

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	November 17, 2015	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Workshop	<input type="checkbox"/> Regular <input type="checkbox"/> Public Hearing
Department:	Fire-Rescue		

I. EXECUTIVE BRIEF



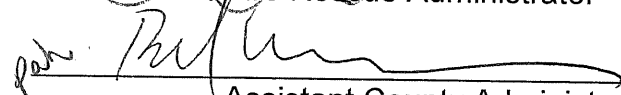
Motion and Title: Staff recommends motion to approve: Interlocal Agreement for Use of Village Facilities with the Village of Royal Palm Beach for exclusive use and possession of two fire stations for one year, effective retroactively to October 1, 2015.

Summary: The Fire/Rescue Municipal Service Taxing Unit (MSTU) encompasses the unincorporated areas of Palm Beach County plus the incorporated areas within the municipal boundaries of municipalities that have opted to join the MSTU. The County currently provides fire-rescue services to the Village of Royal Palm Beach through the Village's participation in the Fire/Rescue MSTU. The Village owns the two fire stations that the County uses to provide fire-rescue services to the Village, and the County has been making monthly payments to the Village for its exclusive use and possession of these two fire stations. The County intends to purchase these two fire stations within the next year, and this Agreement allows for the continuation of monthly payments to the Village until the successful closing on the purchase and sale of these two facilities. The monthly fee for each station is \$9,375, which is equivalent to the payments that have been made to the Village for the past five years. The previous Agreement that provided for these payments expired on September 30, 2015. District 6 (SB)

Background and Justification: In March 1999, the County entered into an Interlocal Agreement with the Village of Royal Palm Beach (R99-315D) for fire protection and emergency medical services with a contract price established by the agreement. In December 2004, the Village opted into the Fire/Rescue MSTU as a method to receive and pay for fire-rescue services from the County. On June 19, 2014, the Village Council approved Ordinance No. 983 to continue participation for an additional ten year period through December 31, 2024.

The following municipalities are currently included in the Fire Rescue MSTU: Belle Glade, Cloud Lake, Glen Ridge, Haverhill, Juno Beach, Lake Clarke Shores, Lake Worth, Lantana, Loxahatchee Groves, Pahokee, Palm Springs, Royal Palm Beach, South Bay, South Palm Beach and Wellington.

Attachment: Interlocal Agreement (2)

Recommended by:		10/28/15
	Deputy Chief	Date
Approved by:		10/28/2015
	Fire Rescue Administrator	Date
Approved by:		11/5/15
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>225,000</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>225,000</u>	<u>0</u>	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	_____	_____	_____
Is Item Included in Proposed Budget?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				
Budget Account No.:	Fund <u>1300</u> Dept <u>440</u> Unit <u>4232</u> Revenue Source _____/Object <u>4410</u>				

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

The source of funds is the Fire/Rescue MSTU. The fiscal impact will be the monthly expenditure of \$9,375 per station per month, or prorated portion thereof, until the successful closing on the purchase and sale of each of these facilities.

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

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

[Signature]
OFMB
AP 10/30 PA 10/30

[Signature]
Contract Development and Control
D. W. Reels 10-3-15

B. Legal Sufficiency

[Signature] 11/4/15
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03
ADM FORM 01

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

**INTERLOCAL AGREEMENT FOR USE OF VILLAGE FACILITIES
BY AND BETWEEN
THE VILLAGE OF ROYAL PALM BEACH AND PALM BEACH COUNTY**

THIS INTERLOCAL AGREEMENT FOR USE OF VILLAGE FACILITIES (the "Agreement") is made and entered into on _____, by and between the VILLAGE OF ROYAL PALM BEACH, a Florida municipal corporation, (hereinafter referred to as the "Village") and PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of Commissioners (hereinafter referred to as the "County").

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, the Village joined the County's Fire/Rescue MSTU for a ten year period commencing with tax year 2005, pursuant to approval of the County by its Ordinance No. 2004-072 and approval of the Village by its Ordinance No. 708; and

WHEREAS, the Village adopted Ordinance No. 983 to extend its inclusion in the County's Fire/Rescue MSTU for another ten year period through December 31, 2024, as a mechanism to fund and receive County fire-rescue services within the Village until 7:30 a.m. on October 1, 2025; and

WHEREAS, the County has been using the Village's two fire stations to provide fire-rescue services, and the parties mutually desire for the County to continue to occupy and use the two Village fire stations.

NOW, THEREFORE, the Village and the 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. PREMISES

County shall have the exclusive right to use, occupy and operate the entire two facilities and parking areas of Village Station #1 (also known as County Station #28), located at 1040 Royal Palm Beach Boulevard, Royal Palm Beach, Florida (currently part of the Village Hall Complex), and Village Station #2 (also known as County Station #29), located at 10055 Belvedere Road, Royal Palm Beach, Florida (Counterpoint) (jointly referred to as the "Facilities"). Village Station #1 has facilities that include, but are not limited to, truck bays, sleeping quarters, restroom/shower area, kitchen, training

room, and the Battalion Chief Headquarters. Village Station #2 has facilities that include, but are not limited to, truck bays, sleeping quarters, restroom/shower area, and a kitchen. During the term of this Agreement, County shall have exclusive use and possession of the Facilities. The Village hereby warrants that it has authority to provide County the exclusive use and possession of the Village Facilities free and clear of any liens, encumbrances, and other matters. It is understood by both parties that the Village intends to sell the Facilities to the County and the County intends to purchase the Facilities from the Village within one year of the approval of this Agreement. The Village and the County shall both participate in good faith in negotiating a Purchase and Sale Agreement and successfully closing on the purchase and sale of the Facilities within the above stated time frame.

SECTION 2. TERM AND TERMINATION

The term of this Agreement shall be for one (1) year effective retroactively to October 1, 2015 and expire at 7:30 a.m. on October 1, 2016, unless terminated earlier in accordance with this Agreement. This Agreement shall not be terminated, by either party, at anytime during its term or any renewal thereof, unless: (a) agreed to in writing by both parties; or (b) the non-terminating party has defaulted on any of its material obligations and failed to cure said default in accordance with this Agreement.

If the purchase and sale of only one of the Village's fire stations is successfully closed during the term of this Agreement, then effective immediately upon said successful closing, all provisions of this Agreement shall be terminated with respect to said fire station. All provisions of this Agreement shall remain in full force and effect with respect to the remaining Village fire station until otherwise terminated or expired in accordance with the terms of this Agreement.

Notwithstanding anything herein to the contrary, this Agreement shall automatically terminate at such time that the purchase and sale of both Facilities from the Village to the County is successfully closed.

SECTION 3. COUNTY RESPONSIBILITIES

A. Payments.

The County shall pay to the Village a total of \$9,375 per fire station per month for the exclusive use and possession of Village Stations #1 and #2, or a prorated portion thereof.

The first monthly payment shall be due and payable under this Agreement within twenty (20) days of approval of this Agreement. For each monthly payment thereafter, County shall make payment to Village on or before the due date specified in an invoice provided by Village. Village shall provide such invoice to County no later than 15 days prior to each due date.

B. Utilities.

County agrees to pay the monthly charges for all utilities services to Village Stations #1 and #2 including electricity, gas, water, sewer, and trash collection directly to the utility provider.

C. Facility Maintenance Obligations.

For Village Station #1, County shall be responsible for all repairs and maintenance, both interior and exterior, excluding all parking lot maintenance and lawn and landscaping services, necessary to maintain the facility in its existing condition, normal wear and tear and casualty excepted, including generator, roof, air conditioning system, heating system, and electrical system. County shall not be responsible for roof replacement or any other exterior replacement including, but not limited to the surrounding parking lot, at Village Station #1.

For Village Station #2, County shall be responsible for all repairs and maintenance, both interior and exterior including parking lot and lawn and landscaping services, necessary to maintain the facility in its existing condition, normal wear and tear and casualty excepted, including generator, roof, air conditioning system, heating system, and electrical system. County agrees to be responsible for the repair or replacement, if beyond repair, of any fixture, appurtenance, structure, component, facility and/or other item at the Facilities that is damaged due to the negligence of County, its employees, agents, or contractors.

D. Insurance.

Without waiving the right to Sovereign Immunity and pursuant to the provisions and limitations of Section 768.28, F.S., County acknowledges and shall self-insure its own General Liability, Wrongful Acts or Omissions and Automobile Liability under State Sovereign Immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits as set forth by the Legislature.

County shall provide benefits under Workers' Compensation and Employer's Liability up to the statutory limits specified by Chapter 440, F.S., and applicable Federal Laws for all County employees.

County shall provide first party physical damage insurance coverage for all County property located at Village Stations #1 and #2. The County's property shall be covered on an "All Risk" basis for replacement cost. County shall be responsible for all deductibles or self-insured retention (SIR) for County property damage claims or losses.

SECTION 4. VILLAGE'S RESPONSIBILITIES

A. Facility Maintenance Obligations.

Except for the County's provision of parking lot maintenance and lawn and landscaping services for Village Station #2, all maintenance of the grounds at the Village Facilities shall be the responsibility of the Village, including parking lot, lawn and landscaping services for the Village Station # 1.

Excluding the exterior items to be repaired and/or maintained by County as specifically stated in Section 3(C) above, Village shall be responsible for maintaining, repairing and/or replacing the exterior of Village Station #1, including but not limited to the building, the roof and parking lot, as necessary to maintain such in the existing condition. Village agrees to pay for roof replacement, when determined by the Village to be necessary, at Village Station #1.

Village agrees to pay for the repair or replacement, if beyond repair, of any fixture, appurtenance, structure, facility and/or other item at the Facilities that is damaged due to the negligence of Village, its employees, agents, or contractors.

Village hereby represents to the County that to the best of its knowledge there is not located in, on, upon, over, or under the Village Facilities: (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, Village City shall promptly remove said substance(s) at its sole cost and expense. To the extent permitted by law, Village shall indemnify, defend and hold harmless the County against any actions, claims or damages arising from the existence of any such substances at the Village Facilities, including environmental contamination. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28.

B. Alternative Facilities.

In the event that either or both Village Facilities shall be destroyed, sustain such damage, or for any other reason cannot reasonably be occupied or used for the purposes contemplated hereunder, then Village shall, at its expense, either replace or restore the structure(s) or make another mutually agreeable site(s) available to be used as a fire station(s) during the term of this Agreement, any renewal thereof, or any period during which the facilities are replaced, restored or otherwise unusable pursuant to this provision.

C. 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 and/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 the Village Stations #1 and #2 resulting from "all-risk" perils including but not limited to the perils of fire, windstorm, and flood.

SECTION 5. 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.

SECTION 6. 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 7. DEFAULT AND OPPORTUNITY TO CURE

If County shall default in any of its material obligations under this Agreement, then Village shall provide written notice of default to County and afford County a period of ninety (90) days to cure such default (if such default is curable); 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 County shall be in default hereunder beyond the expiration of the applicable cure period stated above, Village shall have the right to cure such default, in which event County shall reimburse Village for all sums paid to effect such cure within thirty (30) days of the County's receipt and approval of an invoice for same from the Village.

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

If Village shall be in default hereunder beyond the expiration of the applicable cure period stated above, County shall have the right to cure such default, in which event Village shall reimburse County for all sums paid to effect such cure within thirty (30) days of the Village's receipt of an invoice for the same from the County.

SECTION 8. 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 9. RECORDS RETENTION

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 10. AMENDMENTS

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

SECTION 11. FILING

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

SECTION 12. 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 Village against any actions, claims or damages arising out of County's negligence in connection with this Agreement, and Village shall indemnify, defend and hold harmless County against any actions, claims, or damages arising out of Village'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.

SECTION 13. CHOICE OF LAW; VENUE; REMEDIES; ENFORCEMENT COSTS

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, or shall 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 citizens or employees of the County and/or the Village.

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.

SECTION 14. NOTICE

All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by United States 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

As to the Village:

Village Manager
Village of Royal Palm Beach
1050 Royal Palm Beach Boulevard
Royal Palm Beach, Florida 33411

SECTION 15. 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 16. 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 17. 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. To the extent permitted by law, the Inspector General's authority includes but is not limited to the power to review past, present and proposed County and Village contracts/agreements, transactions, accounts and records, to require the production of such records, and to audit, investigate, monitor, and inspect the activities of the County and Village, their officers, agents, employees, and lobbyists in order to ensure compliance with contract/agreement requirements and detect corruption and fraud.

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

SECTION 18. NONDISCRIMINATION

The Village and County 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, gender identity and expression, or genetic information.

Village has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as may be amended from time to time, or in the alternative, if the Village does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to County that Village will conform to the County's non-discrimination policy as provided in R-2014-1421, as may be amended from time to time.

SECTION 19. 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 20. 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.

[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 & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AND TO TERMS AND
CONDITIONS

By: _____
Assistant County Attorney

By: *Jerry P. Collins*
Fire-Rescue

ATTEST:

VILLAGE OF ROYAL PALM BEACH,
FLORIDA, BY ITS VILLAGE COUNCIL

By: *Diane DiSanto*
Diane DiSanto, Village Clerk

By: *Matty Mattioli*
Matty Mattioli, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *Jennifer G. Ashton* *JGR*
Jennifer G. Ashton, Village Attorney