

35-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 12, 2010 (x) Consent () Regular
() Workshop () Public Hearing
Submitted By: Fire-Rescue

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Emergency Services Agreement for Mutual Assistance and Automatic Aid with Martin County.

Summary:

On September 10, 2002, the County entered into an Emergency Services Agreement for Mutual Assistance and Automatic Aid with Martin County (R2002-1589). The agreement providing for fire suppression, emergency medical services and other emergency services during extraordinary emergency events has expired. This new agreement shall take effect upon execution by both parties and expire September 30, 2016. Approval of the agreement authorizes the parties' Fire Chiefs to meet and develop automatic aid plans and procedures, to be set forth in Letter(s) of Understanding between the Fire Chiefs, consistent with the agreement.

Countywide (SB)

Background and Justification:

The County has agreements for automatic aid and mutual assistance with qualified municipalities for the provision of emergency services throughout Palm Beach County. Mutual Assistance/Automatic Aid agreements provide an improved level of emergency services to all residents of Palm Beach County regardless of jurisdiction.

Attachments:

1. Emergency Services Agreement for Mutual Assistance and Automatic Aid with Martin County

Recommended by:

J St Pierre
Deputy Chief

12-3-09
Date

Approved by:

St B Oswald
Fire-Rescue Administrator

12-3-09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

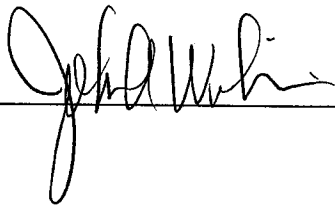
Fiscal Years	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
Net Fiscal Impact					
# Additional FTE					
Positions (Cumulative)					

Is Item Included in Current Budget? Yes____ No____
Budget Account No: Fund ____ Agency ____ Org. ____ Object ____

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

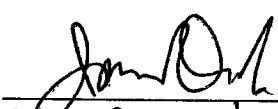
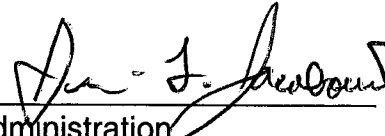
There is no additional fiscal impact associated with this agreement.

C. Departmental Fiscal Review:



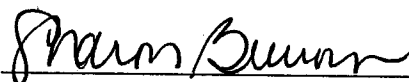
III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Administration Comments:

 12-22-09
OFMB 12/22/09
 12/23/09
Contract Administration

B. Legal Sufficiency:

This Contract complies with our
contract review requirements.

 1-5-2010
Assistant County Attorney

C. Other Department Review:

Department Director

(This Summary is not to be used as a basis for payment.)

**EMERGENCY SERVICES AGREEMENT
FOR MUTUAL ASSISTANCE AND AUTOMATIC AID
BETWEEN
PALM BEACH COUNTY AND MARTIN COUNTY**

THIS AGREEMENT is made and entered into this 3rd day of NOVEMBER, 2009, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter "Palm Beach County"), by and through its Board of County Commissioners and MARTIN COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter "Martin County").

WHEREAS, each of the parties to this Agreement presently maintains a Fire-Rescue Department with fire rescue equipment, fire fighting personnel, emergency medical equipment, emergency medical personnel, and other emergency capabilities; and

WHEREAS, it is deemed mutually advantageous to enter into this Agreement providing for mutual assistance/automatic aid in times of emergency where the need created may be too great for either party to deal with unassisted or where a closest unit response is agreeable and in the public interest; and

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 power 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.

NOW, THEREFORE, it is agreed by and between the parties that each will render mutual assistance and automatic aid to the other under the following stipulations, provisions and conditions:

Section 1. Request for Aid/Assistance: Emergency mutual assistance/automatic aid will be given when properly requested unless the party from whom assistance is requested determines in accordance with Section 4 herein that it is unable to respond. Notwithstanding anything herein that may be construed to the contrary, the parties understand and agree that it is not the intention of the parties to subsidize the normal day-to-day operations or shortages in staffing or equipment of the other party and that the mutual assistance/automatic aid provided hereunder is intended to be mutual in nature. Automatic aid shall be rendered to the extent provided for in automatic aid plans and

procedures approved by both parties' Fire Chiefs in accordance with Section 3 herein. The party requesting aid and/or assistance shall provide the following information at the time the request is made:

- a. The general nature, type and location of the emergency; and
- b. The type and quantity of equipment and/or personnel needed; and
- c. The name and rank of the person making the request.

All requests shall be directed through the respective parties' emergency communications center. The following officials of the participating parties are authorized to request aid and assistance under this Agreement: the respective Fire Chiefs, Assistant or Deputy Fire Chiefs, or Incident Commanders.

Section 2. Representative and Contract Monitor: The Palm Beach County representative and contract monitor during the performance of this Agreement shall be the Fire Chief, whose telephone number is 561-616-7001. The Martin County representative and contract monitor during the performance of this Agreement shall be the Fire Chief, whose telephone number is 772-288-5710.

Section 3. Command Authority: In the event of an emergency which requires additional assistance, the Fire Chief of the jurisdiction in which the incident is located, or in his absence, the Assistant or Deputy Fire Chief or the Incident Commander, will direct the activities at the scene where the emergency exists, but personnel responding to the call will remain under the command of their own officers at all times. Each party shall retain control over its personnel and the rendition of services, standards of performance, discipline of officers and employees, and other matters incidental to the performance of services.

Each party authorizes its Fire Chief to meet with the other party's Fire Chief and develop automatic aid plans and procedures, including areas to be serviced and type and/or level of response, when the Fire Chiefs have determined that improved response times or other forms of efficiency within their respective jurisdictions and/or service areas may be achieved. Such automatic aid plans and procedures shall be set forth in a Letter(s) of Understanding between the Fire Chiefs, and the Fire Chiefs are hereby authorized to enter into and amend said Letter(s) of Understanding on behalf

of their respective parties, consistent with this Agreement and policies and procedures, if any, of the respective parties. The Fire Chiefs are also authorized to promulgate necessary administrative regulations and orders to implement and administer these plans and procedures.

Section 4. Ability to Respond: Each party may refuse to respond to a request for aid/assistance in the event it does not have the required equipment available or if, in its sole judgment, compliance with the request would jeopardize the protection of its own jurisdiction.

Section 5. Scope of Services: The scope of services that are included in this provision that can be equally provided by either jurisdiction, include but are not limited to: Fire Suppression, Rescue, Advanced Life Support Treatment, Advanced Life Support Ground Transportation, Hazardous Materials Response, and Technical Rescue.

Services provided by either party shall be governed by all applicable laws, rules and regulations, as they may be amended from time to time. Notwithstanding anything herein to the contrary, should any of the services contemplated by this Agreement require a COPCN, then the obligation to provide said services, and the effectiveness of any Letter of Understanding relating to said services, shall be contingent upon the parties obtaining and maintaining any and all such required COPCNs, and both parties agree to take all necessary actions to obtain and maintain such.

Section 6. Employee Functions: No employee of either party to this Agreement shall perform any function or service which is not within the employee's scope of duties as defined or determined by his employer.

Section 7. Employee Claims, Benefits, etc.: No employee, officer, or agent of either party shall, in connection with this Agreement or the performance of services and functions hereunder, have a right to or claim any pension, workers' compensation, unemployment compensation, civil service, or other employee rights, privileges, or benefits granted by operation of law or otherwise except through and against the entity by whom they are employed. No employee of either party shall be deemed the employee of the other, for any purpose, during the performance of services hereunder.

Section 8. No Assumption of Liability: Neither party to this Agreement nor their respective officers or employees shall be deemed to have assumed any liability for the negligent or

wrongful acts or omissions of the other. Further, nothing herein shall be construed as a waiver of sovereign immunity.

Section 9. Liability for Injury: All the privileges and immunities from liability, exemptions from law, ordinance and rules, and all pensions and relief, disability, workers' compensation and other benefits which apply to the activity of the officers or employees of either party 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 extraterritorially. Liability for injury to personnel, and for loss or damage of equipment, shall be borne by the party employing such personnel, and owning or possessing such equipment.

Section 10. Remuneration: All costs associated with providing mutual assistance/automatic aid services under this Agreement shall be the responsibility of the agency rendering aid/assistance. Neither agency specified here shall seek reimbursement of costs associated with the rendering of mutual assistance/automatic aid services from the other agency.

The parties further agree that the agency rendering aid/assistance may request reimbursement for any expenditure of goods or services directly from the persons, parties, or company involved in, causing, or responsible for, the incident at the sole discretion of the agency rendering aid or assistance. The agency rendering aid/assistance for emergency medical services that requires transport service may request reimbursement for the transport service from the patient. The agency rendering service will handle insurance claims and collection in accordance with their policies and procedures and shall be in accordance with all applicable laws and regulations, including the latest Federal Medicare guidelines, if applicable.

If the rendering agency invoices the responsible party for the incident for reimbursement of the goods and services provided, a copy of such invoice shall be forwarded to the requesting agency as a matter of courtesy, provided however that the parties will not be required to provide copies of transport fee invoices to the other party and shall not otherwise use or disclose Protected Health Information ("PHI") or Electronic Protected Health Information ("e-PHI") except as permitted by the Health Insurance Portability and Accountability Act ("HIPAA"), the regulations promulgated thereunder, and any other applicable laws and regulations, all as may be amended from time to time.

Section 11. Effective Date and Term: This Agreement shall take effect upon execution by both parties and will remain in full force and effect through September 30, 2016, unless sooner terminated as provided herein.

Section 12. Notice of Termination: Either party to this Agreement may, upon sixty (60) days prior written notice to the other, terminate this Agreement for any reason or for no reason at all.

Section 13. Capital Improvement Plans: Both parties to this Agreement, on an annual basis, shall exchange Capital Improvement Plans indicating projected location(s) and anticipated time frames for construction of future fire stations within their respective jurisdictions and/or service areas. It is understood that these plans may be modified subsequent to submission and said plans are subject to subsequent funding allocations and approvals.

Section 14. Assignment of Rights: Neither party shall assign, transfer or convey, in whole or in part, its rights, duties, or obligations under this Agreement without the prior written consent of the other.

Section 15. Modification and Amendment: No modification, amendment, or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

Section 16. Entirety of Agreement: This Agreement represents the entire understanding of the parties and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement.

Section 17. Equal Opportunity: Each party represents and warrants that it will not discriminate in the performance of services hereunder and that its employees and members of the general public benefitting from services hereunder will be treated equally and without regard to race, sex, sexual orientation, gender identity or expression, color, religion, disability, age, marital status, familial status, national origin or ancestry.

Section 18. Annual Appropriations: Each party's performance and obligation under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for the purposes hereunder.

Section 19. 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 the Agreement will be held in Palm Beach County or Martin County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity 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.

Section 20. Records: Each party shall maintain all records pertaining to the services delivered under this Agreement for a period of at least three (3) years. Both counties 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 21. Joint Preparation: The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely or as a matter of judicial constraint, be construed more severely against one of the parties than the other.

Section 22. Notice of Suits: Each party agrees to notify the other of any claim, or the initiation of any legal proceeding against it which relates, in any manner, to the aid or assistance provided by the other party. Each party will cooperate with the other in the defense of any suit or action arising out of, or related to, the aid or assistance rendered under this agreement.

Section 23. Notices: All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to Palm Beach County shall be mailed to:

Palm Beach County Fire Rescue
Fire Chief
405 Pike Road
West Palm Beach, FL 33411

and if sent to the Martin County shall be mailed to:

Martin County Fire Rescue
Fire Rescue Chief
800 SE Monterey Road
Stuart, Florida 34994

Each party may change its address upon notice to the other.

Section 24. Captions: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 25. Filing: A copy of this Agreement shall be filed with the Clerks of the Circuit Court in and for Palm Beach County and Martin County.

Section 26. Indemnification: Each party shall be liable for its own actions and negligence and, to the extent permitted by law, Palm Beach County shall indemnify, defend and hold harmless Martin County against any actions, claims or damages arising out of Palm Beach County's negligence in connection with this Agreement, and Martin County shall indemnify, defend and hold harmless Palm Beach County against any actions, claims, or damages arising out of Martin County's negligence in connection with this Agreement. 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, nor as a consent to be sued by third parties.

Section 27. 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 28. Delegation of Duty: Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.

Section 29. Severability: In the event that any section, paragraph, sentence, clause, or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned parties have caused these presents to be signed by their duly authorized officers on the day and year first written above.

ATTEST:
SHARON R. BOCK,
Clerk & Comptroller

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

By: _____
Deputy Clerk

By: _____
Burt Aaronson, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: Sharon Bock
County Attorney

By: James St Pierre
Palm Beach County Fire-Rescue

ATTEST:
MARSHA EWING,
Clerk of the Circuit Court

MARTIN COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: Marsha Ewing
Deputy Clerk

By: Susan Valliere
Susan Valliere, Chair

APPROVED AS TO FORM AND
CORRECTNESS:

APPROVED AS TO TERMS AND
CONDITIONS

By: Stephen Fry
STEPHEN FRY
COUNTY ATTORNEY

By: Joseph V. Ferrara
JOSEPH V. FERRARA
FIRE RESCUE CHIEF
MARTIN COUNTY