

R 2012-0457

**INTERLOCAL AGREEMENT FOR FIRE VEHICLE MAINTENANCE  
BETWEEN PALM BEACH COUNTY AND THE  
TOWN OF PALM BEACH**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of MAR 20 2012, 2012, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter the "County"), by and through its Board of County Commissioners and the TOWN OF PALM BEACH, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter the "Town").

**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; and

**WHEREAS**, the parties mutually desire the County to provide maintenance and emergency repairs for the Town's fire-rescue emergency response apparatus under the terms and conditions in this Agreement; and

**WHEREAS**, the Town and County desire to enter into this Agreement as the County can provide vehicle maintenance services economically and efficiently, to the benefit of both the County and Town;

**NOW, THEREFORE**, in consideration of the terms and conditions set forth herein and the benefits following from each to the other, the County and the Town do hereby agree as follows:

**ARTICLE I: APPARATUS REPAIR AND MAINTENANCE:**

**Section 1. Maintenance and Repairs.** The intent of this Agreement is for County to extend to Town the same usual and customary maintenance and repair services that County provides for its own fire-rescue emergency response apparatus fleet through the County Fire-Rescue Department's vehicle maintenance and repair shop (hereinafter referred to as the "Shop"). County shall be the exclusive provider for all such preventative maintenance, scheduled repairs and emergency repairs for the Town's principal fire/rescue emergency response apparatus, including Engines, Ladders, Rescues, Haz-Mat, USAR and other related apparatus, including, but not limited to the following service:

-Body Damage Repair – Roll-up Doors, Cabinetry, Compartments, Body Panels,

- Fenders, etc.
- Body Damage Repair -- including vehicle painting or graphics to complete repair
- Windshields/Door glass replacement when broken or cracked
- Fire Pumps, Tanks and Plumbing, apparatus-mounted and portable
- Foam/Chemical agent education and proportioning systems
- Light bulbs and fixtures replacement, including emergency warning devices
- Audible emergency warning devices
- Upholstery and interior furnishings of vehicles and apparatus
  
- Towing of disabled vehicles and apparatus
- Emergency Tire Repair and Replacement, including Road Service
- Tire Replacement, per manufacturer/standard schedule
  
- Head Set communication systems, servicing and repair
- Mobile Data Terminal, installation of hardware and wiring
- Recharge units/wiring, installation of hardware and wiring for re-chargable equipment
  
- Manufacturer Factory Recalls – coordination of all work
- Emergency/Unscheduled maintenance related to NFPA and/or NEVT Standards
- Preventive maintenance in accordance with NFPA and/or NEVT Standards

Computer based vehicle Maintenance Reporting System to be provided to Fire/Rescue facilities, as needed and requested by Town.

County will manage the maintenance program for Town's principal fire/rescue emergency response apparatus, and will coordinate the scheduling of preventative maintenance with the Town Fire Chief or designee. Town agrees to abide by County's daily inspection program and submit any findings of deficits immediately through the IBEM system. Additionally, those reports shall be submitted to the County on a monthly basis. Should the Town decline to proceed with any apparatus repair identified by the County, then, notwithstanding anything in this Agreement to the contrary, the Town shall be fully and solely responsible for any liability or claims, including any third party claims and County's cost of defense, arising from the use or operation of said apparatus, subject however, to the limitations set forth in Florida Statute 768.28. Should the Town disagree with the extent or cost of a repair directly relating to the safe operation of said vehicle, Town agrees to notify the County of such disagreement prior to the repair being made. Town shall take the affected unit out of service until such time as funds become available or the unit is permanently replaced. Any disagreement regarding the extent or cost of a repair arising under this provision shall be addressed in accordance with the conflict resolution provisions in Article III, Section 25, of this Agreement.

**Section 2. Standards.** All inspections and maintenance shall be in accordance with the following standards and specifications, as they may be amended:

NFPA 1071 – Standard on Emergency Vehicle Technician (EVT)

NFPA 1911 - Standard on Fire Apparatus Maintenance

NFPA 1915 Fire Apparatus Preventative Maintenance Program

Manufacturers' Specifications

Good principals and industry practices

**Section 3. Repairs.** If emergency repairs are required, Town shall immediately advise County and arrange for repair. County agrees to give priority to Town emergency repairs over preventive maintenance for County and Town vehicles. Town shall contact County in advance to schedule any non-emergency repairs.

**Section 4. Preventive Maintenance.** Town agrees to contact County in advance to schedule preventive maintenance of its fire-rescue apparatus in accordance with any preventive maintenance schedules identified by the County, or otherwise in accordance with any applicable maintenance schedules recommended by manufacturer specifications and NFPA standards, if any.

**Section 5. Turn Around Time.** County will make every reasonable effort to complete repairs and maintenance of vehicles within a reasonable period of time from delivery of vehicle to County, dependent upon availability of parts and the extent of repairs necessary.

**Section 6. Warranty of Workmanship.** County agrees to warranty its workmanship on services and repairs for a period of forty-five (45) days from completion of work; provided however, that the sole remedy for a defect in County's workmanship on services and repairs shall be limited, at the County's option, to either the County correcting the faulty service or repair to the extent necessary and reasonably practical, or the County reimbursing Town for the amount paid by Town to County for the faulty service or repair.

The County will process claims for manufacturers' parts warranties on parts it installs on Town vehicles, provided that the Town has taken all necessary action to register such warranties with the applicable manufacturers. Should such a claim be denied, for any reason or no reason, the County's sole obligation shall be limited to providing the Town with the appropriate claim and denial information. The Town shall be solely responsible for pursuing any further manufacturer warranty action it deems appropriate.

The Town shall inform County in writing of the details of any warranty claim for workmanship or parts. In addition, as manager of the Town's maintenance program, County will also monitor repair requests and advise the Town if such repairs or parts may be covered under warranty, provided that the Town has taken all necessary action to register such warranties with

the applicable manufacturers.

**Section 7. Reporting.** On a monthly basis, County shall provide to Town's Fire Chief, or designee, a report identifying each vehicle on which maintenance or repair service was performed during the course of the prior month, and containing a detailed listing of all parts installed, all services rendered, all labor hours and noting any technician observations and recommendations or warranty matters. This report is in addition to information provided on any invoice.

## **ARTICLE II: COMPENSATION**

**Section 1. Labor Rates.** The County shall invoice the Town for vehicle maintenance and repair labor, inclusive of all administrative and overhead costs with no additional charge for overhead or labor (except as provided in Section 2), at the hourly labor rate listed as the Warranty Rate on the County's Rate Schedule for Warranty, Vehicle and Staff Charges in effect at the time of service. No other billing rates included on the County's Rate Schedule for Warranty Vehicle and Staff Charges shall apply. The Rate Schedule and Warranty Rate may be annually updated and amended by the County in its sole discretion (as referenced in Palm Beach County Fire Rescue Operational Procedure #VIII-1). The fiscal year 2012 hourly warranty labor rate is \$96.94, as set forth in the Rate Schedule for Fiscal Year 2012 attached hereto as **Exhibit A**.

**Section 2. After Hours Call-Out Emergency Repairs.** A three-hour minimum labor charge, at applicable Labor Rates established in Section 1 above, will apply to all emergency after hours call-out repairs. "After hours" shall mean any time before or after the usual and customary business hours and days of the Shop, and shall include, but not be limited to, Saturdays, Sundays, and County holidays. Upon request, the County will provide the Town with the Shop's current business hours and days, which may be revised by the County from time to time.

**Section 3. Parts and supplies.** The Town will be charged the County's actual cost for all parts and supplies plus 5%.

**Section 4. Insurance Premium.** Each month the Town shall pay to the County a proportionate share of the County's annual premiums for garage-keepers insurance and garage liability insurance relating to fire-rescue vehicle maintenance and repair services. The monthly amount due from the Town shall be equal to the County's annual premiums divided by the

number of contracted entities receiving fire rescue vehicle maintenance and repair services from the County, which may change from time to time, divided by twelve (12). This amount shall be adjusted by the County from time to time to reflect any change in the number of contracted entities receiving such services from the County and to reflect any actual increase or decrease in the County's premiums. It is anticipated that the monthly charge will be \$140.11 for fiscal year 2012. Any and all decisions regarding such insurance policies shall remain within the sole discretion of the County.

**Section 5. Invoices.** The County shall invoice the Town on a monthly basis for all service(s) provided during the month. Each invoice shall identify the vehicle serviced, the labor hours spent, the labor rate, charges for parts and supplies, and the monthly charge for insurance premiums. Payment by the Town shall be due forty-five (45) days after the Town's receipt of a proper invoice from the County. County shall direct invoices to the Town's Accounts Payable Division at:

Town of Palm Beach  
Accounts Payable  
360 South County Road, 1<sup>st</sup> Floor  
Palm Beach, FL 33480

### **ARTICLE III: GENERAL CONTRACT TERMS**

**Section 1. Preambles:** The facts set forth in the preambles to this Agreement are true and correct and are hereby reaffirmed by the parties.

**Section 2. Representative and Contract Monitor:** The County representative and contract monitor during the performance of this Agreement shall be the Deputy Fire Chief of Support Services, whose telephone number is (561) 616-7003. The Town representative and contract monitor during the performance of this Agreement shall be the Fire Chief, whose telephone number is (561) 838-5420.

**Section 3. 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 the employee's employer.

**Section 4. 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 5. 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 6. Insurance:** Without waiving the right to sovereign immunity as provided by Section 768.28 Florida Statutes, the Town acknowledges to be self-insured for General Liability with coverage limits of \$200,000 per person and \$300,000 per occurrence and Automobile Liability coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence under Florida sovereign immunity statutes; or such monetary waiver limits that may change and be set forth by the legislature.

In the event the Town maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28 Florida Statutes, the Town shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

The Town agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Chapter 440, Florida Statutes.

For the duration of this Agreement, the Town agrees to maintain automobile physical damage insurance covering those vehicles to be serviced by the County under this Agreement. The Town's coverage shall be primary for any damage that occurs to the Town's vehicles, including any damage while in the possession or custody of the County.

The Town hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy, except in the event the County, its officers, employees or agents are negligent, in which case subrogation against the County shall apply. When required by the insurer, or should a policy condition not permit the Town to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Town agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the Town enter into such an agreement on a pre-loss basis.

When requested, the Town shall agree to provide an affidavit or Certificate of Insurance

evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve the Town of its liability and obligations under this Interlocal Agreement.

**Section 7. Effective Date and Term:** This Agreement shall take effect upon approval by all parties and continue for a term of ten (10) years, unless sooner terminated as provided herein.

**Section 8. Notice of Termination:** This Agreement may be terminated for any reason or for no reason by: (i) written mutual consent of both parties; or, (ii) by either party giving notice of desire to terminate no later than April 30th of any given year, to be effective on September 30<sup>th</sup> of that same year. Notwithstanding the foregoing, this Agreement shall not be terminated, except by mutual consent, prior to September 30, 2012.

**Section 9. 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 10. 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 11. Equal Opportunity:** The County and Town each warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, or gender identity or expression; and that no person shall, based on any of said grounds, be excluded from the benefits of, or be subject to any form of discrimination under, any activity carried out in the performance of this Agreement.

**Section 12. Annual Appropriations:** Each party's performance and obligations under this Agreement are contingent upon an annual budgetary appropriation by its respective governing body for the purposes hereunder.

**Section 13. Records:**

a. The County shall maintain all records relating to the services performed under this Agreement in accordance with Florida's public records law and until at least three year after the expiration or termination of this Agreement; provided however that upon the expiration or termination of this Agreement, the County shall turn over to the Town all the County's technical records directly relating to the County's maintenance and repair of the Town vehicles. The Town shall become the official custodian of these records. As custodian of these

records, the Town shall maintain the records in accordance with Florida's public records law and until at least three years after expiration or termination of this Agreement or three years after the life of the vehicle, whichever is later. The County shall be entitled to keep a copy of all such records.

b. For each Town fire-rescue vehicle serviced under this Agreement, the Town shall maintain all its records relating to the operation, maintenance and repair of said vehicle in accordance with Florida's public records laws and until at least three years after expiration or termination of this Agreement or three years after the life of the vehicle, whichever is later.

c. The records to be maintained under this Agreement shall include, but not be limited to, all financial and technical records and reports directly relating to the servicing of Town vehicles under this Agreement or otherwise to the operation, maintenance and repair of said vehicles. All records maintained under this Agreement shall be made available to the other party upon request and within a reasonable period of time.

d. Notwithstanding anything herein to the contrary, records meeting the legal requirements for destruction and the records retention requirements set forth herein may be destroyed by the custodian party provided that said party (i) gives the other party 30 days written notice identifying all records to be destroyed, and (ii) makes copies of said records available upon request of the other party, which request must be received at least 15 days prior to the scheduled destruction date.

e. In the event that the parties become involved in a legal dispute arising from performance under this Agreement, the parties shall extend the period of maintenance for all records relating to the Agreement until the final disposition of the legal dispute, and all such records shall be made readily available to the parties.

**Section 14. Right to Audit.** Each party, at its own expense, shall have the right to examine the other party's books, data, records and invoices directly or indirectly related to this Agreement upon reasonable notice, time and place. Such examination may be made during the life of a subject vehicle or equipment. Any disagreement between the parties arising under this provision shall be addressed in accordance with the conflict resolution provisions in Article III, Section 25, of this Agreement.

**Section 15. 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 16. 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 shall be held in Palm Beach County. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. 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 17. 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 servicing of Town vehicles under this Agreement or otherwise to the operation, maintenance and repair of said vehicles. Each party will cooperate with the other in the defense of any suit or action arising out of, or related to, the services rendered under this Agreement.

**Section 18. Notices:** All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to the County shall be mailed to:

Palm Beach County Fire Rescue  
Fire Rescue Administrator  
405 Pike Road  
West Palm Beach, FL 33411

and if sent to the Town shall be mailed to:

Town of Palm Beach Fire Rescue Department  
Fire Chief  
300 North County Road  
Palm Beach, FL 33480

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

**Section 19. Captions:** The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

**Section 20. Filing:** A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

**Section 21. 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 22. Delegation of Duty:** Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or Town officers.

**Section 23. 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.

**Section 24. Survivability:** Any provision of this Agreement that is of a continuing nature, or which by its language or nature imposes an obligation or right that extends beyond the term of this Agreement, shall survive the expiration or earlier termination of this Agreement.

**Section 25. Conflict Resolution:** Any dispute or conflict between the parties that arises from the provision of services under this Agreement shall be presented in writing to the respective Fire Chiefs or their designees. The Fire Chiefs, or designees, shall then meet to discuss the disputed issues and attempt in good faith to resolve the dispute or conflict prior to either party initiating the intergovernmental conflict resolution process provided for by Chapter 164, Florida Statutes.

**Section 26.** None of the provisions of this Agreement shall be construed to create any third-party beneficiary or to otherwise give any enforceable rights or benefits to anyone other than the parties to this Agreement.

**Section 27.** The parties agree that time is of the essence in the performance of each and every obligation under this Agreement.

**Section 28. Force Majeure:** County shall not be deemed in default or breach of this Agreement to the extent it is unable to perform, or to timely perform, due to an event of *Force Majeure*. For the purpose of this Agreement, *Force Majeure* shall mean and include any act of God, including severe weather conditions or impending severe weather conditions, accident, fire, lockout, strike or other labor dispute, riot or civil commotion, act of a public enemy, failure of transportation facilities, enactment, rule order or act of government or governmental instrumentality (whether domestic or international and whether federal, state or local, or the international equivalent thereof), failure of technical facilities, or any other cause of any nature whatsoever beyond the control of the County which was not avoidable in the exercise of reasonable care and foresight. Further, the Town specifically acknowledges that the County shall have no liability whatsoever for any damages or injuries due to a *Force Majeure*.

**Section 29.** Failure(s) to insist on strict performance of any covenant, condition, or provision of this Agreement by a party, its successors and assigns, shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Agreement. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

**Section 30. 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 31. Office of the Inspector General:** 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. To the extent permitted by law, 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 Town, 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.

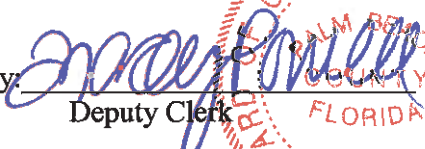
**[The remainder of page left blank intentionally]**

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.

**R 2012 04 57** MAR 20 2012

ATTEST:  
SHARON R. BOCK,  
Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS

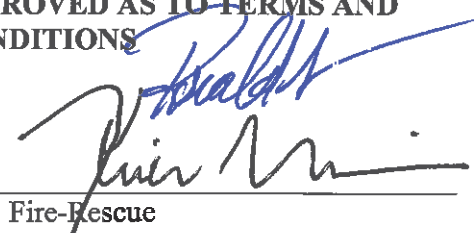
By:   
Deputy Clerk

By:   
Shelley Vana, Chair

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By:   
County Attorney

By:   
Fire-Rescue

ATTEST:

TOWN OF PALM BEACH

By:   
Town Clerk

By:   
Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:  Town Attorney

Date: 1/19/12

**EXHIBIT A**

**Palm Beach County Fire Rescue  
Rate Schedule  
Warranty, Vehicle and Staff Charges  
Fiscal Year 2012**

<b><u>Type of Charge</u></b>	<b>Hourly Rate</b>
<b>Warranty Rate</b>	<b>\$96.94</b>
<b>Vehicle Charges</b>	
Engine	\$103
Haz Mat	\$195
Quint	\$230
Brush Truck	\$151
Tender	\$159
Rescue	\$30
Rescue/Pumper	\$55
Light & Air Truck	\$170
<b>Staff Charges</b>	
Firefighter (FF,PM,DO)	\$46
Company Officer	\$58
Chief Officer/District Chief	\$73
Investigator	\$54
<b>Standard Staffing</b>	
Engine	= one (1) Company Officer and two (2) Firefighters
Haz Mat	= two (2) Firefighters
Quint	= one (1) Company Officer and two (2) Firefighters
Brush Truck	= no additional personnel
Tender	= one (1) Firefighter
Rescue	= one (1) Company Officer and one (1) or two (2) Firefighters-depends on unit
Rescue/Pumper	= one (1) Company Officer and two (2) Firefighters

Additional charges may be required based on equipment damage/loss and personnel overtime and/or injuries.

**All invoices will be based on half-hour increments. For example, a seventy-five minute call will be billed for one and one-half hours.**

Details of calculations are available upon request.