



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.8.

10/6/2020

Subject:

Approval, Re: Interlocal Agreement with the City of Melbourne for Automatic Aid for Fire Protection.

Fiscal Impact:

None

Dept/Office:

Fire Rescue Department

Requested Action:

It is requested the Board approve the Automatic Aid Agreement with the City of Melbourne for Fire Protection. It is also requested the Board authorize the County Manager, or designee, the authority to execute any revisions to the agreement, as agreed to by both parties and as outlined in the agreement, upon the review and approval of the County Attorney's Office and Risk Management. There are no substantive changes from the previous agreement, which has been fundamentally the same for the last fourteen (14) years.

Summary Explanation and Background:

On March 2, 2006, the Board of County Commissioners approved an Agreement between the City of Melbourne and Brevard County to provide Automatic Aid for Fire protection for four (4) years with five (5) biennial renewals periods, and will expire on September 30, 2020.

The Attached agreement allows for both agencies to respond with the closet available apparatus and personnel to the other's emergency regardless of the jurisdiction in an effort to provide a more timely and effective response. Approval of this Agreement will result in the saving of property and possibly human life, while meeting the County's vision of providing for the health of our citizens.

Clerk to the Board Instructions:

Return the fully executed Interlocal Agreement to Pamela Barrett in Fire Rescue for recordation in the Official Record Books.

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor:		2. Amount:	
3. Fund/Account #:		4. Department Name:	
5. Contract Description:			
6. Contract Monitor:		8. Contract Type:	
7. Dept/Office Director:			
9. Type of Procurement:			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

Purchasing

Risk Management

County Attorney

SECTION III - CONTRACTS MANAGEMENT DATABASE CHECKLIST

APPROVAL

COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

Purchasing

Risk Management

County Attorney

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	
Department	
Program	
Contact Name	
Cost Center, Fund, and G/L Account	
Vendor Information (SAP Vendor #)	
Contract Status, Title, Type, and Amount	
Storage Location (SAP)	
Contract Approval Date, Effective Date, and Expiration Date	
Contract Absolute End Date (No Additional Renewals/Extensions)	
Material Group	
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	
"Right To Audit" Clause Included in Contract	
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

October 7, 2020

M E M O R A N D U M

TO: Chief Mark Schollmeyer, Fire Rescue Director Attn: Pamela Barrett

RE: Item F.8., Approval for Interlocal Agreement with the City of Melbourne for Automatic Aid for Fire Protection

The Board of County Commissioners, in regular session on October 6, 2020, approved the Automatic Aid Agreement with the City of Melbourne for Fire Protection; and authorized the County Manager, or designee, to execute any revisions to the agreement, as agreed to by both parties and as outlined in the agreement, upon the review and approval of the County Attorney's Office and Risk Management. There are no substantive changes from the previous agreement, which has been fundamentally the same for the last 14 years. Enclosed is a fully-executed Interlocal Agreement.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

cc: County Manager
County Attorney
Risk Management

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

THIS AGREEMENT is entered into this 6 day of October, 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:



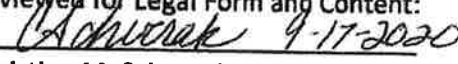
Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 


Bryan Andrew Lober, Chair
As Approved by the Board on 10/6/20

Reviewed for Legal Form and Content:



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

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.

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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**

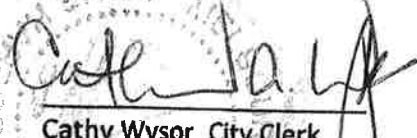
By: 

Bryan Andrew Lober, Chair
As Approved by the Board on 10/6/20

Reviewed for Legal Form and Content:


Christine M. Schverak, Assistant County Attorney

ATTEST:



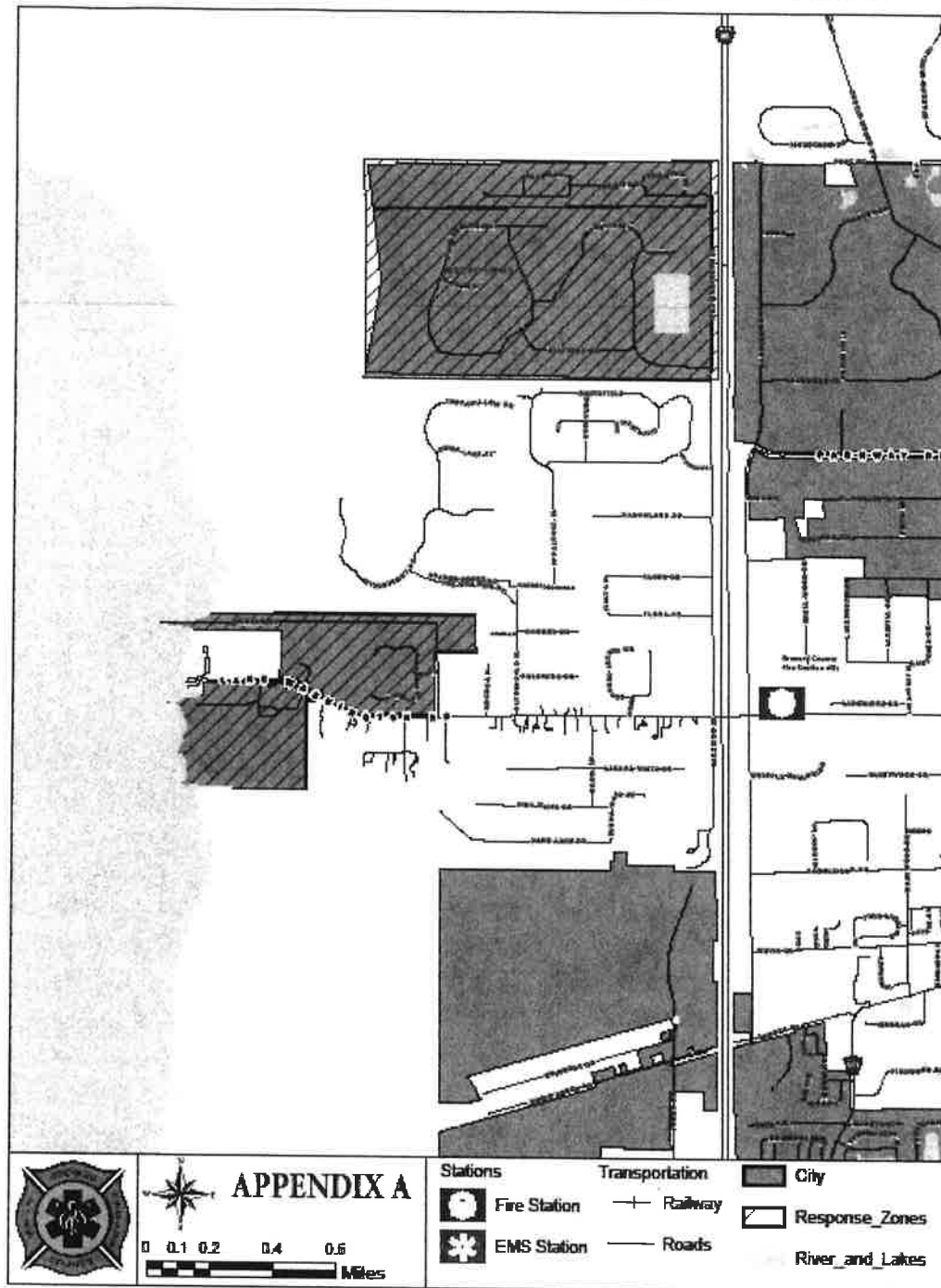
Cathy Wysor, City Clerk
(SEAL)

CITY OF MELBOURNE, FLORIDA



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

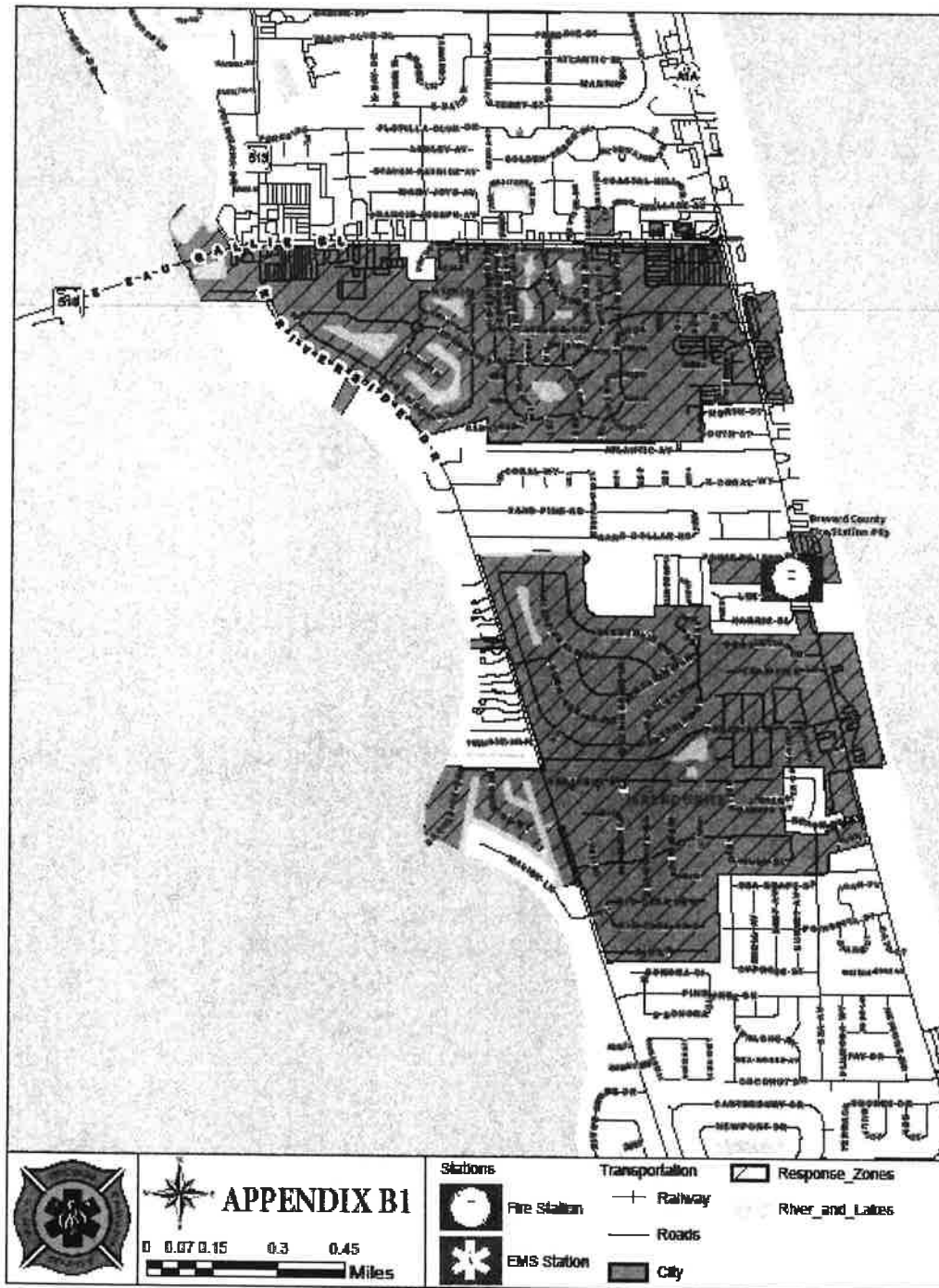
COUNTY FIRE PROTECTION TO M.W.P.



APPENDIX A

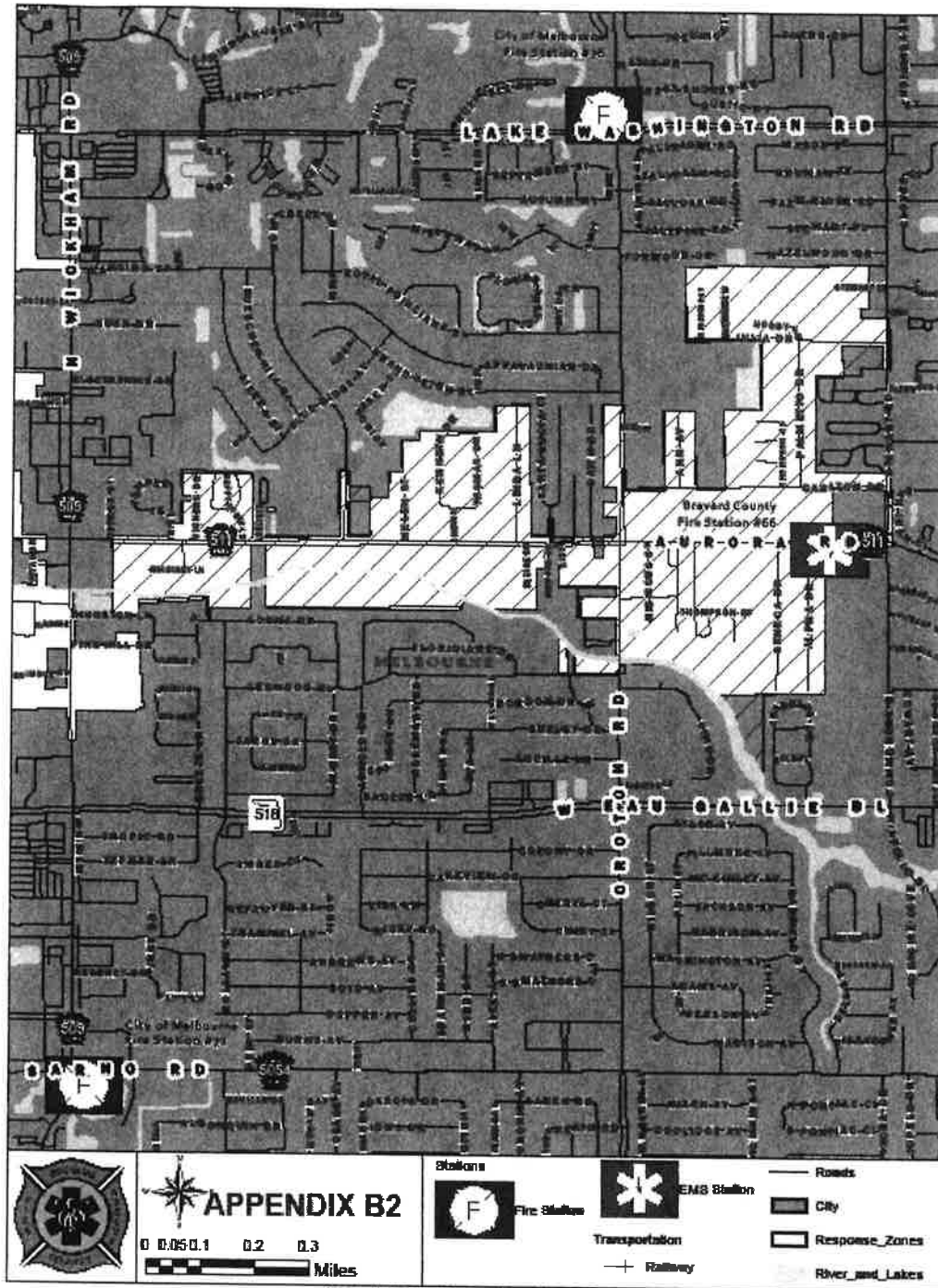
Data Provided by Brevard County and Brevard County Fire Rescue.
Map produced by Brevard County Fire Rescue GIS. Prepared for Chief Valtire
HND using StatePlane Florida East PPS-83s Feet
Map is the property of Brevard County Fire Rescue.

COUNTY FIRE PROTECTION TO BEACHSIDE



Data Provided by Broward County and Broward County Fire Rescue.
 Map produced by Broward County Fire Rescue GIS. Prepared for Chief Vukobratovic
 BMD 2011 State Plane Florida West NAD 83 Feet
 Map is the property of Broward County Fire Rescue.

CITY FIRE PROTECTION TO COUNTY ENCLAVE



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

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 911 call 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

With a copy to:
Fire/Automatic Aid Agreement

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:

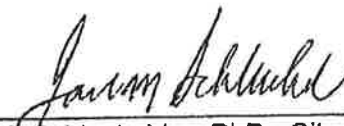

Assistant County Attorney

Approved by the Board February 7, 2006.

ATTEST:


Cathleen A. Smith, Clerk
(SEAL)

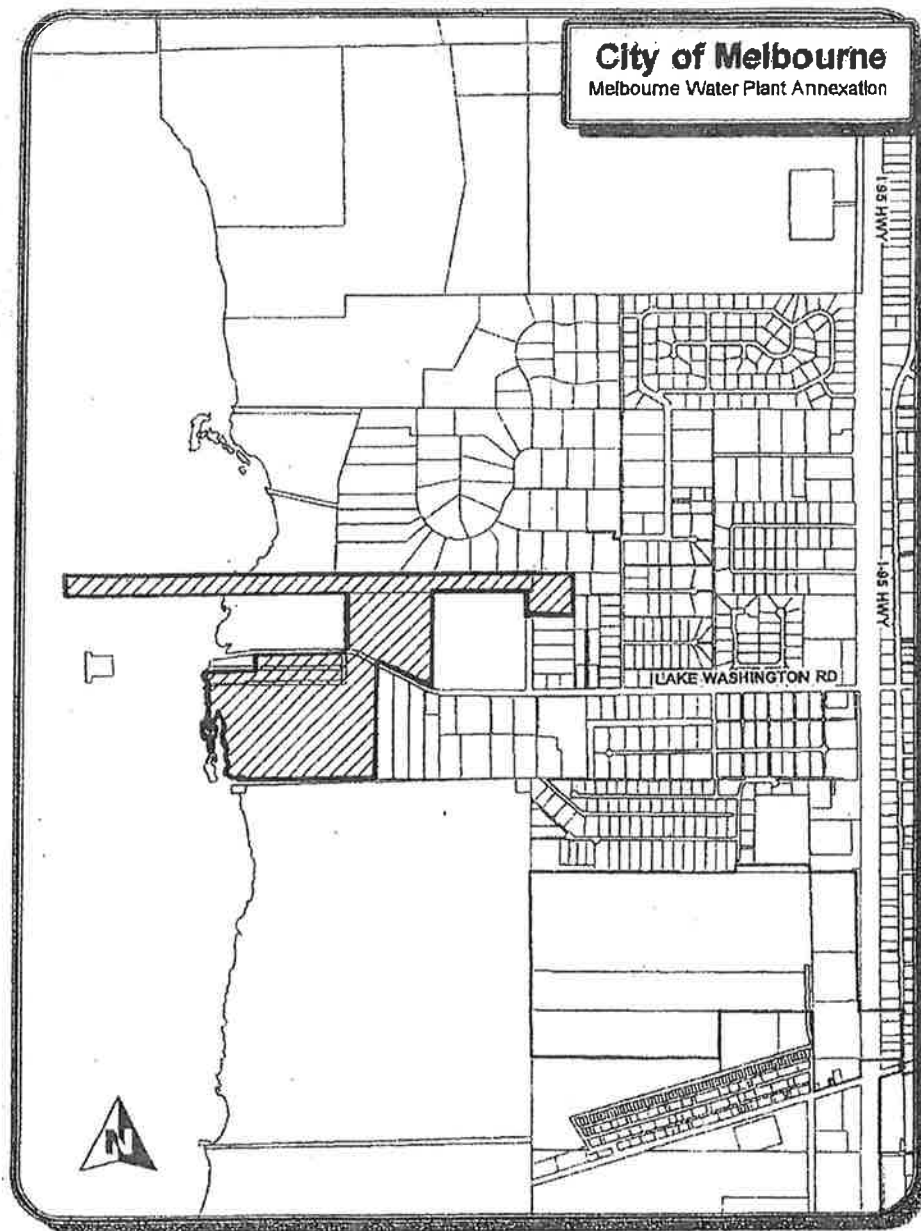
CITY OF MELBOURNE, FLORIDA


Jack M. Schluckebier, PhD., City Manager

Approved by the City Council 2/28/2006

Appendix A

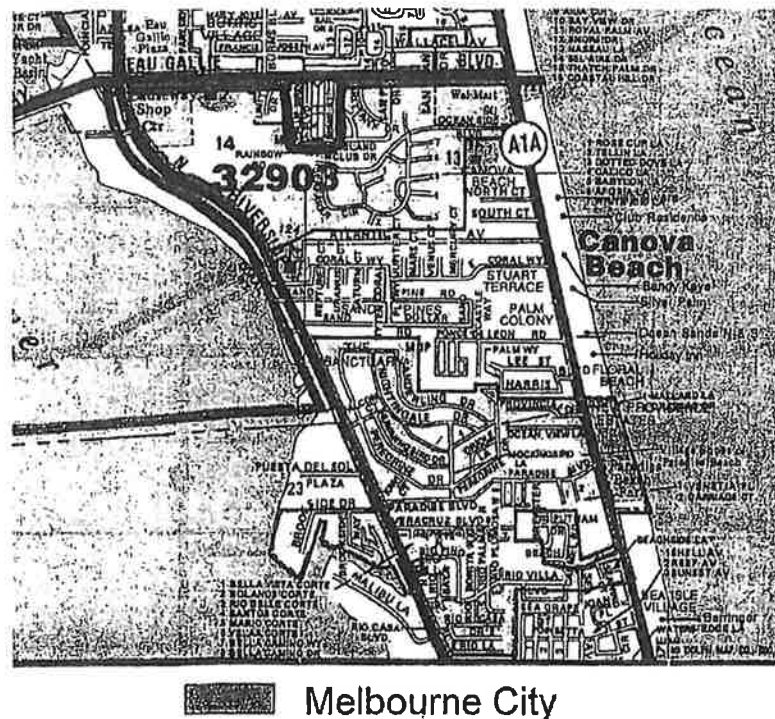
County fire protection response to City enclave



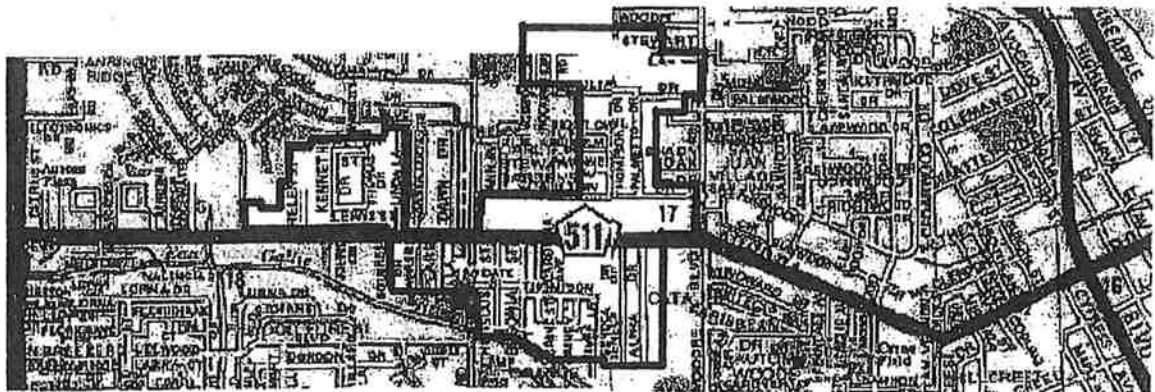
Appendix B

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



Fire/Automatic Aid Agreement  Unincorporated Brevard

Appendix C

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

