

**INTERLOCAL AGREEMENT WITH THE CITY OF MELBOURNE  
FOR AUTOMATIC AID FOR FIRE PROTECTION AND RESCUE SERVICES**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the following Parties: the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as "**County**", and the **CITY OF MELBOURNE**, a municipality incorporated under the Laws of Florida, hereinafter referred to as "**City**".

**RECITALS:**

**WHEREAS**, the Parties desire to enter into this Agreement for the purpose of securing auto-aid first response fire protection and rescue service by each of the Parties, in specific areas and under certain conditions, so as to better protect the lives and property of its citizens; and

**WHEREAS**, this Agreement is authorized pursuant to section 125.01(1)(p) and 163.01, Florida Statutes, as an interlocal agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the Parties agree as follows:

**SECTION 1. DEFINITION:**

First response fire protection and rescue services (hereinafter "the services") is defined as the immediate provision of emergency assistance to persons requesting such from either the City of Melbourne or Brevard County Fire Rescue, as necessary, to protect life and property, and which shall include the following equipment and personnel:

- (a) One (1) Class A Pumper staffed by a minimum of three (3) Florida certified firefighters for structure fires.
- (b) Advance Life Support (ALS) first responder rescue service with a minimum of two (2) personnel (minimum one Florida certified Paramedic and one Florida Certified Emergency Medical Technician).

**SECTION 2. TERM:** This Agreement will be in force and effective upon its approval and execution by both elected governing bodies and filing with the Clerk of the Circuit Court in and for Brevard County, Florida. The Agreement shall initially be in effect for four (4) years, expiring on September 30, 2024, subject to automatic renewals for five (5) biennial renewal periods, unless either Party provides the other Party with written notice of termination of this Agreement as provided in Section 3 below. All terms and conditions hereof shall remain in full force and effect during the initial term and any renewal periods unless this Agreement is amended as provided in Section 3 below. The biennial renewal periods are as follows: First renewal: October 1, 2024 to September 30, 2026; Second renewal: October 1, 2026 to September 30, 2028; Third renewal: October 1, 2028 to September 30, 2030; Fourth renewal: October 1, 2030 to September 30, 2032; Fifth and final renewal: October 1, 2032 to September 30, 2034.

### **SECTION 3. TERMINATION/REVISION OF AGREEMENT:**

- 3.1 This Agreement may be terminated by either Party upon written notice of termination to the other Party at least thirty (30) days prior to the date of such termination.
- 3.2 Either Party may request to revise this Agreement. Such requests must be placed in writing and address the reason for the revision as well as provide proposed revised language. In order to be effective, the amendment must be approved by the both respective governing bodies, signed by both either the Chair of the Board of County Commissioners or the County Manager, as directed by the Board, and the City of Melbourne City Manager, and recorded by the County with the Clerk of the Court in the Public Records of Brevard County, Florida.

### **SECTION 4. SERVICES PROVIDED:**

- 4.1 Brevard County Fire Rescue will provide the services defined in Section 1 of this Agreement, unless noted otherwise, within the following incorporated areas of the City of Melbourne as changed from time to time due to annexation:
  - a. Areas bounded on the east by the Atlantic Ocean and on the west by the Indian River. The Area is identified in Appendix B1.
  - b. Areas bisected by Lake Washington Road east of Lake Washington and bounded on the north, east and west by Melbourne City limits. The Area is identified in Appendix A.
- 4.2 The City of Melbourne Fire Department agrees to provide the services defined in Section 1 of this Agreement, unless noted otherwise, within the following unincorporated areas of Brevard County:
  - a. The unincorporated enclaves bounded on the south by Post Road, on the north by Albert Avenue, on the west by the Florida East Coast (F.E.C.) railway, and on the east by Martindale Lane.
  - b. The unincorporated enclaves bisected by Aurora Road and bounded on the east by Stewart Road, on the west by Wickham Road, and bounded on the north and south by Melbourne City limits. This Area is identified in Appendix B2.
- 4.3 The agency that is providing the assistance will determine which engine is to be used for the automatic aid response.
- 4.4 If, for operational reasons, an agency cannot provide automatic aid response, the Public Safety Answering Point (PSAP) of the recipient agency will be notified immediately.
- 4.5 It is the responsibility of the department receiving the automatic aid to ensure that the assisting Public Safety Answering Point (PSAP) receives the 911 call information.
- 4.6 The Authority Having Jurisdiction (AHJ), will be responsible for conducting the fire investigation. The Authority Having Jurisdiction (AHJ) for the incorporated areas will be the City, the Authority Having Jurisdiction (AHJ) for the unincorporated areas will be the County.

- 4.7 The first arriving command officer, either City or County, will function as the incident commander. In the case where the first arriving command officer does not have legal jurisdiction, incident command shall be transferred to the AHJ's command officer upon his/her arrival.

**SECTION 5. PAYMENT:** There shall be no payment to either the City or the County for services identified in this Agreement.

**SECTION 6. ADDITIONAL EQUIPMENT:** Beyond the initial response, a second response shall be requested as a mutual aid, if necessary.

**SECTION 7. NOTIFICATION:** Any required notice to be provided by either Party to this Agreement shall be delivered to the other Party's representative at the following locations:

Chuck Bogle, Fire Chief  
Melbourne Fire Department  
865 West Eau Gallie Boulevard  
Melbourne, Fl. 32935

Mark Schollmeyer, Fire Chief  
Brevard County Fire Rescue  
1040 South Florida Avenue  
Rockledge, Fl. 32955

**With a copy to:**

Shannon M. Lewis, City Manager  
City of Melbourne  
900 East Strawbridge Avenue  
Melbourne, FL 32901

Any notice to be sent to either Party under the provisions of this Agreement shall be deemed to have been properly sent when personally delivered or mailed, postage prepaid, first class U.S. mail, or by nationally recognized overnight courier to the last known address of the Party with appropriate copies as set forth above. A mailing is deemed received at the time of hand delivery or five (5) days after mailing. Either Party may unilaterally change the person to whom a mailing is to be sent to or the address of said person by giving notice to the other Party as provided for herein.

**SECTION 8. AUDITING, RECORDS AND INSPECTION:**

- 8.1 In the performance of this Agreement, the City of Melbourne and the County shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures, as adopted by the Department of Financial Services, as set forth in Rule 69I-61.0012, Florida Administrative Code, as amended or superceded from time to time, or the Auditor General. Books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by each Party for a period of five (5) years after termination of this Agreement. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of Chapter 119 and section 401.30, Florida Statutes.

- 8.2 No reports, data, programs or other materials produced by a Party, in whole or in part, for the benefit and use of either Party under this Agreement shall be subject to copyright by the either Party in the United States or any other country.
- 8.3 The Parties agree to comply promptly with any request for public records or documents made in accordance with Section 119.07, Florida Statutes.

**SECTION 9. JURISDICTION, VENUE AND CHOICE OF LAW:** All questions pertaining to the validity and interpretations of this Agreement shall be determined in accordance with the Laws of the State of Florida. Any legal action by either Party against the other concerning this Agreement shall be filed in Brevard County, Florida, which shall be deemed proper jurisdiction and venue for the action, and any trial shall be nonjury.

**SECTION 10. ATTORNEY'S FEES AND COSTS:** In the event of any litigation between the parties arising out of this Agreement, each party will bear its own attorney's fees and costs.

**SECTION 11. SEVERABILITY:** If any section, paragraph, sentence, clause, phrase, or word of this Agreement, is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding will not affect the remainder of this Agreement. The remainder of this Agreement shall be effective and shall remain in full force and effect, unless amended or modified by mutual consent of the parties.

**SECTION 12. INDEMNIFICATION/HOLD HARMLESS:** The City shall indemnify and hold harmless the County and its agents and employees from and against any and all claims, damages, losses, bodily injuries (including death), and expenses, including attorney's fees, arising out of or resulting from any services provided pursuant to this Agreement, where such claim, damage, loss, or expense is caused in whole or in part by the act or omission of the City, or anyone directly or indirectly employed by the City, or anyone whose acts any of them may be liable, regardless of whether or not it is caused by or in part by a party indemnified thereunder. No indemnification or requirement to hold harmless the County pursuant hereto shall exceed \$100,000 per person per accident or \$200,000 arising out of the same occurrence or incident. The City shall not be required to indemnify or hold harmless the County to the extent that the County is negligent or intentionally causes or omits to act, thereby causing claims, damages, bodily injuries (including death), losses, or expenses.

County shall indemnify and hold harmless the City and its agents and employees from and against any and all claims, damages, losses, bodily injuries (including death), and expenses, including attorney's fees arising out of or resulting from any services provided pursuant to this Agreement, where such claim, damage, loss, expense is caused, in whole or part, by the act or omission of County, or anyone directly or indirectly employed by County, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by or in part by a party indemnified thereunder. No indemnification or requirement to hold harmless the City pursuant hereto shall exceed \$100,000 per person per accident or \$200,000 arising out of the same occurrence or incident. The County shall not be required to indemnify or hold harmless the City to the extent that the City is negligent or intentionally causes or omits to act, thereby causing claims, damages, bodily injuries (including death), losses, or expenses.



Each Party agrees it shall bear responsibility for any injury or loss caused by its agents, representatives, officials, employees or volunteers (hereinafter "agents") including when such agents are acting outside their jurisdiction.

In agreeing to this provision, neither party intends to waive any defense or limit of sovereign immunity or limits to damages to which it may be entitled under section 768.28, Florida Statutes, as that section may be amended from time to time, or as otherwise provided by law. Nothing herein shall be construed as consent by either Party to be sued by third parties in any matter arising out of any contract. The Parties acknowledge that specific consideration has been exchanged for this provision.

**SECTION 13. INDEPENDENT CONTRACTORS:** It is specifically understood and agreed to by and between the Parties that a material provision in this Agreement is that the relationship between the County and the City is one in which each Party and its employees are independent contractors of the other Party, and not acting as agents, employees, joint venturers, or other partners and neither Party is entitled to any benefits of the other Party. Nothing contained herein shall be construed to be inconsistent with this relationship or status.

**SECTION 14. ENTIRE AGREEMENT:** This Agreement, including exhibits, riders, and/or addenda, if any, attached hereto, sets forth the entire Agreement between the Parties. This Agreement shall not be modified except in writing and executed by all Parties.

**SECTION 15. INTERPRETATION:** Both Parties have had the opportunity to consult with legal counsel and to participate in the drafting of this Agreement. Consequently, this Agreement shall not be more strictly or more harshly construed against either party as the drafter hereof.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first written above.

ATTEST:

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

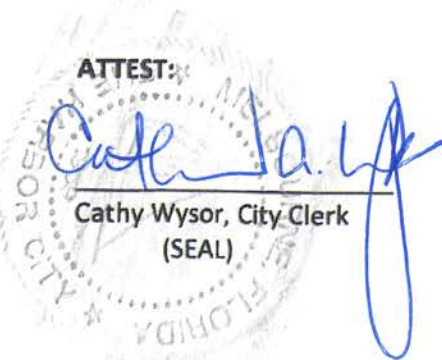
**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**

By: \_\_\_\_\_  
Bryan Andrew Lober, Chair  
As Approved by the Board on \_\_\_\_\_

Reviewed for Legal Form and Content:

Christine M. Schverak 9-17-2020  
Christine M. Schverak, Assistant County Attorney

ATTEST:

  
\_\_\_\_\_  
Cathy Wysor, City Clerk  
(SEAL)

**CITY OF MELBOURNE, FLORIDA**

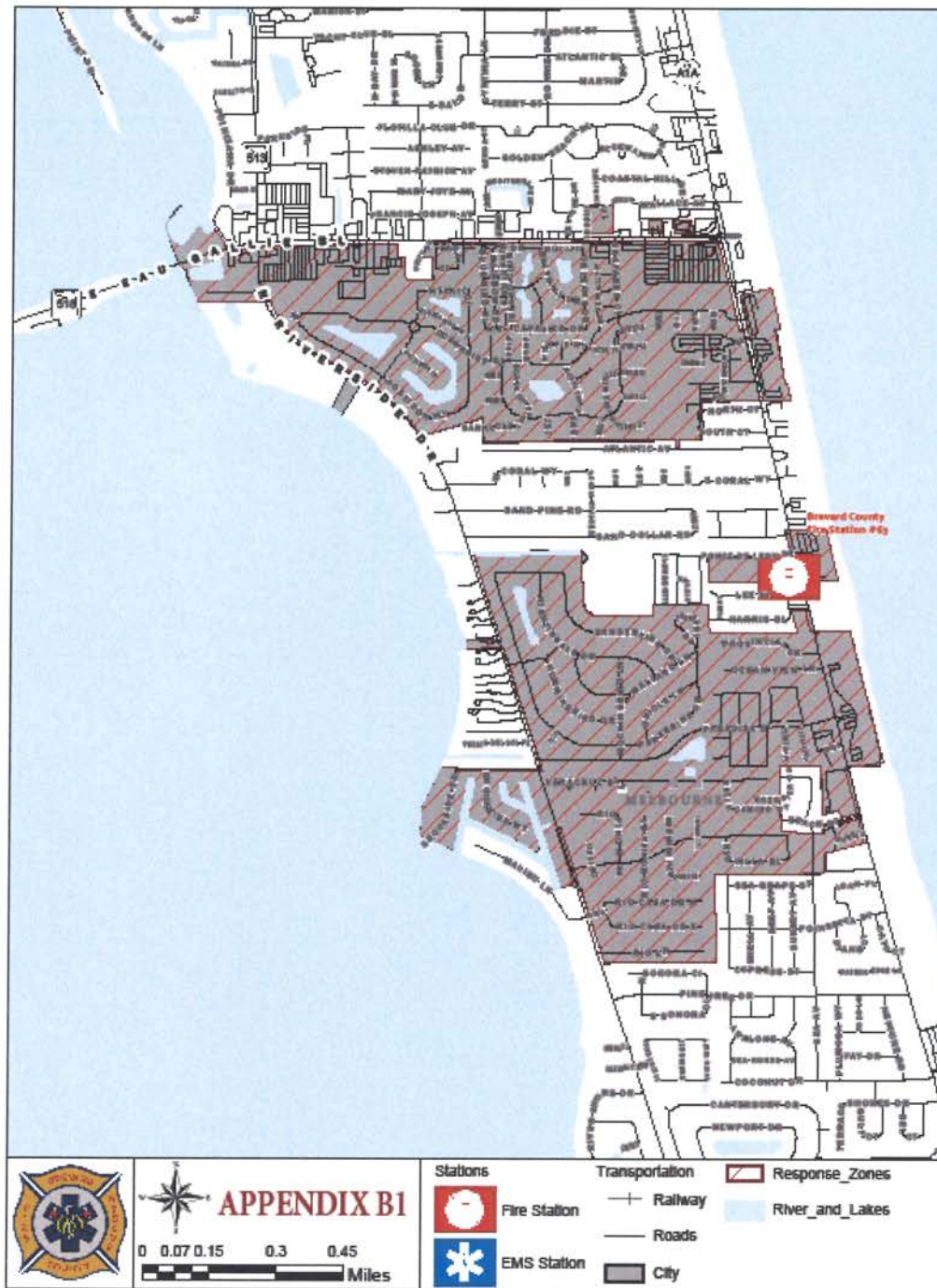
  
\_\_\_\_\_  
Shannon M. Lewis, City Manager  
Approved by the City Council on 9.23.2020

# COUNTY FIRE PROTECTION TO M.W.P.





# COUNTY FIRE PROTECTION TO BEACHSIDE



# CITY FIRE PROTECTION TO COUNTY ENCLAVE

