

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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Meeting Date: April 6, 2010                       Consent                       Regular  
 Department    Workshop                      Public Hearing

Submitted For: FIRE RESCUE

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a First Amendment to Interlocal Agreement for Fire Protection and Emergency Medical Services with the Town of South Palm Beach. This First Amendment shall take effect on October 1, 2010.

**Summary:** The County currently provides fire protection and emergency medical services to the Town of South Palm Beach (Town) through an Interlocal Agreement (R2004-0363), at a rate established by the Agreement. On October 27, 2009, the Town adopted an Ordinance to include the Town within the County's Fire/Rescue MSTU (Municipal Service Taxing Unit) as a method to receive and pay for fire-rescue services from the County for a ten year period commencing October 1, 2010. On December 15, 2009, the Board approved an ordinance accepting the Town into the Fire/Rescue MSTU (Ord No. 2009-048). This First Amendment reflects the Town's participation in the Fire/Rescue MSTU and shall become a part of the Interlocal Agreement.

Countywide (SB)

**Background and Policy Issues:** In February 2004, the County entered into an agreement with the Town of South Palm Beach for fire protection and emergency medical services for a ten-year term with a contract price established by the agreement. Pursuant to Town Ordinance No. 253 and County Ordinance No. 2009-048, the Town opted into the County's Fire/Rescue MSTU as a method to receive and pay for fire rescue services from the County as of October 1, 2010. This First Amendment to the Interlocal Agreement reflects the Town's participation in the Fire/Rescue MSTU. This First Amendment allows the Town to continue to provide fire safety inspections within the Town. This First Amendment shall take effect on October 1, 2010 and become a part of the Interlocal Agreement. The provision of service now will be funded through the Fire/Rescue MSTU.

- Attachments:**
1. First Amendment to Interlocal Agreement for Fire Protection and Emergency Medical Services with the Town of South Palm Beach

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Recommended By: Jeffrey P. Cochran                      3/2/2010  
 Deputy Chief    Date

Approved By: Steve J. J. J. J. J.                      3-3-2010  
 Fire-Rescue Administrator    Date

II. FISCAL IMPACT ANALYSIS

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

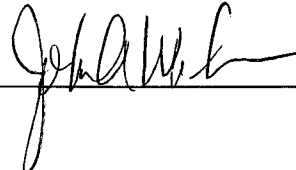
Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<i>*See below</i>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_ No \_\_\_

Budget Account No.: Fund \_\_\_ Dept \_\_\_ Unit \_\_\_ Object \_\_\_


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

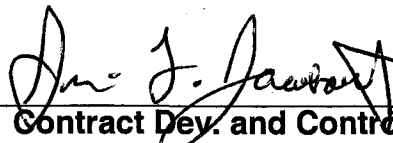
\* Approval of this First Amendment will have no additional fiscal impact to the County. The County currently provides fire protection and emergency medical services to the Town at a rate established by Interlocal Agreement dated February 2004. The Town has now opted into the Fire/Rescue MSTU as a method to pay for services from the County. This First Amendment updates the method of payment.

C. Departmental Fiscal Review: 

**III. REVIEW COMMENTS**

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

  
OFMB  
*3/11/10*

  
Contract Dev. and Control  
*3/12/10*

**B. Legal Sufficiency:**

  
Assistant County Attorney  
*3/15/10*

**This amendment complies with our review requirements.**

**C. Other Department Review:**

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

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR FIRE PROTECTION  
AND EMERGENCY MEDICAL SERVICES BY AND BETWEEN  
THE TOWN OF SOUTH PALM BEACH AND PALM BEACH COUNTY (R2004-0363)**

**THIS FIRST AMENDMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between Palm Beach County, Florida, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as the "County") and the Town of South Palm Beach, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter referred to as the "Town").

**WITNESSETH**

**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" or the "MSTU") as a mechanism to provide and fund County fire-rescue 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**, the Town adopted Ordinance No. 253 consenting to its inclusion in the County's Fire/Rescue MSTU as a mechanism to fund and receive County fire-rescue services within the Town beginning October 1, 2010; and the County adopted County Ordinance 2009-048, to approve the inclusion of the Town within the County's Fire/Rescue MSTU for services beginning October 1, 2010; and

**WHEREAS**, the County currently provides fire-rescue services to the Town pursuant to that certain Interlocal Agreement for Fire Protection and Emergency Medical Services (R2004-0363) dated February 24, 2004 (hereinafter the "Agreement"); and

**WHEREAS**, the Town and the County desire for the Town to opt into the Fire/Rescue MSTU as a method to receive and fund fire-rescue and related services from the County, while amending the Agreement to clarify certain terms based on the Town's participation in the Fire/Rescue MSTU.

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

**ARTICLE I:** The facts set forth in the preamble to this First Amendment are true and correct, and are hereby reaffirmed by the parties.

ARTICLE II: Section 6B of the Agreement is hereby replaced in its entirety to read as follows:

"B. Fire Prevention Services

Pursuant to the Town's inclusion in the Fire/Rescue MSTU, the Florida Fire Prevention Code and the Palm Beach County Local Amendments thereto (collectively referred to as the "Fire Code"), all as may be amended from time to time, shall apply within the Town and be enforceable therein by the County. Therefore, all authority granted by the Fire Code to the County Fire Rescue Administrator (or his designee) and to the County's Fire Code Board of Appeals and Adjustments shall apply within the Town. At such time as the County's Fire Rescue Department sets up a committee to work on local county amendments to the State Fire Code, notice shall be provided to the Town and a representative from the Town shall be included as a non-voting member of such Committee. The County shall provide new construction plan review and new construction firesafety inspections.

The Town shall perform all other required firesafety inspections on all applicable buildings and structures located within the incorporated boundaries of the Town. All firesafety inspections performed by the Town shall be in accordance with the Fire Code (as defined hereinabove), Chapter 633, Florida Statutes, all other applicable laws and regulations, and any documentation procedures established by the County. The Town shall provide the County with a completed inspection report within seven (7) business days of each inspection; however the Town shall immediately notify the County of any hazardous condition that presents an imminent danger, as defined by the Fire Code. The inspections shall be performed by a Town employee who is a Florida certified firesafety inspector, in good standing, pursuant to Section 633.081, Florida Statutes, and all other applicable laws and regulations and who meets any additional training standards that may be established by the County. The County shall provide such additional firesafety inspector training if it is deemed necessary.

In performing firesafety inspection services within the Town pursuant to this Agreement, the Town shall be an independent contractor for the County, and not an employee, agent or servant of the County. All persons engaged in the firesafety inspection services performed by the Town hereunder shall at all times, and in all places, be subject to the Town's sole direction, supervision and control.

The Town shall exercise control over the means and manner in which it and its employees perform the work. The County shall have no responsibility or obligation for any wages or any other compensation, remuneration, or benefits whatsoever relating to any Town personnel performing services hereunder.

Should the County be unsatisfied in any regard with the Town's firesafety inspection services, the parties shall meet to discuss the issues in dispute. In the event such issues cannot be resolved to the satisfaction of both parties, the Town shall be given written notice and sixty (60) days opportunity to cure the outstanding problem. Should the parties still fail to reach agreement, the County shall have the right to terminate, with or without advance notice, the Town's provision of firesafety inspection services hereunder, without any damages, penalty or recourse of any type against the County arising from said termination. If during the term of this Agreement, the Town's existing certified Fire Inspector is no longer employed in that position, the County will assume the firesafety inspection services. Should the Town no longer desire to perform firesafety inspections hereunder, it shall so notify the County in writing. In either of these events, the County will commence the provision of firesafety inspections within the Town. The party performing the firesafety inspection service may collect the applicable inspection fees established by the Fire Code. Should the County assume these responsibilities during the term of this Agreement, the County shall provide to the Town annually a list of the names of all businesses or occupancies that have been inspected by the County during that period.

County Fire-Rescue Community Education programs shall be made available to any resident or business located within the incorporated boundaries of the Town. 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 Town residents in the same manner as are offered to residents within the Fire/Rescue MSTU generally.

County Fire Rescue shall conduct fire/arson investigations within the Town in cooperation and consultation with the Town's Law Enforcement Agency 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 proceedings, including quasi-judicial or administrative hearings, relating to the services provided hereunder. Fire Rescue will coordinate with the Town's

Law Enforcement Agency on any subsequent investigations that require law enforcement assistance.”

**ARTICLE III:** Section 7A of the Agreement is hereby deleted in its entirety.

**ARTICLE IV:** Sections 8A and 8B of the Agreement are hereby replaced in their entirety to read as follows:

**“A. FIRE/RESCUE MSTU:**

The parties hereby acknowledge that each has adopted an ordinance to include the Town within the County’s Fire/Rescue MSTU for the provision of fire-rescue services within the Town; and therefore any County ordinances applicable within said MSTU, including the Fire Code, shall be applicable within the Town and enforceable therein by the County.

**B. FUNDING FOR SERVICES:**

(i) The provision of fire-rescue services by the County within the Town shall be funded through the Fire/Rescue MSTU pursuant to the ordinances adopted by the County and the Town providing for the inclusion of the Town into the Fire/Rescue MSTU. The Town acknowledges and agrees that the level of funding available to fund fire-rescue services within the Fire/Rescue MSTU, including within the Town, is subject to the non-delegable discretion and determination of the Board of County Commissioners through its annual budgetary process.

(ii) Should the Town for any reason no longer be included in the Fire/Rescue MSTU during the term of the Agreement, then the Town shall pay County an annual, or prorated, contract amount calculated pursuant to the lesser of the following two methodologies:

(a) Calculated by multiplying the Town’s then current taxable property value, as certified by the Property Appraiser’s Office on July 1 of each year, times the millage rate for the Fire/Rescue MSTU as adopted by the Board of County Commissioners for the upcoming fiscal year; or

(b) One half of the full-cost methodology as presented in Exhibit E of the Agreement.

This annual contract amount shall be paid by the Town to the County in four (4) equal installments on October 1, January 1, April 1, and July 1 for each

remaining year of the Agreement. County shall invoice the Town fifteen (15) days prior to the above dates. All payments are due on the above dates and shall be considered delinquent if not received by Fire Rescue within ten (10) business days after the due dates."

**ARTICLE V:** This First Amendment shall take effect on October 1, 2010; however, if the Town for any reason is not included within the Fire/Rescue MSTU for tax year 2010, then this First Amendment shall not take effect.

**ARTICLE VI:** This First Amendment shall become a part of the Agreement. Except as herein modified explicitly, by reference, or by implication, the terms and conditions of the Agreement shall remain in full force and effect; provided, however, that in the event of any conflict, inconsistency, or incongruity between the provisions of this First Amendment and the provisions of the Agreement, this First Amendment shall control.

**ARTICLE VII:** Each party's performance and obligation under the Agreement and this First Amendment 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, as may be applicable.

**ARTICLE VIII:** A copy of this First Amendment shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

**ARTICLE IX:** If any term of this First Amendment is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this First Amendment shall not be affected and every other term and provision hereof shall be deemed valid and enforceable to the extent permitted by law.

**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**

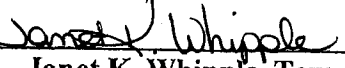
**APPROVED AS TO TERMS AND  
CONDITIONS**

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

By: Jeffrey P. B. Pals  
Fire-Rescue

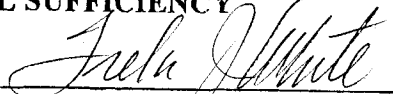
ATTEST:

TOWN OF SOUTH PALM BEACH, FLORIDA  
BY ITS TOWN COUNCIL

By:   
Janet K. Whipple, Town Clerk

By:   
Martin Millar, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
Trela J. White, Town Attorney

Y:\docs\South Palm Beach\Agreements\South Palm First Amendment-Interlocal-SPB-PBC-12-18-10.docx.