



West Manatee Fire & Rescue District

Memorandum

Date: January 7, 2019

To: West Manatee Fire & Rescue Board of Commissioners

From: Ben Rigney, Battalion Chief

Subject: Agenda Item #8a – HazMat Interlocal Agreement

Executive Summary

Attached you will find an Interlocal Agreement regarding the Manatee County Hazardous Materials Team. On July 24, 2014, the respective Manatee County Fire Chief's Association delegated Southern Manatee Fire Rescue with the responsibility to manage the operations and administration of the Manatee County Hazardous Materials Team. This Interlocal Agreement sets forth the invoicing and reimbursement policies and procedures related to the recovery of costs incurred in response and recovery efforts related to hazardous material incidents along with setting forth all covenants, promises, agreements and understandings between the parties.

Recommendation

Staff recommends that the Board approve the Interlocal Agreement regarding the Manatee County Hazardous Materials Team.

INTERLOCAL AGREEMENT REGARDING THE
MANATEE COUNTY HAZARDOUS MATERIALS TEAM

THIS INTERLOCAL AGREEMENT REGARDING THE MANATEE COUNTY HAZARDOUS MATERIALS TEAM (“Interlocal Agreement”) is made and entered into by and between NORTH RIVER FIRE DISTRICT, an independent special fire control district located in Manatee County, Florida; SOUTHERN MANATEE FIRE RESCUE DISTRICT (“SMFRD”), an independent special fire control district located in Manatee County, Florida; WEST MANATEE FIRE AND RESCUE DISTRICT, an independent special fire control district located in Manatee County, Florida; EAST MANATEE FIRE RESCUE DISTRICT, an independent special fire control district located in Manatee County, Florida; PARRISH FIRE DISTRICT, an independent special fire control district located in Manatee County, Florida; CEDAR HAMMOCK FIRE CONTROL DISTRICT, an independent special fire control district located in Manatee County, Florida; DUETTE FIRE AND RESCUE DISTRICT, an independent special fire control district located in Manatee County, Florida; TRAILER ESTATES FIRE CONTROL DISTRICT, an independent special fire control district located in Manatee County, Florida; MYAKKA CITY FIRE CONTROL DISTRICT, a dependent fire district located in Manatee County, Florida (collectively hereinafter the “FIRE DISTRICTS”); and MANATEE COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter the “COUNTY”) (each a “Party” and collectively the “Parties”).

WHEREAS, Section 163.01, Florida Statutes, the Florida Interlocal Cooperation Act of 1969, permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage; and

WHEREAS, Section 125.01(1)(p), Florida Statutes, provides that the legislative and governing body of a county shall have the power to carry on county government, including the power to enter into agreements with other governmental agencies for performance by one unit of either agency's authorized functions on behalf of the other unit; and

WHEREAS, Section 191.006, Florida Statutes, authorizes the Board of Fire Commissioners of each of the independent FIRE DISTRICTS, to make and execute contracts and other instruments, including interlocal agreements, with other governmental agencies; and

WHEREAS, Chapter 2-27 of the Manatee County Code of Ordinances ("County Code") authorizes the Board of Fire Commissioners of the Myakka City Fire Control District, by a majority vote, to make and execute contracts and other instruments, including interlocal agreements, with other governmental agencies; and

WHEREAS, on February 12, 2008, the COUNTY adopted Ordinance 08-023 (now codified in the County Code in Article III of Chapter 2-13) entitled "Cost Recovery for Hazardous Material Incidents Ordinance," which provided for the COUNTY and its agents to recover costs incurred in response and recovery efforts related to hazardous material incidents; and

WHEREAS, Section 2-13-38(a) of the County Code specifically provides that "[a]ny responsible party who causes a hazardous material incident shall be liable for the payment of all reasonable and necessary extraordinary and unbudgeted costs incurred by the county, fire districts, county agencies or agents, for response to and remediation of such an incident"; and

WHEREAS, Section 2-13-39(a) of the County Code provides that the COUNTY's Public Safety Department (or other department or person designated by the County Administrator) shall serve as the COUNTY's agent for collecting invoices and billing the responsible party for costs

incurred by agencies of the COUNTY and other agencies responding to a hazardous material incident in the unincorporated areas of the COUNTY; and

WHEREAS, hazardous material response is a highly technical field that requires specialized equipment and training; and

WHEREAS, in order to protect the citizens of Manatee County from exposure to the dangers of various hazardous substances, the COUNTY and the FIRE DISTRICTS believe it is essential to cooperatively maintain the capability, expertise, and resources to respond effectively when and where hazardous material releases or exposures occur; and

WHEREAS, on September 6, 2011, the COUNTY adopted Resolution R-11-176 providing for financial and logistical support to the FIRE DISTRICTS for the maintenance of their capabilities to respond to hazardous material incidents; and

WHEREAS, on July 24, 2014, the respective Fire Chiefs of the FIRE DISTRICTS, with the exception of SMFRD, by and through the Manatee County Fire Chiefs' Association, formalized the delegation to SMFRD of the responsibility to manage the operations and administration of the Manatee County Hazardous Materials Team (MCHMT); and

WHEREAS, on March 10, 2015, the COUNTY approved Resolution R-15-030, classifying the COUNTY's equipment and supplies used in hazardous material response and recovery activities as "surplus property" and authorizing the donation of said equipment and supplies to SMFRD; and

WHEREAS, the COUNTY and FIRE DISTRICTS desire to further memorialize SMFRD's role as the responsible entity for managing the operations and administration of the MCHMT; and

WHEREAS, the COUNTY and the FIRE DISTRICTS further desire to set forth the invoicing and reimbursement policies and procedures related to the recovery of costs incurred in response and recovery efforts related to hazardous material incidents, subject to the terms and conditions set forth in this Interlocal Agreement; and

WHEREAS, this Interlocal Agreement is for the benefit of the general public and in the best interest of the health, safety, and welfare of the citizens of Manatee County.

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

SECTION 1. RECITALS. The above recitals are true and correct, and incorporated herein by reference.

SECTION 2. MANATEE COUNTY HAZARDOUS MATERIALS TEAM (MCHMT).

A. The name of the MCHMT shall remain the “Manatee County Hazardous Materials Team.”

B. SMFRD shall be the entity responsible for managing the operations and administration of the MCHMT. The Fire Chief of SMFRD shall be the Administrator of the MCHMT and shall appoint a Commander for the MCHMT from SMFRD.

C. The Fire Chief of SMFRD shall be the liaison between the MCHMT and the Fire Chiefs from the other FIRE DISTRICTS and shall provide periodic reports regarding the MCHMT.

D. Any vehicles or equipment purchased for the MCHMT greater than one thousand dollars (\$1,000.00) in value shall become part of SMFRD’s assets and property record system.

E. The Fire Chief of SMFRD shall create a fiscal budget and approve all MCHMT expenditures. SMFRD shall initiate MCHMT purchases and submit the associated invoices to the COUNTY for reimbursement.

F. The Fire Chief of SMFRD shall establish and approve administrative policies and operating guidelines for MCHMT.

G. The Fire Chief of SMFRD shall encourage MCHMT membership from the FIRE DISTRICTS and all other agencies in the Manatee County Fire Chiefs' Association. These members shall be required to obtain Hazardous Materials Technician Certification under the Florida Division of the State Fire Marshal.

H. The Fire Chief of SMFRD shall ensure members of MCHMT are certified by the State of Florida as a Hazardous Material Technician, and properly trained and equipped according to the applicable provisions of the Code of Federal Regulations. Current MCHMT Personnel that are not certified by the State of Florida Bureau of Fire Standards and Training as a Hazardous Material Technician shall continue to be members of the MCHMT but shall be required to obtain this certification by January 1, 2020.

I. The Fire Chief of SMFRD shall also ensure that elements of the MCHMT are available to FIRE DISTRICTS and the other member agencies of the Manatee County Fire Chiefs' Association.

J. At their discretion, the FIRE DISTRICTS shall request that the MCHMT consult and/or mitigate hazardous material incidents in their respective jurisdictions. The FIRE DISTRICTS shall maintain their status as the Authority Having Jurisdiction (AHJ) at all incidents within their respective jurisdictions and shall maintain command and control of hazardous material incidents.

SECTION 3. COST RECOVERY COLLECTION PROCEDURES.

A. Within ninety (90) days of the Effective Date of this Interlocal Agreement, each FIRE DISTRICT shall have adopted a resolution setting forth an applicable fee schedule for all costs that may be incurred by the respective FIRE DISTRICT and/or the MCHMT while conducting response and recovery efforts related to hazardous material incidents. The subject fee schedule shall be determined as provided for in Section 191.009(3)(c), Florida Statutes. Notwithstanding the foregoing, in no event shall the FIRE DISTRICTS establish or charge fees in excess of the reasonable costs incurred while conducting response and recovery efforts related to hazardous material incidents.

B. For each hazardous material incident during which the MCHMT responded and for which cost recovery is sought, the following shall occur:

- i. SMFRD shall coordinate with the AHJ and any other FIRE DISTRICT seeking reimbursement of its costs related to a hazardous material incident. The FIRE DISTRICT that serves as the AHJ for a particular incident (“AHJ FIRE DISTRICT”) and each FIRE DISTRICT that participated in the response for a particular incident (“RESPONSIVE FIRE DISTRICT”), shall prepare a detailed accounting of all costs related to the response and recovery effort incurred for the subject incident. This document shall be prepared in accordance with the FIRE DISTRICT’s adopted fee schedule related to such costs and name the party responsible for causing the hazardous material incident as the party responsible for payment of said costs. The finalized document shall be timely provided by the FIRE DISTRICT to the SMFRD. A FIRE DISTRICT seeking reimbursement

shall rely on the procedures set forth in this Agreement and shall not contact the responsible party for reimbursement or as otherwise provided for herein.

- ii. SMFRD shall prepare a detailed accounting for all costs related to the response and recovery effort incurred by the MCHMT for the subject incident. This document shall be prepared in accordance with SMFRD's adopted fee schedule related to such costs and name the party responsible for the hazardous material incident as the party responsible for payment of said costs. If SMFRD chooses not to submit for costs related to response and recovery, the AHJ FIRE DISTRICT may pursue recovery of costs related to response and recovery on behalf of themselves and each RESPONSIVE FIRE DISTRICT. The COUNTY shall have no legal responsibility to assist the AHJ and/or RESPONSIVE FIRE DISTRICT(S) in this instance.
- iii. SMFRD shall issue a single invoice for the total costs related to the response and recovery effort for the subject incident to each party responsible for the hazardous material incident. The invoice shall be in accordance with the document prepared by the AHJ FIRE DISTRICT and each RESPONSIVE FIRE DISTRICT, as described in Section 3.B. herein, and the document prepared by SMFRD, as described in Section 3.C. herein. Copies of both documents shall be enclosed with the invoice. The invoice shall clearly state that payment of the total invoice is to be made directly to SMFRD within thirty (30) days of the date of the invoice. In conjunction

with service of the invoice to the responsible party, SMRD shall also provide a copy of the finalized invoice to the AHJ FIRE DISTRICT and each RESPONSIVE FIRE DISTRICT.

- iv. Upon SMFRD's receipt of payment for an invoice issued pursuant to Section 3.B.iii. herein, SMFRD shall be entitled to retain the funds it is owed and shall timely distribute funds to the AHJ FIRE DISTRICT and each RESPONSIVE FIRE DISTRICT in the amount specified in the accounting of costs prepared by said FIRE DISTRICT, as provided for under Section 3.B.i. herein, and subject to any percentage reduction as provided for under Section 3.C.iii. herein.

C. In the event the party responsible for payment of an invoice, issued pursuant to Section 3.B.iii. herein, fails to timely pay said invoice, SMFRD shall have the discretion to refer the unpaid invoice to the COUNTY, through its Public Safety Department, for its assistance with further collection efforts in accordance with the following:

- i. Any such referral shall include complete documentation related to the subject invoice including confirmation by SMFRD that a first collection attempt has been made and that the subject invoice was prepared in accordance with the applicable fee schedules. The documentation must include all information requested by the COUNTY for the specific costs or reimbursements requested (e.g., copies of time sheets for specific personnel, copies of bills for materials, equipment and supplies procured or use).

- ii. The COUNTY'S Public Safety Department, or other department or person designated by the County Administrator, shall prepare and submit one or a series of consolidated invoices ("Invoice") to the responsible party, the specific costs or reimbursements, and a request for payment within sixty (60) days of the date of receipt of the Invoice. The collected funds shall be deposited with the Clerk of the Circuit Court of Manatee County, Florida. The Public Safety Department, or the department or person designated by the County Administrator, shall prepare an audit slip for the AHJ for the disbursement of funds collected on their behalf by the Clerk of Court.
- iii. The COUNTY may refuse to further assist with the collection effort due to an actual or potential conflict of interest. Any such refusal shall be specific and stated in writing to SMFRD. In this instance, SMFRD is authorized to engage in its own collection efforts.

D. Administrative Costs. COUNTY shall not charge the FIRE DISTRICTS for any administrative costs associated with the collection and processing of the costs subject to this Interlocal Agreement.

E. Questions Regarding Costs. Questions relating to any invoice subject to this Interlocal Agreement shall be referred to SMFRD for assistance. SMFRD shall resolve any such questions in a timely manner.

SECTION 4. INDEMNIFICATION AND RELEASE.

A. To the extent permitted by applicable Florida law and without waiving sovereign immunity, the FIRE DISTRICTS shall indemnify and hold harmless the COUNTY, its Board of

County Commissioners, officers, employees and agents, from and against any and all claims, damages, liabilities, demands, losses and expenses, including attorneys' fees and costs, arising out of, resulting from, or connected with any act, omission, failure to act, negligence or fault relating to the FIRE DISTRICTS' acts and responsibilities provided for in this Interlocal Agreement.

B. To the extent permitted by applicable Florida law and without waiving sovereign immunity, the COUNTY shall indemnify and hold harmless the FIRE DISTRICTS, their respective Boards of Fire Commissioners, officers, employees and agents, from and against any and all claims, damages, liabilities, demands, losses and expenses, including attorneys' fees and costs, arising out of, resulting from, or in any way connected with any act, omission, failure to act, negligence or fault relating to the COUNTY's actions and responsibilities provided for in this Interlocal Agreement. Notwithstanding the foregoing, any liability arising under this section shall be limited to the amounts set forth in Section 768.28, Florida Statutes, regardless of whether the claim arises in tort, contract, or otherwise.

SECTION 5. RATIFICATION. The July 24, 2014, Fire Chiefs' Association action delegating SMRFD as the agency responsible to manage the operations and administration of the MCHMT is hereby confirmed and ratified.

SECTION 6. EFFECTIVE DATE. Pursuant to Section 163.01(11), Florida Statutes, this Interlocal Agreement shall become effective upon approval and execution by all Parties and the filing with the Clerk of Circuit Court for Manatee County.

SECTION 7. AMENDMENTS. This Interlocal Agreement may be amended by mutual written agreement of the Parties, approved and executed by the parties with the same formality as this Interlocal Agreement. Pursuant to Section 163.01(11), Florida Statutes, any amendments to this

Interlocal Agreement shall become effective upon approval and execution by all Parties and filing with the Clerk of Circuit Court for Manatee County.

SECTION 8. TERMINATION.

A. This Interlocal Agreement may be terminated by mutual written consent of all Parties or upon ninety (90) days prior written notice by the COUNTY to the FIRE DISTRICTS. An individual FIRE DISTRICT may terminate its participation under this Interlocal Agreement upon ninety (90) days' prior written notice to all other Parties; however, such action shall not terminate the Interlocal Agreement as to all other Parties.

B. Notwithstanding any provision herein to the contrary, if COUNTY funds are not appropriated for this Interlocal Agreement, the COUNTY shall be entitled to terminate this Agreement immediately upon written notice to all other parties, without penalty of liability.

SECTION 9. NOTICES. All notices required to be given by any Party under this Interlocal Agreement shall be in writing, addressed to the other Parties as follows, and delivered by certified mail, return receipt requested, or by hand delivery:

A. COUNTY: County Administrator
Manatee County
Post Office Box 1000
Bradenton, Florida 34206

With copy to: Director
Public Safety Department
Manatee County
Post Office Box 1000
Bradenton, Florida 34206

B. FIRE DISTRICTS: Fire Chief
North River Fire District
1225 14th Avenue West
Palmetto, Florida 34221

Fire Chief
Southern Manatee Fire District
2451 Trailmate Drive
Sarasota, Florida 34243

Fire Chief
West Manatee Fire and Rescue District
6417 3rd Avenue West
Bradenton, Florida 34209

Fire Chief
East Manatee Fire Rescue District
3200 Lakewood Ranch Boulevard
Bradenton, Florida 34211

Fire Chief
Parrish Fire District
12132 US 301 Highway North
Parrish, Florida 34219

Fire Chief
Cedar Hammock Fire Control District
5200 26th Street West
Bradenton, Florida 34207

Fire Chief
Duette Fire and Rescue District
35800 SR 62 East
Duette, Florida 34219

Fire Chief
Trailer Estates Fire Control District
PO Box 5182
Bradenton, FL 34281-5182

Fire Chief
Myakka City Fire Control District
26636 SR 70 East
Myakka City, FL 34251

The Parties may, by written notice to the other Parties as provided above, change the address for any subsequent notice.

SECTION 10. SEVERABILITY. Should any term, provision, covenant, condition, section, paragraph, sentence or portion of this Interlocal Agreement be held invalid or unenforceable by any court of competent jurisdiction, the remaining terms, provisions, covenants, conditions, sections, paragraphs, sentences and portions shall, nevertheless, remain in full force and effect.

SECTION 11. ENTIRE AGREEMENT. This Interlocal Agreement sets forth all covenants, promises, agreements and understandings between the Parties concerning the subject matter of this Interlocal Agreement, and there are no covenants, promises, agreements or understandings, either oral or written, between the Parties except as herein set forth.

SECTION 12. GOVERNING LAW; VENUE. This Interlocal Agreement shall be governed by and construed in accordance with laws of the State of Florida, and venue for any action arising out of or related to this Interlocal Agreement shall be in the Circuit Court for the Twelfth Judicial Circuit in Manatee County, Florida, or if in Federal Court, the Middle District of Florida, Tampa Division.

IN WITNESS WHEREOF, the Parties hereto have executed this Interlocal Agreement by and through their duly authorized representatives, on the respective dates below.

COUNTY

**MANATEE COUNTY, FLORIDA,
a political subdivision of the State of
Florida**

By: its Board of County Commissioners

By: _____
Chairperson

Date: _____

ATTEST: ANGELINA COLONNESO

CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

FIRE DISTRICTS

NORTH RIVER FIRE DISTRICT,
an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

**SOUTHERN MANATEE FIRE RESCUE
DISTRICT,**
an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____



WEST MANATEE FIRE AND RESCUE DISTRICT,
an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

**EAST MANATEE FIRE RESCUE
DISTRICT,**
an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

PARRISH FIRE DISTRICT,
an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

CEDAR HAMMOCK FIRE CONTROL DISTRICT,

an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

**DUETTE FIRE AND RESCUE
DISTRICT,**

an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

**TRAILER ESTATES FIRE CONTROL
DISTRICT,**
an independent special fire control district
located in Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____

**MYAKKA CITY FIRE CONTROL
DISTRICT,**
a dependent fire district located in
Manatee County, Florida

Attest: _____
Secretary/Treasurer

By: _____
Chairman, Board of Fire Commissioners

Date: _____