

AGREEMENT

2nd March 2006

THIS AGREEMENT, entered into this 17th day of Feb. / 2006 by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, hereinafter referred to as "County", and the CITY OF MELBOURNE, a municipality incorporated under the Laws of Florida, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, the City and County 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.

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the parties hereto agree as follows:

SECTION 1. DEFINITION: First response fire protection and rescue services is defined as 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) 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 the approval and signing of said Agreement by both elected governing bodies and recorded with the Clerk of the Court in the Public Records of Brevard County, Florida. The Agreement shall

Scott Ellis
Clerk Of Courts, Brevard County

#Pgs: 11
Trust: 6.00
Rec: 89.00
Excise: 0.00
nt Tax: 0.00
Mtg: 0.00
Serv: 0.00

initially be in effect until September 30, 2010, subject to five (5) biennial renewal periods as provided in Section 3. The biennial renewal periods are as follows: first biennial period October 1, 2010 to September 30, 2012; second biennial period October 1, 2012 to September 30, 2014; third biennial period October 1, 2014 to September 30, 2016; fourth biennial period October 1, 2016 to September 30, 2018; and fifth biennial period October 1, 2018 to September 30, 2020.

SECTION 3. RENEWAL OF AGREEMENT: Such mutual agreement/approval will be documented in the form of a notarized letter mailed via "Return Receipt Requested" by both parties to the corresponding party. The letter shall be signed by both the City Manager and the County Manager. The letter must contain language identifying that the originating agency wishes to continue the Agreement for the applicable subsequent term, and that there is no desire to modify or revise any term or condition of the Agreement, and the letter must reference the Official Records Book and Page number of the original Agreement. The agreement/approval letter must be received by both parties no sooner than June 1st and no later than August 1st of the expiring initial term or any subsequent renewal period. Upon receipt of the fully executed letter, the letter shall be recorded in the Public Records of Brevard County, Florida, and the applicable renewal term will go into effect without further approval from either government's elected body.

SECTION 4. TERMINATION/REVISION OF AGREEMENT:

4.1 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.

4.2 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. The revision must be approved by the both respective governing bodies, signed by both either the Chairman of the Board of County Commissioners or the County Manager and

Fire/Automatic Aid Agreement

the City of Melbourne City Manager, and recorded with the Clerk of the Court in the Public Records of Brevard County, Florida.

SECTION 5. SERVICES PROVIDED:

5.1 Brevard County Fire Rescue will provide auto-aid response as defined in Section 1 of this Agreement, within the following incorporated areas of the City of Melbourne as changed from time to time due to annexation:

- a. First response fire protection and ALS first responder medical service to areas bounded on the east by the Atlantic Ocean and on the west by the Indian River. Area identified in Appendix B.
- b. First response fire protection and ALS first responder medical service to areas bisected by Lake Washington Road east of Lake Washington and bounded on the north, east and west by Melbourne City limits. Area identified in Appendix A.
- c. Single engine first response fire protection to the incorporated City areas that lie within the area identified in Appendix C.

5.2 The City of Melbourne Fire Department agrees to provide auto-aid as defined in Section 1 of this Agreement within the following unincorporated areas of Brevard County:

- a. First response fire protection and first response ALS medical rescue service to unincorporated enclaves bounded on the south by Post Road, on the north by Albert Avenue, on the west by the F.E.C. railway, and on the east by Martindale Lane.
- b. First response fire protection and first response ALS medical rescue service to 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. Area identified in Appendix B.

- c. Single engine first response fire protection to the unincorporated County areas that lie within the area identified in Appendix C.

5.3 The agency that is providing the assistance will determine which engine is to be used for the automatic aid response.

5.4 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.

5.5 It is the responsibility of the department receiving the automatic aid to insure that the assisting PSAP receives the 911call information.

5.6 The authority having jurisdiction (AHJ), will be responsible for conducting the fire investigation. The AHJ for the incorporated areas will be the City, the AHJ for the unincorporated areas will be the County.

5.7 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 6. ADDITIONAL EQUIPMENT: Second response of additional equipment will be provided by the responsible entity as 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:

Paul Forsberg, Fire Chief
Melbourne Fire Department
1500 Hickory St.
Melbourne, FL 32901

Fire Chief William L. Farmer, Director
Brevard County Fire Rescue
1040 S. Florida Ave.
Rockledge, FL 32955

City Manager
City of Melbourne
900 East Strawbridge Avenue
Melbourne, FL 32901

Any notice to be sent to the County or the City 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 said City or the County 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 hereto 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:

8.01 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 the City of Melbourne and the County for a period of three (3) years after termination of this Agreement for accounting related records and for other public records, 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.

8.02 No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Agreement shall be subject to copyright by the City of Melbourne in the United States or any other country. No reports, data, programs or other

materials produced, in whole or in part for the benefit and use of the County, under this Agreement shall be subject to copyright by Brevard County in the United States or any other country.

8.03 The County or the City will be provided, at no cost, copies of any public records request made by a third party involving documents related to this agreement. If a request for public records is made by a third party, the County or the City will inform the other of the request and provide a copy of the public records that were requested by the third party.

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.

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 the County 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 of Melbourne 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 of Melbourne, or anyone directly or indirectly employed by the City of Melbourne, 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.

Brevard County shall indemnify and hold harmless the city of Melbourne 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 Brevard County, or anyone directly or indirectly employed by Brevard 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.

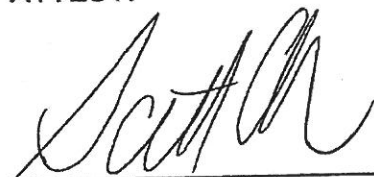
In agreeing to this provision, neither party intends to waive any defense or limit of sovereign immunity to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided. The parties acknowledge that specific consideration has been exchanged for this provision.

SECTION 13. 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 14. INTERPRETATION. Both the City and the County 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

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Helen Voltz, Chair


(SEAL)

Reviewed for Legal Form and Content:

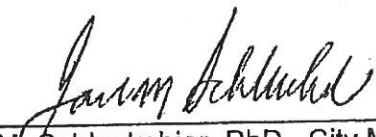

Assistant County Attorney

Approved by the Board February 7, 2006.

ATTEST:


Carolyn A. Smith, City Clerk
(SEAL)

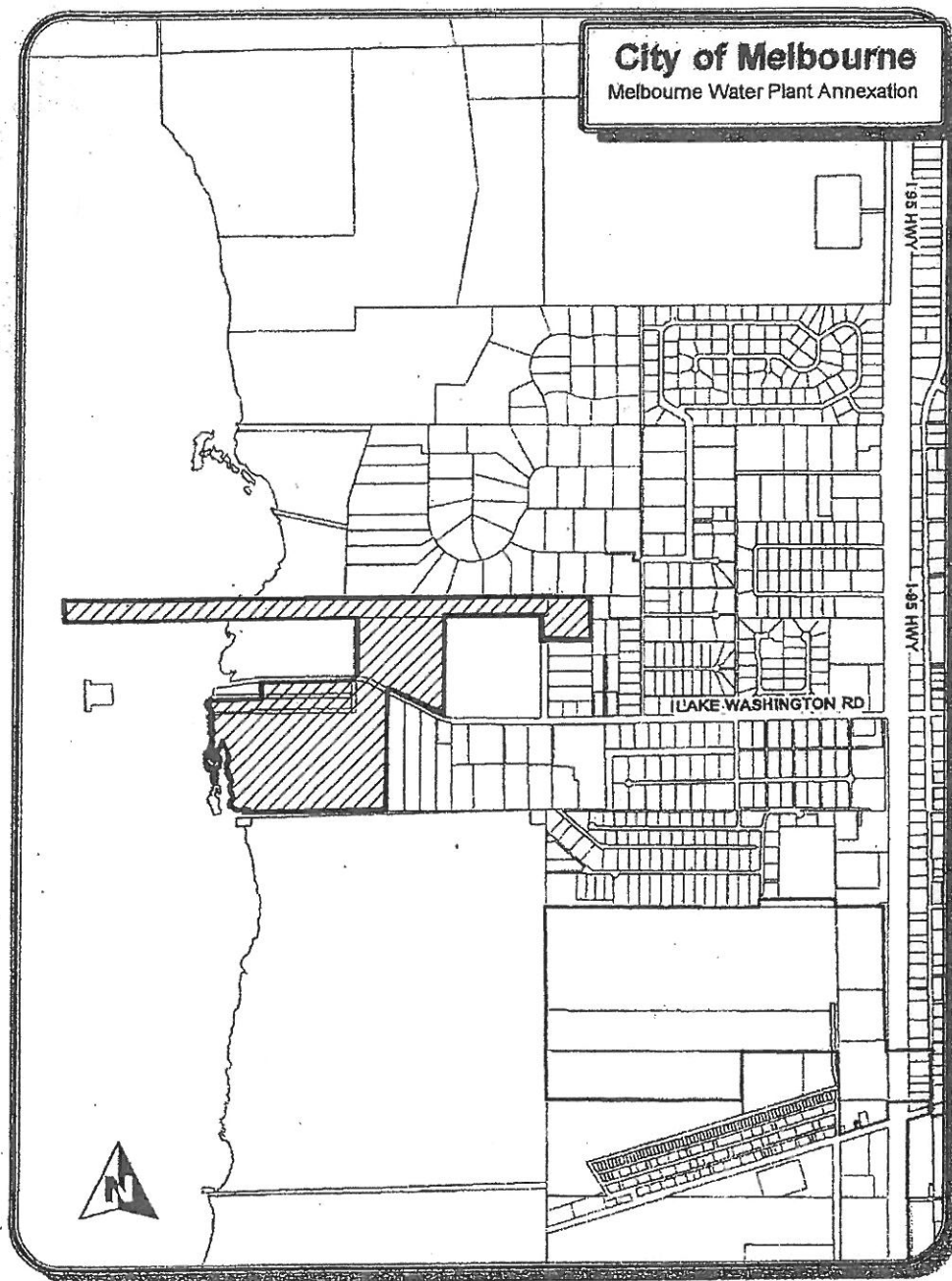
CITY OF MELBOURNE, FLORIDA


Jack M. Schluckebier, PhD., City Manager

Approved by the City Council 2/28/2006

Appendix A

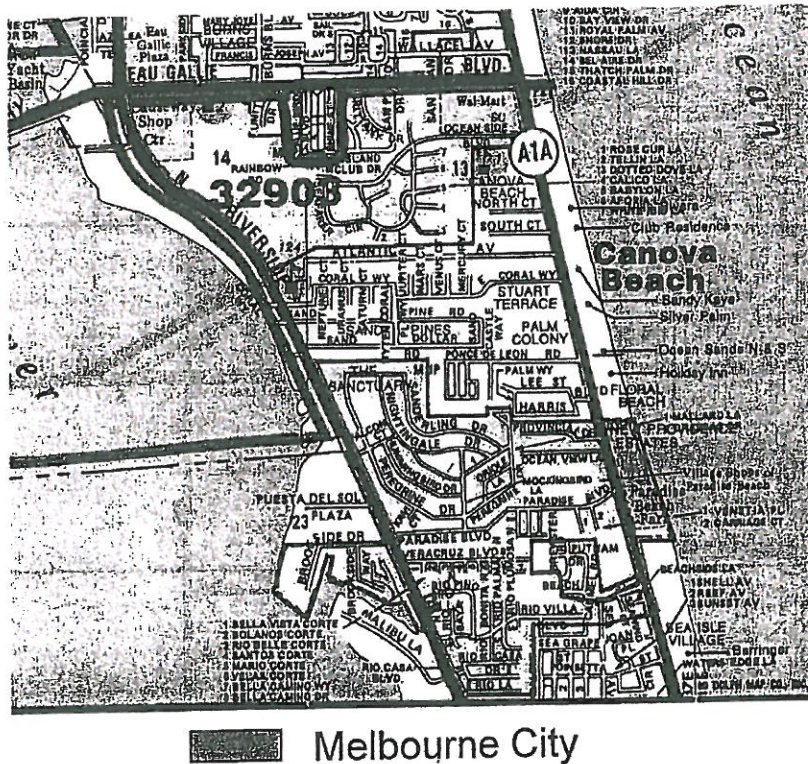
County fire protection response to City enclave



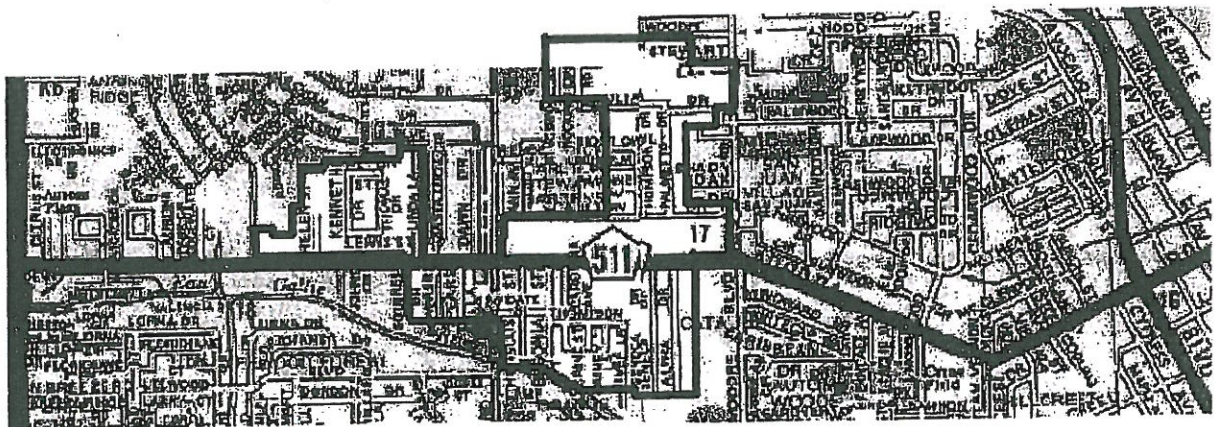
Appendix B

Service area automatic aid for fire protection and rescue response

County fire protection and rescue response to City enclave



City fire protection and rescue response to County enclave



Appendix C

Service area for automatic aid for fire protection response by both County and City

