



RESOLUTION

71-2016

1
2 A RESOLUTION OF THE CITY OF BOCA RATON
3 AUTHORIZING THE MAYOR AND CITY CLERK TO
4 EXECUTE THE EMERGENCY SERVICES AGREEMENT
5 FOR MUTUAL ASSISTANCE AND AUTOMATIC AID WITH
6 THE CITY OF DELRAY BEACH FOR THE PURPOSE OF
7 PROVIDING AND RECEIVING EMERGENCY FIRE RESCUE
8 SERVICES ASSISTANCE; PROVIDING FOR
9 SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING
10 AN EFFECTIVE DATE
11

12 WHEREAS, the City of Boca Raton desires to enter into an Emergency Services
13 Agreement for mutual assistance and automatic aid with the City of Delray Beach for the
14 purpose of providing and receiving emergency fire rescue services assistance; and

15 WHEREAS, such an agreement has been prepared and a copy thereof is attached
16 hereto; now therefore
17

18 BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOCA
19 RATON:

**EMERGENCY SERVICES AGREEMENT
FOR MUTUAL ASSISTANCE AND AUTOMATIC AID
BETWEEN
THE CITY OF BOCA RATON AND THE CITY OF DELRAY BEACH**

THIS AGREEMENT is made and entered into this ____ day of _____, 2016, by and between the CITY OF BOCA RATON, a Florida municipal corporation, by and through its City Commission and the CITY OF DELRAY BEACH, a Florida municipal corporation.

WHEREAS, each of the parties to this Agreement presently maintains a Fire-Rescue Department with fire rescue equipment, fire fighting personnel, emergency medical equipment, emergency medical personnel, and other emergency capabilities; and

WHEREAS, it is deemed mutually advantageous to enter into this Agreement providing for mutual assistance/automatic aid in times of emergency where the need created may be too great for either party to deal with unassisted; or where a closest unit response is agreeable and in the public interest; or non-emergency assistance and logistical support may be helpful to the parties; and

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their power by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities.

NOW, THEREFORE, it is agreed by and between the parties that each will render mutual assistance and automatic aid to the other under the following stipulations, provisions and conditions:

Section 1. Request for Aid/Assistance: Emergency mutual assistance/automatic aid or non-emergency assistance or logistical support will be given when properly requested so long as rendering the aid and assistance requested will not place the assisting party in undue jeopardy. Notwithstanding anything herein that may be construed to the contrary, the parties understand and agree that it is not the

intention of the parties to subsidize the normal day-to-day operations or shortages in staffing or equipment of the other party and that the mutual assistance/automatic aid provided hereunder is intended to be mutual in nature. Automatic aid shall be rendered to the extent provided for in automatic aid plans and procedures approved by the parties' Fire Chiefs pursuant to Section 3 herein. The party requesting aid and/or assistance shall provide the following information at the time the request is made:

- a. The general nature, type and location of the emergency, non-emergency or logistical support; and
- b. The type and quantity of equipment and/or personnel needed; and
- c. The name and rank of the person making the request.

All requests shall be directed through the respective parties' emergency communications center. The following officials of the participating parties are authorized to request aid and assistance under this Agreement: the respective Fire Chiefs, Assistant or Deputy Fire Chiefs, or Incident Commanders.

Section 2. Representative and Contract Monitor: The City of Delray Beach's representative and contract monitor during the performance of this Agreement shall be the Assistant Chief of Administration, whose telephone number is 561-243-7400. The City of Boca Raton's representative and contract monitor during the performance of this Agreement shall be the Assistant Chief of Administration, whose telephone number is 561-982-4000.

Section 3. Command Authority: In the event of an emergency which requires additional assistance, the Fire Chief of the jurisdiction in which the incident is located, or in his absence, the Assistant or Deputy Fire Chief or the Incident Commander, will direct the activities at the scene where the emergency exists, but personnel responding to the call will remain under the command of their own officers at all times. Each party shall retain control over its personnel and the rendition of services, standards of performance, discipline of officers and employees, and other matters incidental to the performance of services.

Each party authorizes its Fire Chief to meet with the other party's Fire Chief and develop automatic aid plans and procedures, including areas to be serviced and type and/or level of response, when the Fire Chiefs have determined that improved response times or other forms of efficiency within their respective jurisdictions and/or service areas may be achieved. The Fire Chiefs are also authorized to promulgate necessary administrative regulations and orders to implement and administer these plans and procedures.

Section 4. Ability to Respond: Each party may refuse to respond to a request for aid/assistance in the event it does not have the required equipment available or if, in its sole judgment, compliance with the request would jeopardize the protection of its own jurisdiction. However, notwithstanding anything herein to the contrary, either party may refuse to provide non-emergency assistance or logistical support for any reason or no reason.

Section 5. Employee Functions: No employee of either party to this Agreement shall perform any function or service, which is not within the employee's scope of duties as defined or determined by his employer.

Section 6. Employee Claims, Benefits, etc.: No employee, officer, or agent of either party shall, in connection with this Agreement or the performance of services and functions hereunder, have a right to or claim any pension, workers' compensation, unemployment compensation, civil service, or other employee rights, privileges, or benefits granted by operation of law or otherwise except through and against the entity by whom they are employed. No employee of either party shall be deemed the employee of the other, for any purpose, during the performance of services hereunder.

Section 7. No Assumption of Liability: Neither party to this Agreement nor their respective officers or employees shall be deemed to have assumed any liability for the negligent or wrongful acts or omissions of the other. Further, nothing herein shall be construed as a waiver of sovereign immunity.

Section 8. Liability for Injury: All the privileges and immunities from liability, exemptions from law, ordinance and rules, and all pensions and relief, disability, workers' compensation and other

benefits which apply to the activity of the officers or employees of either party when performing their respective functions, within the territorial limits for their respective agencies, shall apply to the same degree and extent to the performance of such functions and duties extraterritorially. Liability for injury to personnel, and for loss or damage of equipment, shall be borne by the party employing such personnel, and owning or possessing such equipment.

Section 9. Remuneration: All costs associated with providing mutual assistance/automatic aid services under this Agreement shall be the responsibility of the agency rendering aid/assistance. Neither agency specified here shall seek reimbursement of costs associated with the rendering of mutual assistance/automatic aid services from the other agency.

The parties further agree that the agency rendering aid/assistance may request reimbursement for any expenditure of goods or services directly from the persons, parties, or company involved in, causing, or responsible for, the incident at the sole discretion of the agency rendering aid or assistance. The agency rendering aid/assistance for emergency medical services that requires transport service may request reimbursement for the transport service from the patient. The agency rendering service will handle insurance claims and collection in accordance with their policies and procedures and shall be in accordance with the latest Federal Medicare guidelines, if applicable.

If the rendering agency invoices the responsible party for the incident for reimbursement of the goods and services provided, a copy of such invoice may be forwarded to the requesting agency as a matter of courtesy, provided however that the parties will not be required to provide copies of transport fee invoices to the other party and shall not otherwise use or disclose Protected Health Information ("PHI") or Electronic Protected Health Information ("e-PHI") except as permitted by the Health Insurance Portability and Accountability Act ("HIPAA"), the regulations promulgated thereunder, and any other applicable laws and regulations, all as may be amended from time to time.

Section 10. Effective Date and Term: This Agreement shall take effect October 1, 2016, and continue for a term of ten years, unless sooner terminated as provided herein.

Section 11. Notice of Termination: Either party to this Agreement may, upon sixty (60) days prior written notice to the other, terminate this Agreement for any reason or for no reason at all.

Section 12. Assignment of Rights: Neither party shall assign, transfer or convey, in whole or in part, its rights, duties, or obligations without the prior written consent of the other.

Section 13. Modification and Amendment: No modification, amendment, or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

Section 14. Entirety of Agreement: This Agreement represents the entire understanding of the parties and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement.

Section 15. Equal Opportunity: Each party represents and warrants that it will not discriminate in the performance of services hereunder and that its employees and members of the general public benefiting from services hereunder will be treated equally and without regard to race, color, religion, national origin or ancestry, sex, sexual orientation, gender identity or expression, marital status, age, disability or any other characteristic or basis protected under federal or state law.

Section 16. Annual Appropriations: Each party's performance and obligation under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for the purposes hereunder.

Section 17. Remedies: This agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or

now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 18. Records: Each party shall maintain all records pertaining to the services delivered under this Agreement for a period of at least three (3) years. Each party shall maintain records associated with this Agreement, including, but not limited to, all accounts, financial and technical records, research or reports, in accordance with Florida law.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the City, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Section 19. Joint Preparation: The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely or as a matter of judicial constraint, be construed more severely against one of the parties than the other.

Section 20. Notice of Suits: Each party agrees to notify the other of any claim, or the initiation of any legal proceeding against it which relates, in any manner, to the aid or assistance provided by the other party. Each party will cooperate with the other in the defense of any suit or action arising out of, or related to, the aid or assistance rendered under this agreement.

Section 21. Notices: All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to the City of Delray Beach shall be mailed to:

Delray Beach Fire Rescue
Fire Chief
501 West Atlantic Avenue
Delray Beach, FL 33444

and if sent to the City of Boca Raton shall be mailed to:

Boca Raton Fire Rescue
Fire Chief
6500 Congress Avenue, Suite 200
Boca Raton, Florida 33487

Each party may change its address upon notice to the other.

Section 22. Captions: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 23. Filing: A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

Section 24. Indemnification: Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the City of Delray Beach shall indemnify, defend and hold harmless the City of Boca Raton against any actions, claims or damages arising out of the City of Delray Beach's negligence in connection with this Agreement, and the City of Boca Raton shall indemnify, defend and hold harmless the City of Delray Beach against any actions, claims, or damages arising out of the City of Boca Raton's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

Section 25. Enforcement Costs: Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties; provided, however, that this clause pertains only to the parties to this agreement.

Section 26. Delegation of Duty: Nothing contained herein shall be deemed to authorize

the delegation of the constitutional or statutory duties of state, county, or city officers.

Section 27. No Third Party Beneficiary: No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any member of the general public and/or any employee of either party to this Agreement.

Section 28. Severability: In the event that any section, paragraph, sentence, clause, or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, the undersigned parties have caused these presents to be signed
by their duly authorized officers on the day and year first written above.

ATTEST:

CITY OF BOCA RATON, FLORIDA

By: Susan L. Saxton
City Clerk

By: [Signature]
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
City Attorney

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

By: _____
City Clerk

By: _____
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
City Attorney