**INTERLOCAL AGREEMENT FOR MUTUAL AND AUTOMATIC AID**

**IN FIRE AND EMERGENCY SERVICES**

**BETWEEN**

**BREVARD COUNTY, FLORIDA**

**AND**

**PATRICK SPACE FORCE BASE, FLORIDA**

This Mutual and Automatic Aid Interlocal Agreement (the “Agreement”), is made and entered into this \_\_ day of August 2021, between the Secretary of the Air Force (the “Air Force”) acting by and through the Commander, Space Launch Delta 45, Patrick Space Force Base (PSFB) pursuant to the authority of 42 U.S.C. **§** 1856a and Brevard County Board of County Commissioners (through Brevard County Fire Rescue, the “County”). Together the Air Force and Brevard County are hereinafter referred to as the “Parties”.

**WITNESSETH:**

WHEREAS, each of the Parties hereto maintains equipment and personnel for the suppression of fires and the management of other emergency incidents occurring within areas under their respective jurisdictions; and

WHEREAS, as set forth in 42 U.S.C. **§** 1856 the term ‘fire protection’ includes personal services and equipment required for response to protect life and property from confirmed fire either by smoke or visible flame, and shall include one (1) Class “A” Pumper staffed by a minimum of four (4) firefighters; and

WHEREAS, the Parties hereto desire to be assigned fire protection capabilities available in their respective jurisdictions by entering into this Agreement.

WHEREAS, this Interlocal Agreement is authorized pursuant to Sections 125.01(1)(p) and 163.01, Florida Statutes; and

**NOW, THEREFORE, in consideration of the mutual covenants, obligations and agreements herein established, the Parties hereby agree as follows:**

a. The authority of the Air Force to enter into this Agreement is set forth in 42 U.S.C. **§** 1856a, and Title 15 United States Code Section2210, the regulations implementing same at Title 44 Code of Federal Regulations Part 151 *Emergency Management and Assistance* and AFI 32-2001, *Fire and Emergency Services Program*. The authority for the County to enter into this Agreement is set forth in Sections 125.01(1)(p) and 163.01, Florida Statutes.

b. This Agreement will serve as the agreement between the Parties for securing to each mutual aid and automatic aid in fire protection services as defined above and below.

c. This agreement includes both mutual and automatic aid.

(1) Mutual Aid Upon Request By the County: On request to a representative of the Patrick Space Force Base Fire and Emergency Services by a representative of Brevard County Fire Rescue, fire protection equipment and personnel of the Patrick Space Force Base Fire and Emergency Services will be dispatched to any point within the area for which Brevard County Fire Rescue normally provides fire protection services as designated by the representatives of Brevard County Fire Rescue.

(2) Mutual Aid Upon Request By the Air Force: On request to a representative of Brevard County Fire Rescue by a representative of the Patrick Space Force Base Fire and Emergency Services, fire protection equipment and personnel of Brevard County Fire Rescue will be dispatched to any point within the jurisdiction of Patrick Space Force Base as designated by the representative of Patrick Space Force Base Fire and Emergency Services.

(3) Automatic Aid Provided by the Air Force to the County: “Automatic aid” is a form of mutual aid and a legally binding agreement for the automatic response by installation or base fire departments to pre-arranged areas outside the installation or base and an automatic response by the outside municipality/government to pre-arranged areas inside the installation or base. By this Agreement, Patrick Space Force Base agrees to automatically respond to provide fire protection, unless noted otherwise, within the unincorporated area of Brevard County identified in Appendix A of the Agreement and referred to as “Unincorporated South Cocoa Beach Response Zones”.

(4) Automatic Aid Provided by the County to the Air Force: “Automatic aid” is a form of mutual aid and a legally binding agreement for the automatic response by installation or base fire departments to pre-arranged areas outside the installation or base and an automatic response by the outside municipality/government to pre-arranged areas inside the installation or base. By this Agreement, Brevard County agrees to provide an automatic response by Brevard County Fire Rescue to pre-arranged areas inside PSFB for immediate joint response on first alarms.

d. Any dispatch of equipment and personnel by the Parties pursuant to this Agreement is subject to the following conditions:

(1) Brevard County Fire Rescue shall provide a Class “A” Pumper with three (3) firefighters to backfill at the PSFB Fire Station when Patrick Space Force Base is committed to the fire scene per this agreement.

(2) Automatic aid responses hereunder will be specific to vehicles and specify the location to which the equipment and personnel are to be dispatched, but the amount and type of equipment and the number of personnel to be furnished will be determined by the responding organization.

(3) The responding organization will operate under the policies and procedures of the authority having jurisdiction where possible. Air Force military and civilian personnel remain under the authority of the Installation Commander and the Installation Fire Chief. Air Force personnel will operate under the policies and procedures of the authority having jurisdiction to the extent policies and procedures do not conflict with Federal law. Where local agencies do not assign an incident safety officer, a PSFB Senior Fire Officer will be assigned to act as the incident safety officer for PSFB to observe Air Force operations.

(4) The responding organization will report to the officer in charge of the authority having jurisdiction or may be required to serve as the officer in charge until a senior officer arrives to the location to which the equipment and personnel is dispatched, and will be subject to the orders of that official. The authority having jurisdiction for PSFB will be PSFB Fire and Emergency Services. The authority having jurisdiction for the unincorporated areas of Brevard County will be Brevard County Fire Rescue.

(5) The responding organization will be released by the authority having jurisdiction when the services of the responding organization are no longer required.

e. Each Party hereby agrees that its intent with respect to the rendering of assistance to the other Party under this Agreement is not to seek remuneration from the Party requesting such assistance. Notwithstanding the above, the Parties hereby recognize that pursuant to the Section 11 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. **§** 2210) and Federal regulations issued there under (44 Code of Federal Regulations Part 151), both Brevard County Fire Rescueand Patrick Space Force Base are permitted to seek reimbursement for all or any part of its direct expenses and losses (defined as additional firefighting costs over normal operational costs) incurred in fighting fires on property under the jurisdiction of the other Party. Furthermore, under the authority of 42 U.S.C. **§** 1856a, and pursuant to any applicable state or local IAW, each Party hereby reserves the right to seek reimbursement from the other for all or any part of the costs (defined as additional firefighting costs over normal operational costs) incurred by it in providing fire protection services to the other Party.

BCFR will offer PSFB the opportunity of "Blue Card" incident command training to 20 PSFB fire certified personnel during the course of this Agreement (a total of 20 personnel over the 20 years). BCFR will pay for the cost of the initial Blue Card certification for the 20 PSFB student participants. Upon PSFB notifying BCFR in writing, with ninety days advance notice, of its desire to initiate Blue Card training, BCFR will coordinate the training. Class size for the Blue Card training is a minimum of 6 students with a maximum of 10 students. PSFB will be allowed to request classes for PSFB personnel as well as send PSFB personnel to unfilled slots for classes not scheduled solely for PSFB.

Coordination of training begins by PSFB providing BCFR with the personnel/student names and other appropriate information needed for BCFR to schedule those students for the initial online training for the Blue Card certification. Students have one year to complete the online training. Once the online training is complete, BCFR will schedule the students for the three-day in-person class/practical training provided by BCFR. Brevard County reserves the right to re-schedule in-person training if there is an insufficient number of students in a given class.

BCFR will also offer Blue Card Re-Certification training, but the cost of the re-certification will be the responsibility of PSFB.

Should either party terminate this Agreement while PSFB personnel are scheduled for Blue Card training, those PSFB personnel will be allowed to complete the training with the cost of initial Blue Card certification being born by BCFR.

f. The County agrees to indemnify and hold harmless the United States from any liability that may arise from any negligent actions or omissions committed by employees or representatives of the County. Likewise, the County agrees to indemnify and hold harmless the United States from any liability that may arise from the use of fire-fighting foams, chemicals, or other materials by the Air Force in providing fire protection services to the County, which agreement to indemnify and hold harmless includes, but is not limited to, such uses that may result in hazardous substance exposure or pollution of or contamination to air, land, water, person or property or such uses that may result in response actions under CERCLA, RCRA, or any other federal, state, or local laws. Notwithstanding any other provision of this Agreement, termination of this Agreement shall in no way affect the County’s obligation under this paragraph to indemnify and hold harmless the United States from any liability that may arise from either the negligent actions or omissions committed by United States employees or the use of fire-fighting foams, chemicals, or other materials by the Air Force in providing fire protection services to the County, which obligation shall survive such termination. Such indemnification obligation of the County is subject to the sovereign immunity limits set forth in Section 768.28, Florida Statutes.

g. The Air Force agrees to indemnify and hold harmless the County from any liability that may arise from any negligent actions or omissions committed by employees or representatives of the United States. Likewise, the Air Force agrees to indemnify and hold harmless the County from any liability that may arise from the use of fire-fighting foams, chemicals, or other materials by the County in providing fire protection services to the Air Force, which agreement to indemnify and hold harmless includes, but is not limited to, such uses that may result in hazardous substance exposure or pollution of or contamination to air, land, water, person or property or such uses that may result in response actions under CERCLA, RCRA, or any other federal, state, or local laws. Notwithstanding any other provision of this Agreement, termination of this Agreement shall in no way affect the Air Force’s obligation under this paragraph to indemnify and hold harmless the County from any liability that may arise from either the negligent actions or omissions committed by County employees or the use of fire-fighting foams, chemicals, or other materials by the County in providing fire protection services to the Air Force, which obligation shall survive such termination.

h. Both Parties agree to implement the National Incident Management System during all emergency responses on and off Installations and in association with *National Fire Protection Association Standard 1561.*

i. All claims against either Party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement should be directed to the Party having jurisdiction over the area where the incident occurred as a result of firefighting performance. This provision does not waive any right of reimbursement pursuant to paragraph e.

j. All equipment used by Brevard County Fire Rescue in providing mutual aid under this Agreement will, at the time of action hereunder, be owned by it; and all personnel acting for Brevard County Fire Rescue under this Agreement will, at the time of such action, be an employee or volunteer member of Brevard County Fire Rescue.

k. Neither Party will hold the other Party liable or at fault for failing to respond to any request for assistance or for failing to respond to such a request in a timely manner or with less than optimum equipment and/or personnel, it being the understanding of the Parties that each is primarily and ultimately responsible for the provision of fire protection services needed within their own jurisdictions. Military requirements and military necessity may preempt the installation’s ability to provide automatic aid, as determined in the sole discretion and authority of the installation commander or his designee.

l. Disputes.

Parties to Negotiate. If a dispute should arise, the Parties agree to first attempt to resolve the dispute using unassisted negotiation techniques (i.e., without the assistance of a neutral third party). Either Party may request in writing that unassisted negotiations commence. As part of the unassisted negotiation, the Parties shall consider employing joint fact-finding, if material factual disputes are involved, and shall use other early resolution techniques appropriate to the circumstances. If the dispute involves material issues of fact, the Parties may employ a neutral third party to provide a confidential evaluation of the issues of fact.

m. Alternative Dispute Resolution.

(1) If the dispute is not resolved within sixty (60) days after the request for unassisted negotiations, and the Parties do not mutually agree to continue the unassisted negotiations, the Parties shall employ alternative dispute resolution procedures involving nonbinding mediation of the dispute by a neutral third party. The alternative dispute resolution procedures employed shall include a confidential evaluation of both the facts and the law and the issuance of confidential recommendations by the neutral third party.

(2) By entering into this Agreement, the Parties have voluntarily adopted alternative dispute resolution procedures IAW 5 United States Code. § 572(c). These procedures shall not be employed if determined by either Party to be inappropriate after taking into consideration the factors enumerated at 5 United States Code. § 572(b). A Party rejecting alternative dispute resolution as inappropriate shall document its reasons in writing and deliver them to the other Party. The Parties shall enter into a master written alternative dispute resolution Agreement governing alternative dispute resolution proceedings that may be amended as needed to fit individual proceedings. (A template of an acceptable alternative dispute resolution agreement may be found at www.adr.af.mil).

(3) The Government’s obligation to make any payment arising out of an agreement resolving a dispute under this Agreement is contingent upon the availability of funds proper for such payment. The County’s obligation to make any payment arising out of an agreement resolving a dispute under this Agreement is contingent upon the availability of funds proper for such payment.

n. Interpretations of this agreement shall be determined in accordance with the Laws of the United States, and to the extent that they do not conflict, the Laws of the State of Florida. Any legal action involving the United States must be filed in the appropriate federal court of competent jurisdiction after the exhaustion of any applicable administrative remedies. Federal law preempts conflicting state law under the Supremacy Clause of the U.S. Constitution, and in the case of this Interlocal Agreement, Federal law, including but not limited to Federal statutes, the Code of Federal Regulations, DoD Instructions and Directives, and Air Force Instructions and Technical Manuals, preempts any conflicting state law or guidance to the contrary.

o. 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.

p. All notices, requests, demands, and other communications which may or are required to be delivered hereunder will be in writing and will be delivered by messenger, by a nationally-recognized overnight mail delivery service or by certified mail, return receipt requested, at the following addresses:

For the Air Force:

Patrick Space Force Base

c/o Commander, Space Launch Delta 45

1201 Edward White Street, Building 423

Patrick SFB, FL 32925-3439

And:

Department of the Air Force

Air Force Civil Engineer Center/CXF

139 Barnes Drive, Suite 1

Tyndall AFB FL 32403-5319

And:

Fire Chief

Patrick Space Force Base

1311 Control Road

Patrick SFB, FL 32925

For Brevard County Fire Rescue

Chief Mark Schollmeyer

Brevard County Fire Rescue

1040 South Florida Avenue

Rockledge, FL 32955-2498

And:

Public Safety Director

Matthew Wallace

Public Safety Department

1040 South Florida Avenue

Rockledge, FL 32955-2498

**TERMS OF THE AGREEMENT**

r.This Agreement will become effective on the date of the last signature to the Agreement and recorded with the Clerk of the Circuit Court in and for Brevard County (such recording and payment of the recording fee shall be the responsibility of the County) and will remain in effect for five years from that date (the “Term”) and automatically renews for an additional five-year period with the right to renew for additional two five-year terms not to exceed a total of 20 years. Either Party may unilaterally terminate this Agreement during the Term by sending notification of its intent to terminate to the other Party at 180 days in advance of the proposed date of termination. Such notification will be in the form of a written submission to the other Party.

s. Upon becoming effective, this Agreement will supersede and cancel all previous agreements between the Parties concerning the rendering of assistance from one to the other for the purposes stated in this Agreement.

t. The modification or amendment of this Agreement, or any of the provisions of this Agreement, will not become effective unless executed in writing by both Parties and recorded with the Clerk of the Circuit Court in and for Brevard County.

u. This Agreement may be executed in one or more counterparts, each of which will be deemed an original



