible for the cost of all salaries and benefits for the entirety of any shift which commences at any time on September 30, 2009, and the payment thereof to the affected employees. The Village agrees to provide workers' compensation coverage and assume responsibility for any ongoing workers' compensation claims accruing before 7:30 a.m. on October 1, 2009, and/or arising from any and all injuries sustained before 7:30 a.m. on October 1, 2009. The County shall not provide workers' compensation benefits or otherwise assume any responsibility for any open or ongoing workers' compensation claims that arose or accrued during a County employee's former employment by the Village.

**F. Insurance**

Without waiving the right to Sovereign Immunity and pursuant to the provisions and limitations of Section 768.28, Florida Statutes, the Village acknowledges that it is insured and/or self-insured and that it shall insure and/or self-insure for the duration of this Agreement its own

General Liability, Wrongful Acts or Omissions and Automobile Liability under State Sovereign Immunity statutes with coverage limits of \$100,000 per person and \$200,000 per occurrence, or such monetary waiver limits as set forth by the Legislature. The Village acknowledges that it is, and shall remain for the duration of this Agreement, insured and/or self-insured for damage to Station #39, and any alternative facility provided under Section 7B above, resulting from "all-risk" perils including but not limited to the perils of fire, windstorm, and flood. Furthermore, the Village agrees to waive subrogation against the County to the extent damages are payable under the Village's deductible, SIR or insurance program.

**G. Pension**

The parties agreed to abide by all laws and regulations relating to the pension rights of the former Village Fire Department employees discussed under Section 6A of this Agreement, and the provision of pension benefits to said employees. To the extent permitted by law, the Village shall indemnify, defend and hold harmless the County against any actions, claims, or damages relating in anyway to pension rights and/or benefits arising under the Village's former employment of those employees hired by the County under Section 6A. This provision shall not be construed to waive the Village's sovereign immunity beyond that allowed by law.

**SECTION 8. FIRE/RESCUE MSTU**

The parties hereby acknowledge that each has adopted an ordinance to include the Village within the County's Fire/Rescue MSTU and therefore any County ordinances applicable within said MSTU, including the Fire Code, shall be applicable within the Village and enforceable therein by the County. Although the parties' MSTU ordinances provide that the Village is included within the MSTU as of December 31, 2008, the parties understand and agree that the County's provision of fire-rescue services within the Village shall not commence until October 1, 2009. Both parties acknowledge and agree that the specific fire-rescue services and levels of services to be provided by the County within the Village shall be determined by the County in its role of establishing the services and levels of services to be provided within the Fire/Rescue MSTU generally. Accordingly, notwithstanding anything in this Agreement that is or may be construed to the contrary, the County maintains the sole discretion to unilaterally establish, modify, increase, decrease, add and/or eliminate the types, quantity, quality and levels of fire-rescue, emergency medical and related services, including staffing and equipment,

provided by and within the Fire/Rescue MSTU, including within the Village. Such action may be accomplished by the County without the need for an amendment to this Agreement. Notwithstanding anything in this Agreement that is or may be construed to the contrary, any provision or discussion in this Agreement regarding specific services or levels of services is for informational purposes only and shall not be deemed to be the basis of a contractual obligation upon the County.

#### **SECTION 9. FUNDING FOR SERVICES**

A. The provision of Fire-Rescue services by the County within the Village shall be funded through the Fire/Rescue MSTU pursuant to the ordinances adopted by the County and the Village providing for the inclusion of the Village into the Fire/Rescue MSTU. If the Village for any reason is not included in the Fire/Rescue MSTU for any year of this Agreement, then the Village shall pay County an annual, or prorated, contract amount equal to the County's calculation of the annual full cost of providing fire-rescue services within the incorporated boundaries of the Village, which shall include but not be limited to the cost of equipment and supplies, and personnel, supervisory and administrative costs. This shall not alter the County's right to unilaterally establish, modify, increase, decrease, add and/or eliminate the types, quantity, quality and levels of fire-rescue services provided by the County within the Village; provided that those services shall be consistent with those provided within the Fire/Rescue MSTU generally. If the Village determines that ad valorem tax revenues are not available to fund the services provided by County, then the Village shall be obligated to pay for the services from any or all other revenue sources available to it or which may be made available to it.

The Village acknowledges and agrees that the level of funding available to fund Fire/Rescue services by and/or within the Fire/Rescue MSTU, including within the Village, is subject to the non-delegable discretion and determination of the Board of County Commissioners through its budgetary process. The parties agree to amend this Agreement if the County determines that such amendment is warranted due to budgetary limitations or constraints. Should the parties fail to promptly approve such an amendment, then either party shall have the right to terminate this Agreement pursuant to Section 13C.

**B. Other Revenue:**

1. The parties acknowledge and agree that, in accordance with the Palm Beach County Regional Hazardous Materials Ordinance of 1998, as it may be amended from time to time, the County may invoice, collect and retain all revenues from those companies or persons directly receiving hazardous materials mitigation services or benefiting therefrom.

2. The parties acknowledge and agree that the County may invoice, collect, and retain fees for non-emergency fire-rescue services provided within the Village's boundaries, including, but not limited to, fire inspection fees, plans review fees, and false alarm fees in accordance with the Fire Code.

3. The parties acknowledge and agree that the County may invoice, collect, and retain fees from those persons receiving ALS/BLS transport services pursuant to the transport fee schedule set forth in Chapter 13, Article II, Division 3, of the Palm Beach County Code, as it may be amended from time to time.

4. In addition, the Village agrees to take all action necessary to ensure that the County is lawfully empowered to invoice and collect the fees described above.

**SECTION 10. ANNUAL APPROPRIATION**

Each party's performance and obligation to pay under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for each fiscal year and subject to any budgetary limitations imposed by law.

**SECTION 11. EMERGENCY MEDICAL SERVICES**

Emergency medical services provided by the County shall be governed by Chapter 13, Article II, Division I of the Palm Beach County Code, and the rules and regulations promulgated thereunder, all as may be amended from time to time. The Village shall take any and all action necessary to facilitate the delivery of EMS services by County hereunder, including but not limited to the transfer or assignment of its Certificate of Public Convenience and Necessity (COPCN), if any, to County for the provision of ALS and/or BLS services, as applicable. Notwithstanding anything in this Agreement that is or may be construed to the contrary, should Palm Beach County Fire-Rescue not be granted the necessary COPCNs to provide the contemplated services within the Village boundaries during the term of this Agreement, then this

Agreement, and all further obligations under this Agreement, shall be terminated without penalty, damages or recourse to either party arising from such termination.

### **SECTION 12. MONTHLY REPORT**

A log of all calls for service within the Village shall be maintained and presented monthly to the Village Manager. The log shall contain, at a minimum, the following:

- A. Time call received by Fire-Rescue
- B. Time of dispatch
- C. Identification of all units dispatched
- D. Time en route
- E. Travel time
- F. Time of arrival

The Village acknowledges that the County is bound by the privacy and security provisions of the Health Insurance Portability and Accountability Act (HIPAA) and the regulations promulgated thereunder, all as may be amended from time to time. Should the County determine that any of the provisions set forth in this Section, or elsewhere in this Agreement, are inconsistent with the requirements of HIPAA and/or the regulations promulgated thereunder, then the County shall immediately be completely and forever discharged and released from said contractual provisions and obligations. The parties further agree to amend this Agreement if the County determines that such an amendment is necessary in order to comply with its obligations under HIPAA and the regulations promulgated thereunder.

### **SECTION 13. COMMENCEMENT; TERMINATION**

County fire-rescue services in the Village shall commence at 7:30 a.m. on October 1, 2009, and shall expire at 7:30 a.m. on October 1, 2019, unless terminated earlier in accordance with this Agreement; provided, however, that this Agreement shall be deemed to commence upon its approval by both parties for the purposes of implementing and enforcing any obligations that by their language or nature accrue prior to the commencement of services by the County on October 1, 2009. This Agreement shall not be terminated by either party, at any time during its term; except that this Agreement may be terminated in its entirety as follows:

- A. By written agreement between the parties; or



- B. By either party, upon written notice to the other party, if the non-terminating party has defaulted on any of its material obligations and failed to cure said default in accordance with the cure period, if any, provided for by Section 17; or.
- C. By either party in accordance with Section 9A, upon 60 days written notice to the other party. In such case, neither party shall be entitled to any recourse, penalty, or damages of any type against the other party.

Should this Agreement be terminated, as permitted herein, prior to the end of any fiscal year, then, as of said termination date, the County shall cease the provision of fire-rescue services within the Village, by and through the Fire/Rescue MSTU, this Agreement or otherwise, and the Village shall have full and sole responsibility for the provision of fire-rescue services within the Village, including during the remainder of said fiscal year, unless the parties mutually agree otherwise in writing.

#### **SECTION 14. ANNUAL REPORT**

The County shall submit an annual report of the status and activities of the fire-rescue services provided to the Village pursuant to this Agreement that shall include all pertinent information relating to number and classification of calls, response times, programs proposed, programs deleted, services proposed, services recommended to be deleted, and the need for additional stations, if any. This report shall be completed by January 15 following the completion of each fiscal year during the term of this Agreement and any renewal periods.

#### **SECTION 15. RELATIONSHIP OF COUNTY EMPLOYEES TO THE VILLAGE**

Except for the County's hiring of former Village employees as contemplated by Section 6A, this Agreement does not and shall not be construed to make any officer or employee of County an officer or employee of the Village for any purpose whatsoever, nor any officer or employee of the Village an officer or employee of County for any purposes whatsoever. Neither party is authorized to make or enter into any contract, agreement, or warranty for or on behalf of the other, unless the parties to this Agreement have entered into a written agreement expressly authorizing such.

**SECTION 16. LIABILITY**

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party or for any third party. Each party shall be responsible for its own negligence. Furthermore, nothing contained herein shall be construed as a waiver of either party's sovereign immunity or the assumption of liability in excess of that allowed by law.

**SECTION 17. DEFAULT AND OPPORTUNITY TO CURE**

If the County shall default in any of its material obligations under this Agreement, then in that event the Village shall provide written notice of default to the County and afford the County a period of ninety (90) days to cure such default; provided, however, that if the default in question cannot be cured within such ninety (90) day period, then the County shall be afforded such additional time as shall be reasonably required to cure such default.

If the County shall be in default hereunder beyond the expiration of the applicable period stated above, the Village shall have the right but not the obligation to cure such default, in which event the County shall reimburse the Village for all sums paid to effect such cure within forty-five (45) days of the County's receipt and approval of an invoice for same from the Village.

If the Village shall default in any of its material obligations under this Agreement, the County shall provide written notice of default to the Village and afford the Village a period of ninety (90) days to cure such default; provided, however, that if the default in question cannot be cured within such ninety (90) day period, then in that event the Village shall be afforded such additional time as shall be reasonably required to cure such default.

If the Village shall be in default hereunder beyond the expiration of the applicable cure period stated above, the County shall have the right, but not the obligation, to cure such default, in which event the Village shall reimburse County for all sums paid to effect such cure within forty-five (45) days of the Village's receipt of an invoice for the same from the County.

Notwithstanding anything in this Agreement that is or may be construed to the contrary, if the Village defaults on any of its obligations under Section 7B, or if any Village default leaves the County without a fire station facility as provided for in Section 7B for any period of time, then either of these events shall be considered an immediate default by the Village of a material obligation of this Agreement without a requirement for any notice or cure period to be

afforded by County to the Village. In this case, the County, in its sole discretion and option, may: (a) terminate this Agreement immediately, or at a later date established by the County, pursuant to Section 13B without providing the Village with an opportunity to cure the default and notwithstanding any subsequent cure that may be attempted or effectuated by the Village; or (b) cure such default by procuring its own facility within or outside the Village to use as a fire station or by serving the Village from a fire station(s) outside the Village. Should the County exercise its right to cure said default, then the Village shall reimburse the County for all sums paid to effect such cure within thirty (30) days of receipt of an invoice(s) for same from the County. The County's exercise of its right to cure said default shall not be deemed to waive, or estop enforcement of, the County's right to terminate this Agreement as provided for in this paragraph, despite the County's continuing cure for a period of time up until the effective date of said termination.

#### **SECTION 18. ASSIGNMENT OF RIGHTS**

Neither party shall assign, delegate, or otherwise transfer its rights and obligations as set forth in this Agreement to any other entity without the prior written consent of the other.

#### **SECTION 19. RECORDS RETENTION**

The County and Village shall maintain records associated with this Agreement, including, but not limited to, all accounts, financial and technical records, research or reports in accordance with Florida law.

#### **SECTION 20. AMENDMENTS**

The terms of this Agreement may not be amended, supplemented, waived, or changed without the written approval of the parties.

#### **SECTION 21. FILING**

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

## **SECTION 22. INDEMNIFICATION**

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, County shall indemnify, defend and hold harmless the Village against any actions, claims or damages arising out of County's negligence in connection with this Agreement, and the Village shall indemnify, defend and hold harmless County against any actions, claims, or damages arising out of the Village's negligence in connection with this Agreement, including negligence relating to a County employee's former employment by the Village. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

## **SECTION 23. FORCE MAJEURE**

Except as otherwise provided in this Agreement, County shall not be deemed in default or in breach of this Agreement to the extent it is unable to perform due to an event of *Force Majeure*. For the purpose of this Agreement, *Force Majeure* shall mean and include any act of God, accident, fire, lockout, strike or other labor dispute, riot or civil commotion, act of a public enemy, failure of transportation facilities, enactment, rule, order, or act of government or governmental instrumentality (whether domestic or international and whether federal, state or local, or the international equivalent thereof), failure of technical facilities, or any other cause of any nature whatsoever beyond the control of the County which was not avoidable in the exercise of reasonable care and foresight.

## **SECTION 24. GOVERNMENTAL POWERS**

The parties understand, acknowledge and agree that nothing contained in this Agreement shall be construed in anyway to transfer, divest, contract away, delegate, or otherwise limit the parties' respective legislative, sovereign, and police powers; and therefore this Agreement shall not constitute a transfer of powers or functions pursuant to Article VIII, Section 4, of the Florida Constitution. Notwithstanding anything contained in this Agreement, the ultimate authority over the provision and supervision of fire-rescue services to and within the Village shall remain with the Village. The parties acknowledge that this service Agreement is an interlocal

agreement under Chapter 163, Florida Statutes, and that each party shall retain all legislative authority with regard to their respective governing body. All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of any such interlocal agreement. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of any State, County, or Village officials.

**SECTION 25. ENFORCEMENT COSTS**

Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties; provided, however, that this clause pertains only to the parties to this Agreement.

**SECTION 26. NOTICE**

All notices required to be given under this Agreement shall be in writing, and unless otherwise provided for in this Agreement, shall be deemed sufficient to each party when sent by United States certified Mail, postage prepaid, to the following:

**As to the County:**  
Fire-Rescue Administrator  
Palm Beach County Fire-Rescue  
405 Pike Road  
West Palm Beach, Florida 33411-3815

**As to the Village:**  
Village Manager  
Village of Palm Springs  
226 Cypress Lane  
Palm Springs, Florida 33461

**SECTION 27. REMEDIES**

This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or

otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. No provision of this Agreement is intended to, and shall not be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizens or employees of the County and/or the Village.

**SECTION 28. CONFLICT RESOLUTION**

Any dispute or conflict between the parties that arises from the provision of services under this Agreement shall be presented in writing to the respective Contract Monitors. The Contract Monitors shall then meet to discuss the disputed issues and attempt in good faith to resolve the dispute or conflict.

**SECTION 29. JOINT PREPARATION**

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

**SECTION 30. EQUAL OPPORTUNITY**

The County and Village agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, familial status, or sexual orientation, be excluded from the benefits of, or be subjected to any form of discrimination under, any activity carried out by the performance of this Agreement.

**SECTION 31. CAPTIONS:**

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

**SECTION 32. SEVERABILITY:**

In the event that a court of competent jurisdiction holds any section, paragraph, sentence, clause, or provision hereof invalid, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**SECTION 33. SURVIVABILITY:**

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

**SECTION 34. ENTIRETY OF AGREEMENT:**

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns and successors in interest.

**SECTION 35. TERMINATION OF EXISTING AGREEMENT**

The Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services (R2007-0904) between the parties dated June 5, 2007, shall hereby be terminated upon the County's commencement of fire-rescue services within the Village, which is anticipated to begin at 7:30 a.m. on October 1, 2009. Should County fire-rescue services within the Village not commence for any reason, then said Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services between the parties shall not be terminated hereunder.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties through their duly authorized representatives do hereby execute this Agreement on the date first written above.

**ATTEST:**  
**SHARON R. BOCK, Clerk**

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
John F. Koons, Chairman

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

**APPROVED AND TO TERMS AND**  
**CONDITIONS**

By: \_\_\_\_\_  
Assistant County Attorney

By: \_\_\_\_\_  
Fire-Rescue

**ATTEST:**

**VILLAGE OF PALM SPRINGS,**  
**FLORIDA**

By: \_\_\_\_\_  
Village Clerk

By: \_\_\_\_\_  
Mayor

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Village Attorney



Attachment 3

# Certificate of Public Convenience and Necessity Palm Beach County Emergency Medical Services

WHEREAS, there is a need for Palm Beach County Fire-Rescue to operate and provide essential emergency medical services to the citizens and visitors of Palm Beach County, Florida; and WHEREAS, said agency has applied to provide these services; and WHEREAS, said agency has indicated that it will comply with the requirements of Palm Beach County's Emergency Medical Services Ordinance (#2006-040), the Board of County Commissioners of Palm Beach County hereby issues a Certificate of Public Convenience and Necessity to said emergency medical service provider, valid from January 1, 2005 to December 31, 2010.


In issuing this Certificate, it is understood that the agency named hereon will meet the requirements of all pertinent county and state legislation and will provide emergency medical services on a twenty-four hour basis in the area(s) or zone(s) designated, providing the level of service endorsed as follows:



Area(s): All unincorporated areas of Palm Beach County and those Municipalities that have contracted for service or in a Fire/Rescue MSTU. The incorporated areas of the Towns of Glen Ridge, Juno Beach, Lake Clarke Shores, Cloud Lake, Haverhill, Lantana, Jupiter, Lake Park, South Palm Beach, Manalapan, The Villages of Royal Palm Beach, Wellington and Palm Springs. The City of Lake Worth.



Service Endorsed: Primary ALS Provider - ALS Transport Only. Air Ambulance (Countywide)

  
\_\_\_\_\_  
Director, Division of Emergency Management



\_\_\_\_\_  
Chair, Board of County Commissioners

**PALM BEACH NEWSPAPERS, INC.**

The Palm Beach Post  
2751 S. Dixie Hwy., West Palm Beach, FL 33405  
Phone: (561) 820-3106 Fax: (561) 820-4340  
FED ID # 58-1633719  
[legals@pbpost.com](mailto:legals@pbpost.com)

**Legal Advertising Invoice**

Account #	452342	Advertising Deadlines	
Ad #	4708375	<u>Publish</u>	<u>Deadline</u>
Description:	Not: Public Hearing	Monday	Friday 3PM
Size:	3.25 "	Tuesday	Friday 3PM
Amount:	\$134.16	Wednesday	Monday 3PM
Published:	September 17, 2009	Thursday	Monday 3PM2
		Friday	Wednesday 3PM
		Saturday	Thursday 3PM
		Sunday	Thursday 3PM

PBC Emergency Management Svcs  
Lynnette Schurter  
20 S. Military Trail  
West Palm Beach, FL 33415

Attachment 4

# THE PALM BEACH POST

Published Daily and Sunday  
West Palm Beach, Palm Beach County, Florida

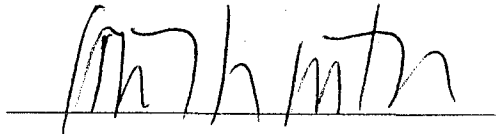
## PROOF OF PUBLICATION


STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Ellen Sanita**, who on oath says that she is **Call Center Revenue Manager** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Public Hearing** was published in said newspaper in the issues of **September 17, 2009**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.



Sworn to and subscribed before 17<sup>th</sup> day of September, A.D. 2009.  
Who is personally known to me.



NOTARY PUBLIC-STATE OF FLORIDA  
 **Karen M. McLinton**  
Commission #DD832672  
Expires: NOV. 15, 2012  
BONDED THRU ATLANTIC BONDING CO., INC.

NO. 4708375  
**NOTICE OF PUBLIC HEARING**  
Notice is hereby given that a Public Hearing will be held by the Board of County Commissioners of Palm Beach County, Florida, on Tuesday, October 20, 2009 at 9:30 A.M. in the Jane Thompson Memorial Chambers, 6th Floor of the Governmental Center, 301 North Olive Avenue, West Palm Beach, Florida. To approve an amendment to Palm Beach County Fire-Rescue Certificate of Public Convenience and Necessity (COPCN) to include the City of Lake Worth and the Village of Palm Springs in their area of jurisdiction; enabling Palm Beach County Fire-Rescue to be the Primary Provider of Advance Life Support (ALS) Emergency Medical Services and Transportation in the City of Lake Worth and the Village of Palm Springs.  
If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting of hearing, he will need to have a record of proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.  
Board of County Commissioners  
Vince Bonvento, Public Safety Director  
Division of Public Safety  
PUB: The Palm Beach Post  
September 17, 2009