

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 11, 2012 [X] Consent [] Regular [] Workshop [] Public Hearing

Department

Submitted For: FIRE RESCUE

I. EXECUTIVE BRIEF

Motion and Title:

Staff recommends motion to approve: an Emergency Services Agreement for Mutual Assistance, Automatic Aid, Dispatch and Fire Vehicle Maintenance and Repair Services with the Village of Tequesta (Village) for a ten (10) year period beginning October 1, 2012.

Summary:

On April 5, 2005, the Board approved a ten year Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services with the Village of Tequesta (R2005-0685), as amended by the First Amendment (R2009-1593), to provide for a contractual commitment for dispatch services to the Village as part of the Countywide Common Dispatch program along with providing the mechanism for the Fire Chiefs to implement mutual assistance/automatic aid (closest unit response) plans. Pursuant to the First Amendment following the closing of County Station 11, the Village has been providing primary fire rescue response to four geographical areas in the County's service area since October 1, 2009, at a contract rate established by the First Amendment. The parties now mutually desire to terminate that agreement effective October 1, 2012 and enter into a new emergency services agreement to provide for mutual assistance, automatic aid, dispatch, and primary fire rescue response by the Village to certain County geographical areas, as well as fire vehicle maintenance and repair services by the County to Village fire-rescue apparatus, This Agreement will again authorize the parties' respective Fire Chiefs to enter into Letter(s) of Understanding to develop automatic aid/closest unit response plans and procedures. For the first year of this Agreement, the County shall pay \$184,000 to the village payable in four equal installments. Annual funding for each fiscal year thereafter shall be increased by 3% over the previous year's funding. As part of the consideration for the contract price for primary fire rescue response by the Village to certain geographical areas, the first \$70,000 of vehicle maintenance and repair services for each year of this Agreement shall be at no cost to the Village.

District 1 (SB)

Background and Justification:

The County currently 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 and Dispatch agreements provide an improved level of emergency services to all residents of Palm Beach County regardless of jurisdiction. The parties have met and wish to terminate the existing agreement and enter into a new emergency services agreement to reestablish certain response guidelines regarding fire-rescue response to certain geographical areas and provide for fire vehicle maintenance and repair services by the County to the Village.

Attachments:

- 1. Emergency Services Agreement for Mutual Assistance, Automatic Aid, Dispatch and Fire Vehicle Maintenance and Repair Services with the Village of Tequesta

Recommended By: [Signature] Deputy Chief Date: 8/23/12

Approved By: [Signature] Fire-Rescue Administrator Date: 8/23/12

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditure	_____	_____	_____	_____	_____
Operating Costs	<u>184,000</u>	<u>189,520</u>	<u>195,206</u>	<u>201,062</u>	<u>207,094</u>
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	<u>70,000</u>	<u>70,000</u>	<u>70,000</u>	<u>70,000</u>	<u>70,000</u>
NET FISCAL IMPACT	<u>254,000</u>	<u>259,520</u>	<u>265,206</u>	<u>271,062</u>	<u>277,094</u>
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes X No _____
 Budget Account No.: Fund 1300 Department 440 Unit 4231 Object 3401
 Reporting Category _____

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

Countywide Fire Rescue Dispatch will continue to be appropriated in the Fire Rescue MSTU fund with a transfer from the General Fund as a funding source.

For the first year of this Agreement, the County will be obligated to pay from the Fire-Rescue MSTU fund \$184,000 to Tequesta to provide primary response to Palm Beach County Fire-Rescue's service area. Fire Rescue budgeted \$168,000 in FY2013 to meet this obligation. The additional cost will be funded by the appropriation and/or the Department has sufficient reserves to fund this expense.

Annual funding for each fiscal year thereafter shall be increased by 3% over the previous year's funding level. In addition, for each year of the Agreement, the County shall provide fire vehicle maintenance and repair services in an amount not-to-exceed \$70,000 at no cost to the Village. Fire Rescue does not anticipate vehicle maintenance and repair services to exceed this amount.

C. Departmental Fiscal Review: Michael M. [Signature]

III. REVIEW COMMENTS

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

[Signature] 8/20/12
 OFMB 8/21/12

[Signature] 8/13/12
 Contract Dev. and Control 8-31-12 [Signature]

B. Legal Sufficiency:

[Signature] 9/4/12
 Assistant County Attorney

C. Other Department Review:

 Department Director

**EMERGENCY SERVICES AGREEMENT FOR MUTUAL ASSISTANCE,
AUTOMATIC AID, DISPATCH AND FIRE VEHICLE MAINTENANCE AND
REPAIR SERVICES BETWEEN PALM BEACH COUNTY AND THE
VILLAGE OF TEQUESTA**

THIS AGREEMENT is made and entered into this ____ day of _____, 2012, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter the "County"), by and through its Board of County Commissioners and the VILLAGE OF TEQUESTA, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter the "Village").

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; and

WHEREAS, the Village and County each presently maintain a fire rescue department with fire rescue equipment, apparatus, firefighting 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, the Village and County also mutually desire that the Village provide to the County primary fire-rescue response to certain geographical areas, and that the County provide to the Village certain maintenance and emergency repair services for the Village's fire-rescue emergency response apparatus; and

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

ARTICLE I: MUTUAL ASSISTANCE AND AUTOMATIC AID

Section 1. Request for Aid/Assistance: The County and the Village agree to provide assistance to each other for Fire Suppression, Emergency Medical Services, and

Technical Rescue, within the terms and conditions set forth by this Agreement, and to formulate automatic aid plans and procedures under Section 2 of this Article. The assistance/automatic aid provided for by this Agreement shall extend to areas served by the parties through service agreements. 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 of this Article that it is unable to respond. The party requesting aid and/or assistance shall provide the following information at the time the request is made:

- a. The type and quantity of equipment and/or personnel need; and
- b. The name and rank of the person making the request.

All requests shall be directed through the county's 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 Chiefs, or Incident Commanders.

Section 2. 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 or his designee to meet with the other party's Fire Chief or his designee and develop automatic aid plans and procedures, including but not limited to details regarding 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/closest unit response 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. The Fire Chiefs are also authorized to promulgate necessary administrative regulations and order to implement and administer these plans and procedures.

Section 3. Remuneration: All costs associated with providing mutual assistance and automatic aid services under this Agreement shall be the responsibility of the agency rendering aid/assistance.

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 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 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 or manpower available or if, in its sole judgment, compliance with the request would jeopardize the protection of its own jurisdiction or personnel. 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 herein is intended to be mutual in nature.

Section 5. Primary Fire Rescue Response: The Village shall respond as the primary fire rescue and emergency medical services/transport provider within the four geographical areas outlined in blue on the map attached hereto as **Exhibit 1** and incorporated herein. The Village shall provide within said areas primary fire-rescue response including, but not limited to, fire suppression, rescue, and emergency medical services/transport. The Village shall maintain sufficient personnel and equipment to provide in said areas the same or equivalent types and levels of fire rescue services as was provided by the County's Station 11 prior to the commencement of the Village's primary fire-rescue services to these areas, which services commenced on October 1, 2009 pursuant to the First Amendment to the Emergency Services

Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services between the parties dated September 22, 2009. Notwithstanding anything to the contrary, the provisions of Section 4 of Article I of this Agreement shall not be applicable to the services provided by the Village under this Section 5. The Village's obligations hereunder to provide primary fire-rescue response as set forth in this Section 5 are in addition to the Village's obligations to provide mutual assistance and automatic aid to the County as provided for in this Agreement.

Emergency medical services/transport provided by the Village 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. Notwithstanding anything herein to the contrary, should the Village services contemplated by this Section 5 require a COPCN, then this Section 5 shall be contingent upon the Village obtaining and maintaining any and all such required COPCNs, and the Village agrees to take all necessary actions to obtain and maintain such.

ARTICLE II: COMMON DISPATCH

Section 1. Common Dispatch: The Village shall continue to be included within the Countywide Common Fire/Rescue Dispatch program. The County (through its Fire Rescue Department) will provide the necessary equipment and services to provide Common Dispatch and related communication services for the Village as detailed herein. Each party hereby authorizes its Fire Chief or his designee to meet with the other party's Fire Chief or his designee to develop Common Dispatch plans and procedures, including but not limited to a list of necessary equipment and other operational details. These 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 such Letter(s) of Understanding on behalf of their respective parties. The Fire Chiefs are also authorized to promulgate necessary administrative regulations and orders to implement and administer these plans and procedures. The Letter(s) of Understandings shall specifically identify the Village's level of participation in the Countywide Common Dispatch program and the equipment that will be provided by the County to the Village for its use in implementing the dispatch services provided by County hereunder (hereinafter, the "Equipment"). The county shall maintain ownership of all said Equipment.

Section 2. Village Responsibilities:

The Village agrees:

- A. To maintain a Common Dispatch letter of Understanding between the parties' Fire Chiefs as discussed above.
- B. To adopt Palm Beach County's Fire Rescue dispatch protocols.
- C. To review response protocols every twelve (12) months.
- D. To transfer to County all 911 calls received by the Village's PSAP as soon as the need for fire rescue services is identified.
- E. To use the Equipment provided by the County to implement the dispatch services provided by the County hereunder.
- F. To promptly notify the county if any Equipment is lost, stolen or destroyed beyond repair.
- G. To promptly reimburse the County for any Equipment that is lost, stolen or destroyed beyond repair.
- H. To promptly notify the county and provide the County access to all Equipment requiring maintenance or repair.
- I. To promptly return all Equipment provided by County upon expiration or earlier termination of this Agreement.

Section 3. County Responsibilities:

The County agrees:

- A. To receive and dispatch in a timely manner all emergency calls for fire rescue services received from the Village's PSAP.
- B. To document unit times (e.g. response time, arrival at scene) in accordance with the standards adopted by Palm Beach County Fire Rescue.
- C. To provide communication support for all emergency fire rescue incidents.
- D. To provide for Village's use the Equipment necessary to implement Common Dispatch services to the Village.
- E. To provide maintenance and repair to dispatch related equipment provided to the Village by the County.
- F. To replace any Equipment that is lost, stolen or destroyed beyond repair.

ARTICLE III: APPARATUS REPAIR AND MAINTENANCE:

Section 1. Maintenance and Repairs. The intent of this Article III to the Agreement is for County to extend to the Village the same usual and customary maintenance and repair services that the County provides for its own fire-rescue emergency response apparatus fleet through the County Fire-Rescue Department's vehicle maintenance and repair shop (hereinafter referred to as the "Shop"). The County shall be the exclusive provider for all such preventative maintenance, scheduled repairs and emergency repairs for the Village's principal fire/rescue emergency response apparatus, including Engines, Ladders, Rescues, Haz-Mat, USAR and other related apparatus, including, but not limited to the following service:

- Body Damage Repair – Roll-up Doors, Cabinetry, Compartments, Body Panels, Fenders, etc.
- Body Damage Repair – including vehicle painting or graphics to complete repair
- Windshields/Door glass replacement when broken or cracked
- Fire Pumps, Tanks and Plumbing, apparatus-mounted and portable
- Foam/Chemical agent education and proportioning systems
- Light bulbs and fixtures replacement, including emergency warning devices
- Audible emergency warning devices
- Upholstery and interior furnishings of vehicles and apparatus

- Towing of disabled vehicles and apparatus
- Emergency Tire Repair and Replacement, including Road Service
- Tire Replacement, per manufacturer/standard schedule

- Head Set communication systems, servicing and repair
- Mobile Data Terminal, installation of hardware and wiring
- Recharge units/wiring, installation of hardware and wiring for re-chargable equipment

- Manufacturer Factory Recalls – coordination of all work
- Emergency/Unscheduled maintenance related to NFPA and/or NEVT Standards
- Preventive maintenance in accordance with NFPA and/or NEVT Standards

Computer-based Vehicle Maintenance Reporting System will be provided to Village Fire/Rescue facilities personnel for reporting vehicle maintenance and repair issues, as needed and requested by Village.

County will manage the maintenance program for Village's principal fire/rescue emergency response apparatus, and will coordinate the scheduling of preventative maintenance with the Village Fire Chief or designee. Village agrees to abide by County's daily inspection program and submit any findings of deficits immediately through the IBEM system. Additionally, those reports shall be submitted to the County on a monthly basis. Should the

Village decline to proceed with any apparatus repair identified by the County, then, notwithstanding anything in this Agreement to the contrary, the Village shall be fully and solely responsible for any liability or claims, including any third party claims and County's cost of defense, arising from the use or operation of said apparatus, subject however, to the limitations set forth in Florida Statute 768.28. Should the Village disagree with the extent or cost of a repair directly relating to the safe operation of said vehicle, Village agrees to notify the County of such disagreement prior to the repair being made. Village shall take the affected unit out of service until such time as funds become available or the unit is permanently replaced. Any disagreement regarding the extent or cost of a repair arising under this provision shall be addressed in accordance with the conflict resolution provisions in Article V, Section 25, of this Agreement.

Section 2. Standards. All inspections and maintenance shall be in accordance with the following standards and specifications, as they may be amended:

NFPA 1071 – Standard on Emergency Vehicle Technician (EVT)

NFPA 1911 - Standard on Fire Apparatus Maintenance

NFPA 1915 Fire Apparatus Preventative Maintenance Program

Manufacturers' Specifications

Good principals and industry practices

Section 3. Repairs. When emergency repairs are required, Village shall immediately advise County and arrange for repair. County agrees to give priority to Village emergency repairs over preventive maintenance for County and Village vehicles. Village shall contact County in advance to schedule any non-emergency repairs.

Section 4. Preventative Maintenance. Village agrees to contact County in advance to schedule preventive maintenance of its fire-rescue apparatus in accordance with any preventive maintenance schedules identified by the County, or otherwise in accordance with any applicable maintenance schedules recommended by manufacturer specifications and NFPA standards, if any.

Section 5. Turn Around Time. County will make every reasonable effort to complete repairs and maintenance of vehicles within a reasonable period of time from delivery of vehicle to County, dependent upon availability of parts and the extent of repairs necessary.

Section 6. Warranty of Workmanship. County agrees to warranty its workmanship on services and repairs for a period of forty-five (45) days from completion of work; provided however, that the sole remedy for a defect in County's workmanship on services and repairs shall

be limited, at the County's option, to either the County correcting the faulty service or repair to the extent necessary and reasonably practical, or the County reimbursing Village for the amount paid by Village to County for the faulty service or repair.

The County will process claims for manufacturers' parts warranties on parts it installs on Village vehicles, provided that the Village has taken all necessary action to register such warranties with the applicable manufacturers. Should such a claim be denied, for any reason or no reason, the County's sole obligation shall be limited to providing the Village with the appropriate claim and denial information. The Village shall be solely responsible for pursuing any further manufacturer warranty action it deems appropriate.

The Village shall inform County in writing of the details of any warranty claim for workmanship or parts. In addition, as manager of the Village's maintenance program, County will also monitor repair requests and advise the Village if such repairs or parts may be covered under warranty, provided that the Village has taken all necessary action to register such warranties with the applicable manufacturers.

Section 7. Reporting. On a monthly basis, County shall provide to Village's Fire Chief, or designee, a report identifying each vehicle on which maintenance or repair service was performed during the course of the prior month, and containing a detailed listing of all parts installed, all services rendered, all labor hours and noting any technician observations and recommendations or warranty matters. This report is in addition to information provided on any invoice.

ARTICLE IV: FUNDING:

Section 1. Annual Payments for Primary Fire Rescue Response by the Village: For primary fire rescue response services provided by the Village under Article I, Section 5 of this Agreement, for the first year of this Agreement the County shall pay to the Village One Hundred Eighty Four Thousand Dollars (\$184,000). Annual funding for each subsequent fiscal year will be increased by three-percent (3%) over the previous year's funding. Annual payments shall be payable in four installments on October 1, January 1, April 1 and July 1 of each year. The Village shall invoice the County 30 days prior to each installment due date.

Section 2. Apparatus Maintenance and Repair: For the apparatus maintenance and repair services provided by the County under Article III of this Agreement, the charges due

and payable from the Village to the County shall be calculated as follows:

A. Labor Rates. Vehicle maintenance and repair labor, inclusive of all administrative and overhead costs with no additional charge for overhead or labor (except as provided in Section 2), shall be calculated based on the hourly labor rate listed as the Warranty Rate on the County's Rate Schedule for Warranty, Vehicle and Staff Charges in effect at the time of service. No other billing rates included on the County's Rate Schedule for Warranty Vehicle and Staff Charges shall apply. The Rate Schedule and Warranty Rate may be annually updated and amended by the County in its sole discretion (as referenced in Palm Beach County Fire Rescue Operational Procedure #VIII-1).

B. After Hours Call-Out Emergency Repairs. A three-hour minimum labor charge, at applicable Labor Rates established in Section 2.A. above, will apply to all emergency after hours call-out repairs. "After hours" shall mean any time before or after the usual and customary business hours and days of the Shop, and shall include, but not be limited to, Saturdays, Sundays, and County holidays. Upon request, the County will provide the Village with the Shop's current business hours and days, which may be revised by the County from time to time.

C. Parts and supplies. The Village will be charged the County's actual cost for all parts and supplies plus 5%.

D. Insurance Premium. Each month the Village shall pay to the County a proportionate share of the County's annual premiums for garage-keepers insurance and garage liability insurance relating to fire-rescue vehicle maintenance and repair services. The monthly amount due from the Village shall be equal to the County's annual premiums divided by the number of contracted entities receiving fire rescue vehicle maintenance and repair services from the County, which may change from time to time, divided by twelve (12). This amount shall be adjusted by the County from time to time to reflect any change in the number of contracted entities receiving such services from the County and to reflect any actual increase or decrease in the County's premiums. Any and all decisions regarding such insurance policies shall remain within the sole discretion of the County.

E. Invoices. As part of the consideration for the contract price established under Section 1 of this Article, the first \$70,000 of vehicle maintenance and repair services provided by the County to the Village for each year of this Agreement shall be at no cost

to the Village. Thereafter, the County shall invoice the Village on a monthly basis for all service(s) provided in excess of \$70,000 per year. Each invoice shall identify the vehicle serviced, the labor hours spent, the labor rate, charges for parts and supplies, and the monthly charge for insurance premiums. Payment by the Village shall be due forty-five (45) days after the Village's receipt of a proper invoice from the County. County shall direct invoices to the Village's Accounts Payable Division at:

Village of Tequesta
Accounts Payable
357 Tequesta Drive
Tequesta, FL 33469

ARTICLE V: GENERAL CONTRACT TERMS

Section 1. Preambles: The facts set forth in the preambles to this Agreement are true and correct and are hereby reaffirmed by the parties.

Section 2. Representative and Contract Monitor: The County representative and contract monitor during the performance of this Agreement shall be the Fire Rescue Administrator, whose telephone number is (561) 616-7000. The Village representative and contract monitor during the performance of this Agreement shall be the Fire Chief, whose telephone number is (561) 768-0550.

Section 3. 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 the employee's employer.

Section 4. 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 5. 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 6. Insurance: Without waiving the right to sovereign immunity as provided by Section 768.28 Florida Statutes, the Village acknowledges to be self-insured for General Liability with coverage limits of \$200,000 per person and \$300,000 per occurrence and Automobile Liability coverage limits of \$100,000 per person and \$200,000 per occurrence under Florida sovereign immunity statutes; or such monetary waiver limits that may change and be set forth by the legislature.

In the event the Village maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28 Florida Statutes, the Village shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

The Village agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Chapter 440, Florida Statutes.

For the duration of this Agreement, the Village agrees to maintain automobile physical damage insurance covering those vehicles to be serviced by the County under this Agreement. The Village's coverage shall be primary for any damage that occurs to the Village's vehicles, including any damage while in the possession or custody of the County.

The Village hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy, except in the event the County, its officers, employees or agents are negligent, in which case subrogation against the County shall apply. When required by the insurer, or should a policy condition not permit the Village to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Village agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the Village enter into such an agreement on a pre-loss basis.

When requested, the Village shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve the Village of its liability and obligations under this Agreement.

Section 7. Effective Date and Term: This Agreement shall become effective October 1, 2012 and continue for a term of ten (10) years, unless sooner terminated as provided

herein.

Section 8. Notice of Termination: This Agreement may be terminated by either party, with or without cause, upon ninety (90) days written notice to the other party.

Section 9. Assignment of Rights: Neither party shall assign, transfer or convey, in whole or in part, its rights, duties, or obligations without the prior written consent of the other.

Section 10. 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 11. Equal Opportunity: The County and Village each warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, or gender identity or expression; and that no person shall, based on any of said grounds, be excluded from the benefits of, or be subject to any form of discrimination under, any activity carried out in the performance of this Agreement.

Section 12. Annual Appropriations: Each party's performance and obligations under this Agreement are contingent upon an annual budgetary appropriation by its respective governing body for the purposes hereunder for each fiscal year.

Section 13. Records:

a. Both parties shall maintain all records relating to the services performed under this Agreement in accordance with Florida's public records law and until at least three year after the expiration or termination of this Agreement. The records to be maintained under this Agreement shall include, but not be limited to, all financial and technical records and reports relating to the services provided hereunder. All records maintained under this Agreement shall be made available to the other party upon request and within a reasonable period of time.

b. Notwithstanding anything herein to the contrary and to extent permitted by law, upon the expiration or termination of this Agreement, the County shall turn over to the Village all the County's technical records directly relating to the County's maintenance and repair of the Village vehicles. The Village shall become the official custodian of these records. As custodian of these records, the Village shall maintain the records in accordance with Florida's public records law and until at least three years after expiration or termination of this Agreement or three years after the life of the vehicle, whichever is later. The County shall be entitled to

keep a copy of all such records.

For each Village fire-rescue vehicle serviced under this Agreement, the Village shall maintain all its records relating to the operation, maintenance and repair of said vehicle in accordance with Florida's public records laws and until at least three years after expiration or termination of this Agreement or three years after the life of the vehicle, whichever is later.

c. Notwithstanding anything herein to the contrary, records meeting the legal requirements for destruction and the records retention requirements set forth in this Agreement may be destroyed by the custodian party provided that said party (i) gives the other party 30 days written notice identifying all records to be destroyed, and (ii) makes copies of said records available upon request of the other party, which request must be received at least 15 days prior to the scheduled destruction date.

d. In the event that the parties become involved in a legal dispute arising from performance under this Agreement, the parties shall extend the period of maintenance for all records relating to the Agreement until the final disposition of the legal dispute, and all such records shall be made readily available to the parties.

Section 14. Right to Audit. Each party, at its own expense, shall have the right to examine the other party's books, data, records and invoices directly or indirectly related to this Agreement upon reasonable notice, time and place, for the duration of this Agreement and a period of three years following its expiration or termination or, if applicable, for the life of a subject vehicle or equipment, whichever period of time is longer. Any disagreement between the parties arising under this provision shall be addressed in accordance with the conflict resolution provisions in Section 25 of this Article.

Section 15. 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 16. 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 shall be held in Palm Beach County. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. 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 17. 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 services provided under this Agreement, including servicing of Village vehicles or otherwise to the operation, maintenance and repair of said vehicles. Each party will cooperate with the other in the defense of any suit or action arising out of, or related to, the services rendered under this Agreement.

Section 18. Notices: All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to the County shall be mailed to:

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

and if sent to the Village shall be mailed to:

Village of Tequesta Department of Fire Rescue Services
Fire Chief
357 Tequesta Drive
Tequesta, FL 33469

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

Section 19. Captions: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 20. Filing: A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

Section 21. 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 22. Delegation of Duty: Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or Village

officers.

Section 23. 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.

Section 24. Survivability: Any provision of this Agreement that is of a continuing nature, or which by its language or nature imposes an obligation or right that extends beyond the term of this Agreement, shall survive the expiration or earlier termination of this Agreement.

Section 25. 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 Fire Chiefs or their designees. The Fire Chiefs, or designees, shall then meet to discuss the disputed issues and attempt in good faith to resolve the dispute or conflict prior to either party initiating the intergovernmental conflict resolution process provided for by Chapter 164, Florida Statutes.

Section 26. No Third Party Beneficiaries: None of the provisions of this Agreement shall be construed to create any third-party beneficiary or to otherwise give any enforceable rights or benefits to anyone other than the parties to this Agreement.

Section 27. Time of the Essence: The parties agree that time is of the essence in the performance of each and every obligation under this Agreement.

Section 28. Force Majeure: County shall not be deemed in default or breach of this Agreement to the extent it is unable to perform the vehicle services provided for by this Agreement, or to timely perform such, due to an event of *Force Majeure*. For the purpose of this Agreement, *Force Majeure* shall mean and include any act of God, including severe weather conditions or impending severe weather conditions, 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. Further, the Village specifically acknowledges that the County shall have no liability whatsoever for any damages or injuries due to a *Force Majeure*.

Section 29. Failure(s) to insist on strict performance of any covenant, condition, or

provision of this Agreement by a party, its successors and assigns, shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Agreement. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

Section 30. 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 31. Office of the Inspector General: Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Village, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Section 32. Effective with the commencement of this Agreement on October 1, 2012, the prior Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services between the parties (dated April 5, 2005), as amended by the First Amendment thereto dated September 22, 2009, is hereby terminated effective October 1, 2012.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

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: _____
Shelley Vana, Chair

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND
CONDITIONS**

By: Sharon Bunn
County Attorney

By: [Signature]
Fire-Rescue

ATTEST:

VILLAGE OF TEQUESTA

By: Lori McWilliam
Village Clerk

By: [Signature]
Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: [Signature]
Village Attorney

Date: 8/22/12

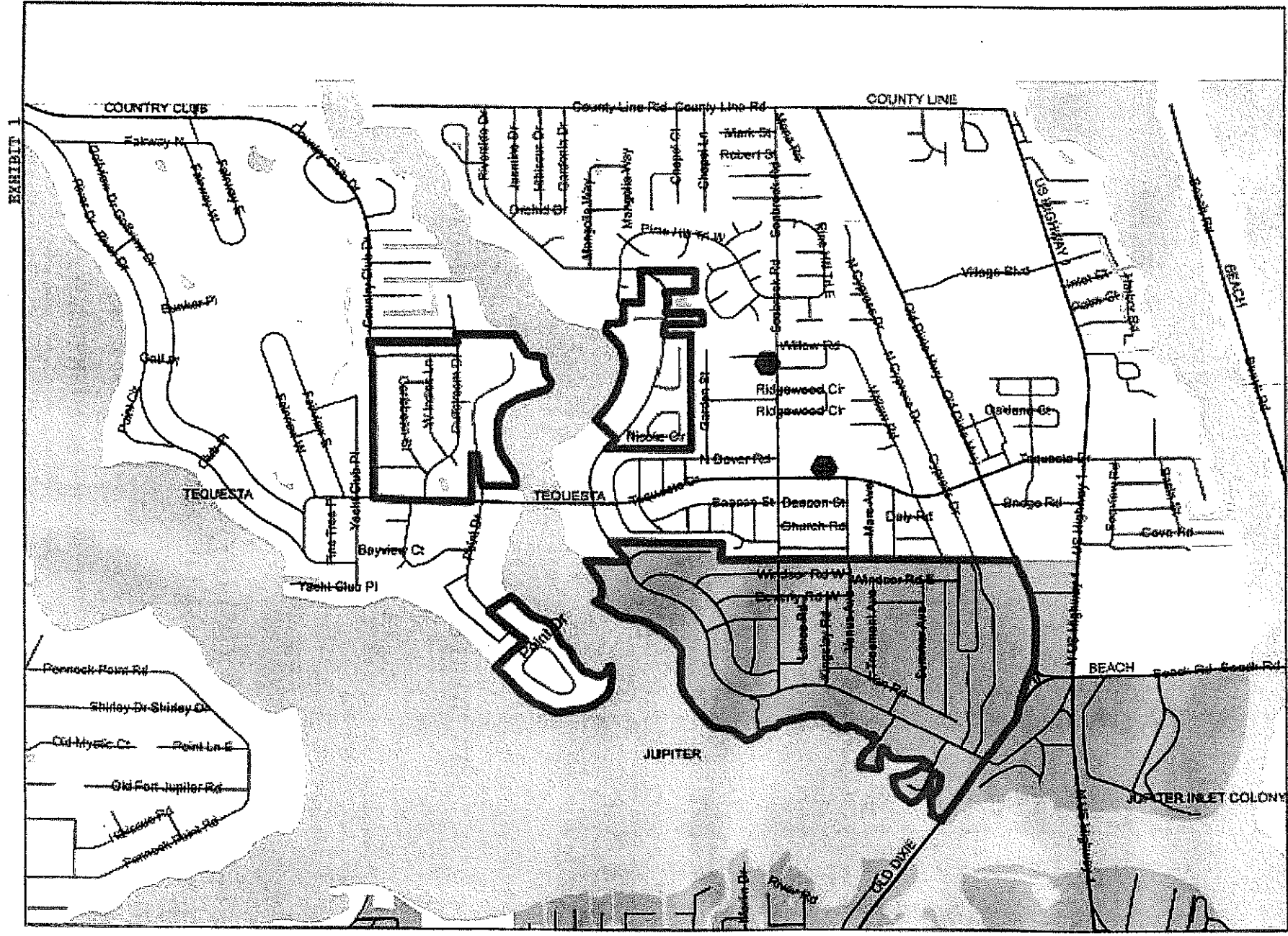


EXHIBIT 1