

ADD ON

Meeting Date
February 3, 2015



AGENDA	
Section	New Business
Item No.	VI E 1

AGENDA REPORT

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	A Resolution of the Board of County Commissioners of Brevard County, Florida Adopting the Use of Space Interlocal Agreement Between the County and the City of Cocoa Beach. Fiscal Impact - \$369,485
DEPT/OFFICE:	Fire Rescue Department

Requested Action:

It is requested the Board of County Commissioners adopt the attached Interlocal Agreement between the County and the City of Cocoa Beach for Use of Space.

Summary Explanation & Background:

The County and the City desire to enter into this Agreement for the purpose of allowing the County to house a Rescue Unit in a City owed Fire Station and find that it is their respective best interests and that it is in the best interest of the public health, safety and welfare of their citizens to share certain emergency response resources. The sharing of these emergency response resources is expected to maintain or improve public safety service for both County and City residents, resulting in more effective fire protection and Emergency Medical Services for both communities.

The City agrees to provide the County operational use space at the City's fire station located at 50 S. Orlando Avenue, Cocoa Beach, FL. The County shall utilize the City's fire station facility to support the operations of a County staffed emergency response transport unit.

This agreement will be effective upon its approval and execution by the elected governing bodies of both the County and the City and shall remain in effect for a period of twenty (20) years after the date of execution. The Agreement has one additional five (5) year term renewal option. The County will have an initial one-time payment of \$145,000, and an annual installment payment of \$11,815 for the remaining nineteen (19) years beginning January 1, 2016.

Fiscal Impact - \$369,485.00

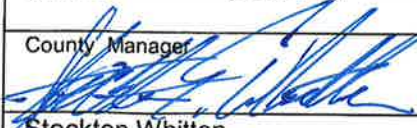

Background:

Brevard County Fire Rescue houses Rescue 61 at a building located at 45 South Orlando Avenue in Cocoa Beach, which is the property just South of Cocoa Beach's fire station 51. The building is owned by the City of Cocoa Beach and is maintained by the County. The current space is approximately 1000 square feet under air with only an aluminum overhang to protect the rescue truck from the elements.

The City of Cocoa Beach is currently building a three story storm hardened fire station at 50 S. Orlando Avenue to replace its aging facility across the street. The station was planned with more room than is needed, including office space, kitchen space, bunk space, and recreation space to house our crew from Rescue 61 (2). The station was also built with enough bay space to house our vehicle indoors and out of the elements. When this new facility is completed in a month, the old station and surrounding property, including our current station, will be demolished which leaves BCFR without a place to house our crews and vehicle.

BCFR researched property in the area and determined that finding suitable property that was available and affordable was not feasible and that a lease of space from the City of Cocoa Beach was a cost effective alternative. The new fire station also places our crew and vehicle in a hardened building in the event of a storm event.

Contact: Mark Schollmeyer, Interim Fire Chief/Director
(321) 633-2056
mark.schollmeyer@brevardcounty.us

Clerk to the Board Instructions:									
Exhibits Attached: (3) Agreements									
Contract /Agreement (If attached):		Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
 County Manager Stockton Whitten		Assistant County Manager, Mel Scott			Department Director /Extension  Mark Schollmeyer, Interim Fire Chief/Director				
		Assistant County Manager, Venetta Valdengo							



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

February 4, 2015

MEMORANDUM

TO: Chief Mark Schollmeyer, Interim Fire Rescue Director

RE: Item VI.E.1., Interlocal Agreement Between the County and the City of Cocoa Beach for Use of Space

The Board of County Commissioners, in regular session on February 3, 2015, approved Interlocal Agreement Between the County and the City of Cocoa Beach for use of space, to house a rescue unit in a City owned fire station. Enclosed are two fully-executed Interlocal Agreements for your action.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/ds

Encls. (2)

cc: Contracts Administration
Budget
Finance

**INTERLOCAL AGREEMENT REGARDING USE OF SPACE
BETWEEN BREVARD COUNTY AND THE CITY OF COCOA BEACH**

THE "AGREEMENT", entered into this 3rd day of February, 2015, by and between **Brevard County**, a political subdivision of the State of Florida, (hereinafter referred to as the "**County**") and the **City of Cocoa Beach**, a municipality incorporated under the laws of Florida (hereinafter referred to as the "**City**").

WITNESSETH:

WHEREAS, the County and City desire to enter into this Agreement for the purposes of allowing the County to house a Rescue Unit in a City owned Fire Station, so as to better protect the lives and property of the public; and

WHEREAS, the County and the City find that it is in their respective best interests and that it is in the best interest of the public health, safety and welfare of their citizens for the County and the City to share certain emergency response resources; and

WHEREAS, the sharing of emergency response resources contemplated by this Agreement is expected to maintain or improve public safety services for both County and City residents, resulting in more effective fire protection and Emergency Medical Services for both communities and potentially reducing fire protection costs while increasing service levels; and

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

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

SECTION 1. TERM:

This Agreement will commence and be effective upon its approval and execution by the elected governing bodies of both the County and the City and filing with the Clerk of the Circuit Court in and for Brevard County, Florida, and shall remain in effect for a period of twenty (20) years after the date of execution. This Agreement shall renew for one additional five (5) year term unless either party provides the other party with written notice of termination of this Agreement as provided in Section 2 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 2 below.

SECTION 2. TERMINATION:

2.1 This Agreement may be terminated by either party upon written notice of termination to the other party at least one hundred eighty (180) days prior to the date of such termination. In the event of a termination of this Agreement prior to the expiration of the initial twenty year term, the City will refund a pro rata portion of the County's initial one-time \$145,000 payment, and a pro rata portion of the County's annual installment payment of \$11,815 for the calendar year in

which the Agreement is terminated. The pro rata refund shall be calculated as the total amount of:

- (a) The number of days remaining in the initial twenty year term at the effective date of such termination, multiplied by \$19.86; and
- (b) The number of days remaining in the calendar year at the effective date of such termination, multiplied by \$32.37.

In the event of a termination of this Agreement after the expiration of the initial twenty year term, the City will refund a pro rata portion of the County's annual installment payment of \$11,815 for the calendar year in which the Agreement is terminated. The pro rata refund shall be calculated by multiplying the number of days remaining in the calendar year at the effective date of such termination by \$32.37.

- 2.2 Either party may request that this Agreement be revised. Such requests must be placed in writing and address the reason for the amendment as well as provide proposed amended language. In order to be deemed effective, the amendment must be approved by the respective governing bodies of the County and the City and filed with the Clerk of the Circuit Court in and for Brevard County, Florida.

SECTION 3. SERVICES PROVIDED:

- 3.1 Fire Station Facility Usage – The City hereby agrees to provide the County operational use space at the City's fire station located at 50 S. Orlando Avenue, Cocoa Beach, FL 32931. The County shall utilize the City's fire station facility to support the operations of a County staffed emergency response transport unit.
- (a) Apparatus Space – The City hereby agrees to provide an apparatus stall space for a BCFR rescue unit in the City's fire station.
 - (b) Living Quarters – The City hereby agrees to provide a bunkroom for County employees with a minimum of two (2) bunks for sleeping, office space, use of kitchen facilities, use of restrooms and use of day/training room.
 - (c) Maintenance -The County agrees to assist the City with any non-routine maintenance in equitable proportion to the County's utilization of the facility.
 - (d) Damage – The County agrees to repair, replace and/or reimburse the City for any and all damages caused to property and equipment owned by the City and resulting from the actions of County employees; the City agrees to do likewise for any damage done by City personnel to County property or equipment. The County/City shall cause such repair, replacement and/or reimbursement to occur within a reasonable amount of time thereby affording no undue hardship to either party.

- (e) Utilities – The City hereby agrees to pay all utility costs to include electrical, water, sewer and cable.

SECTION 4. PAYMENTS:

- 4.1 There shall be a one (1) time payment in the amount of one hundred and forty five thousand dollars (\$145,000) to the City of Cocoa Beach within 45 days of the execution of this Agreement by both parties. Furthermore, the County agrees to pay the City annual installments of eleven thousand eight hundred and fifteen dollars (\$11,815) for nineteen (19) years beginning January 1, 2016.

SECTION 5. ADDITIONAL EQUIPMENT:

N/A

SECTION 6. 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:

Ryan Duckworth, Fire Chief
Cocoa Beach Fire Department
25 S. Orlando Avenue
Cocoa Beach, FL 32931

Mark Schollmeyer, Interim Fire Chief/Director
Brevard County Fire Rescue
1040 S. Florida Avenue
Rockledge, FL 32955

With copy to:

Robert Majka, City Manager
City of Cocoa Beach
2. S. Orlando Avenue
Cocoa Beach, FL 32931

Stockton Whitten, County Manager
Brevard County
2725 Judge Fran Jamieson Way
Viera, FL 32940

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 a 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 7. AUDITING, RECORDS AND INSPECTION:

- 7.1 In the performance of this Agreement, the City 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 691-61.0012, Florida Administrative Code, as amended or superseded 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 each office and shall be retained by the City 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, unless otherwise required by law to be held for a longer period of time. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of Chapter 119, Section 401.30, Florida Statutes.

- 7.2 The County and the City agree to comply promptly with any request for public records or documents made in accordance with Section 119.07, Florida Statutes.
- 7.3 Upon a request for public records related to this Agreement, the County or the City, as the case may be, will inform promptly the other party of the request and, upon request of the other party, provide electronic copies of the responsive public records provided, at no additional cost to the County or the City, as the case may be.
- 7.4 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 in the United States or any other country.

SECTION 8. JURISDICTION, VENUE, AND CHOICE OF LAW:

All questions pertaining to the validity and interpretation 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 9. 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 suit costs for trials and appeals.

SECTION 10. INSURANCE AND COSTS:

The parties hereto shall bear the risk of their employees, agents, representatives and officers regarding any action or inaction taken as it relates to the duties, rights, responsibilities and operations as contemplated in this Agreement. The parties hereto shall obtain and provide insurance policies for coverage and in the amounts they deem appropriate and, if insurance is obtained, shall provide a letter from its insurance carrier authorizing it to act pursuant to this Agreement, and indicating that there will be no lapse in its insurance coverage either on employees, vehicles, or liability. If a party is self-insured, its file shall contain a copy of a resolution authorizing its self-insurance program. A copy of the insurance carrier's letter or the resolution of self-insurance shall be attached to the executed copy of this Agreement.

SECTION 11. INDEMNIFICATION/HOLD HARMLESS:

To the extent permitted by law and subject to the limitations contained in Section 768.28, Florida Statutes, 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, but

only to the extent such claim, damage, loss or expense is caused in whole or in part by the negligence of the City.

To the extent permitted by law and subject to the limitations contained in Section 768.28, Florida Statutes, the 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, but only to the extent such claim, damage, loss or expense is caused in whole or in part by the negligence of the County.

In agreeing to this provision, neither party intends to waive any defense of sovereign immunity, or limits on damage to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided by law. Nothing herein shall be construed as consent by the County or the City 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 12. INDEPENDENT CONTRACTORS:

The County and the City are each Independent Contractors of one another. It is specifically understood and agreed to by and between the parties hereto 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 as agents, employees, joint venturers, or other partners and neither are entitled to any benefits of the other party. Nothing contained herein shall be construed to be inconsistent with this relationship or status.

SECTION 13. 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 14: LIABILITY FOR EMPLOYEES/AGENTS:

Each jurisdiction shall bear responsibility for any injury or loss caused by its agents, representatives, officials, employees or volunteers (hereinafter "agents") while such agents are acting outside their jurisdiction. In no event shall either party's liability for damages exceed the monetary limits, or the type of damages recoverable, under Section 768.28, Florida Statutes, as that section may be amended from time to time.

SECTION 15. ASSIGNMENTS:

Neither the City nor the County, their assigns or representatives, shall enter into any agreement with third parties to delegate any or all of the rights and responsibilities herein set forth without the prior written approval and consent of the other party.

SECTION 16. ENTIRE AGREEMENT:

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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.

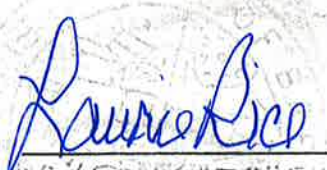
SECTION 17. INTERPRETATION:

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:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Laurie Rice, Chief Deputy Clerk

By: _____

Robin Fisher, Chairman
Brevard County Commission

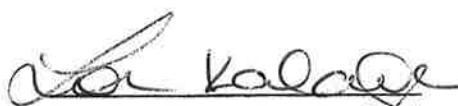
Approved by the Board on 02/03/2015

Reviewed for Legal Form and Content: _____


Assistant County Attorney

ATTEST:

CITY OF COCOA BEACH, FLORIDA



Loredana Kalaghchy, City Clerk

01-15-15

By: _____

Robert Majka, City Manager

Reviewed for Legal Form and Content: _____

City Attorney

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

SECTION I

The following information must be completed on all new contracts submitted to the Board.

1. Contractor: City of Cocoa Beach	
2. Fund/Account #: 1351/284610/	Division Name: Fire Rescue
4. Contract Description: Interlocal Agreement Use of Space	
5. Contract Monitor: Carrie Cotter/Assistant Chief Brad Hall	6. Mail Stop #: 50
7. Dept./Office Director: Mark Schollmeyer, Interim Fire Chief	8. Class Code:
ACTION DATE: 30 days from entry	ACTION REQUIREMENT: Need complete data

SECTION II

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	✓	_____	BH	12/30/14
Risk Management	_____	_____	_____	_____
County Attorney	✓	_____	[Signature]	1/5/15

If any office denies approval, the package will be returned immediately to the User Agency.

NOTE: *This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will then forward the Initial Contract Form to Information Systems Division and the contract will be entered into the contract Monitoring System. This initial entry will generate an entry on your monthly contract report and the first report will always show a "Required Action" for the contract. See BC-20 for additional information.*

BC-29: EXHIBIT I

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM


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<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	_____	_____	_____	_____
Risk Management	<u>X</u>	_____	 GV	10/3/14
County Attorney	_____	_____	_____	_____

If any office denies approval, the package will be returned immediately to the User Agency.

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