

INTERLOCAL AGREEMENT BY AND BETWEEN
THE CITY OF PALM COAST
AND
DONALD W. FLEMING AS SHERIFF OF FLAGLER COUNTY
RELATING TO THE DIVE TEAM
EMERGENCY MEDICAL SUPPORT

THIS INTERLOCAL AGREEMENT is made and entered by and between the City of Palm Coast, Florida, a municipal corporation of the State of Florida, hereinafter referred to as "CITY" and Sheriff of Flagler County, hereinafter referred to as "SHERIFF."

WITNESSETH

WHEREAS, the CITY is a municipality within the boundaries of Flagler County, Florida; and

WHEREAS, the SHERIFF has an approved DIVE TEAM PROGRAM;

WHEREAS, the SHERIFF and the CITY wish to have an Interlocal Agreement regarding the provision of Tactical Emergency Medical Support for the Flagler County Sheriff's Office (hereinafter referred to as "FCSO" Dive Team);

WHEREAS, the SHERIFF and the FCSO's Major of Special Operations, the Marine Unit Supervisor, the Dive Team Supervisor, along with the CITY's Dive Tactical Emergency Medical Support (T.E.M.S.) Team Leader, have proposed the terms contained herein to constitute the Interlocal Agreement; and

WHEREAS, the Interlocal Agreement is specifically authorized by state law to include, but not necessarily be limited to, the provisions of Chapters 125, 163 and 166, Florida Statutes;

NOW, THEREFORE, in consideration of the mutual promises contained herein and given by each party to the other, the parties hereto do covenant and agree as follows:

SECTION 1. RECITATIONS: The recitations set forth above (whereas clauses) are incorporated herein by reference in their entirety and form a material part of this Interlocal Agreement upon which the parties have relied.

SECTION 2. LEGAL AUTHORITY: This Interlocal Agreement is entered into pursuant to the provisions of Section 163.01, Florida Statutes, the Florida Interlocal Cooperation Act of 1969, and other applicable law. In entering this Interlocal Agreement, the SHERIFF and the CITY are fully cognizant of the constitutional limitations on the transfer of powers set forth in Article VII, Section 4 of the Constitution of the State of Florida.

SECTION 3. PURPOSE: The purpose of this Interlocal Agreement is to incorporate a T.E.M.S. Team into the Dive Team of the Special Operations Division of the FCSO. Paramedics from the CITY'S Fire Rescue Department would be incorporated into the FCSO Dive Team through the T.E.M.S. Team.

SECTION 4. QUALIFICATIONS AND SELECTION:

- (a). All CITY DIVE T.E.M.S. Team members must meet the following minimum qualifications:
 - (1). Current certification as a Paramedic as required by the State of Florida, with two (2) years of uninterrupted service with the CITY'S Fire Rescue Department as a non-probationary employee.
 - (2). Overall work performance, clinical skills, and professionalism during regularly assigned duties must be consistently maintained at a satisfactory level in all areas as determined by the FCSO'S Dive Team Supervisor.
 - (3). Ability to successfully complete and maintain all CITY Fire Rescue Department physical agility standards.
 - (4). Ability to successfully complete the physical examination for selection to the FCSO DIVE Team, and maintain the physical standards necessary for continued participation as per the FCSO'S Dive Team Standard Operating Guidelines (hereinafter referred to as "SOG'S").
 - (5). Maintenance of all certifications as required by the FCSO'S Dive Team SOG'S.
 - (6). Attendance at all mandatory training sessions once a month or as needed to maintain minimal level of skill, this training to include completion of the DIVE Basic Tactics Course conducted or sponsored by the FCSO.
 - (7). Acquirement of "dive master" certification within five (5) years of acceptance onto the DIVE T.E.M.S. Team.

- (b). The following selection process shall be implemented relative to the DIVE T.E.M.S. Program by the FCSO'S Dive Team Supervisor:
 - (1). DIVE T.E.M.S. team members with current Paramedic certification shall be approved by the CITY for participation in the program to ensure continuous coverage for training and operational missions.
 - (2). CITY personnel applying for assignment to the DIVE T.E.M.S. Team will be required to submit a memorandum of interest and provide a written letter of recommendation from the CITY'S Fire Chief.
 - (3). DIVE T.E.M.S. Team applicants will be required to complete a background investigation (criminal history check, complaint check, driving history) conducted by the FCSO.

- (4). DIVE T.E.M.S. Team candidates will be required to successfully complete a physical examination to include, at a minimum, mandatory drug testing with Flagler County's occupational health provider. The physical examination will be provided and paid for by the CITY.
- (5). DIVE T.E.M.S. team will also be required to pass a physical examination and agility test both of which shall be conducted by the FCSO in accordance with the FCSO's Dive Team Standard Operating Procedures.
- (6). Dive T.E.M.S. applicants will be required to attend an interview with the FCSO's Dive Team Supervisor and other FCSO personnel as part of the selection process.

SECTION 5. IMPLEMENTATION:

- (a). CITY personnel assigned and selected to serve in the DIVE T.E.M.S. Team shall:
 - (1). Act as a patient advocate for the FCSO's Dive Team members who are treated by other medical providers and establish positive working relationships within the EMS system and receiving medical facilities.
 - (2). Advise the Dive T.E.M.S. Team Commander or the FCSO's Dive Team Supervisor of any detected problems consistent with the purpose and terms of this Agreement.
 - (3). Assist the FCSO's Dive Team Supervisor in creating and implementing an Incident Action Plan to determine the potential impact of medical or health factors on DIVE T.E.M.S. mission outcomes.
 - (4). Maintain awareness of medical history and immunization and current health records of each FCSO Dive Team Member.
 - (5). Participate in a FCSO Dive Team quality improvement program to include routine post-incident and/or post-training analysis and debriefings and other appropriate standard operating processes and procedures.
 - (6). Conduct in-service training of FCSO Dive Team members in "buddy first aid" such as participation in "officer down" scenarios with the FCSO Dive Team.
- (b). The role of the DIVE T.E.M.S. Team during training missions shall include activities such as:
 - (1). Providing immediate emergency care in the event of an injury to a FCSO DIVE Team member.
 - (2). Providing safety advice and observation in order to avoid injuries.

- (3). Continuously monitoring FCSO DIVE Team member health to ensure proper and safe performance which, for example, would include maintaining adequate hydration, hyperthermia, and hypothermia prevention and observations for performance detriments due to health conditions.
- (4). Providing medical problem scenarios to challenge the FCSO DIVE Team to include, by way of example, "officer down" situations.
- (5). Assisting in the set-up of equipment used during the training exercises.
- (6). Delivering first responder or "buddy aid" presentations to the FCSO DIVE Team members.

SECTION 6. COMMAND AND CONTROL:

(a). All DIVE T.E.M.S. Team personnel will operate under the direction of the FCSO's Dive Team Supervisor, or his/her designee, during all training activities and tactical operations. A DIVE T.E.M.S. Team Leader and an assistant DIVE T.E.M.S. Team leader will be selected by the CITY to coordinate and facilitate EMS operations during FCSO DIVE Team incidents and activities.

(b). Standard Operating Procedures for deployment and utilization of paramedics for DIVE T.E.M.S. Team operations will be developed jointly by the FCSO and the CITY's Fire Rescue Department. Materials and supplies will also be jointly obtained to enhance performance of tasks to ensure mission completion.

SECTION 7. INDEMNIFICATIONS:

(a). To the extent and limits permitted by controlling law, the SHERIFF will indemnify and hold harmless the CITY against any claims, and the cost of defending such claims, arising directly or indirectly, as a result of, or in connection with, any negligent acts or omissions of the FCSO or its deputies, agents, or employees in the performance of their duties as required by this Interlocal Agreement.

(b). To the extent and limits implemented under controlling law, the CITY will indemnify and hold the SHERIFF harmless against any claims, and the cost of defending such claims, arising directly or indirectly, or as a result of, or in connection with any negligent acts or omissions of the CITY or its agents or employees in the performance of their duties as required by this Interlocal Agreement.

(c). Nothing contained herein shall be construed to limit or modify the provisions of Section 768.28, Florida Statutes, as it applies to the CITY and the SHERIFF. Nothing herein shall abrogate or expand the sovereign immunity enjoyed by the SHERIFF or the CITY pursuant to the provisions of the Florida Constitution and Chapter 768, Florida Statutes, nor shall any third party receive any benefit whatsoever from the indemnification provided herein.

SECTION 8. NOTICES:

Notices, as required to be given hereunder, shall be given to the following persons:

- (a) **SHERIFF:** Sheriff
 Flagler County Sheriff's Office
 1001 Justice Lane
 Bunnell, FL 32110

- (b) **CITY:** City Manager
 City of Palm Coast
 160 Cypress Point Parkway
 Palm Coast, FL 32164

- (c) **FIRE DEPARTMENT:** Fire Chief
 City of Palm Coast
 1250 Belle Terre Parkway
 Palm Coast, FL 32164

SECTION 9. EFFECTIVE DATE/TERM: This Interlocal Agreement shall take effect on the date of the full execution by the parties and shall continue in effect thereafter unless terminated by either party without cause or further liability, except as to the indemnification provided herein, with written notice to the other, said written notice to be given not less than one hundred and eighty (180) days prior to the termination date. Said notice shall be deemed delivered when a copy is delivered to the other party by certified or registered mail, return receipt requested.

SECTION 10. FURTHER ASSURANCES/GRANTS: In addition to the acts recited in or set forth in this Interlocal Agreement, the CITY and the SHERIFF agree to perform or cause to be performed, in a timely manner, any and all further acts as may be reasonably necessary to implement the provisions of this Interlocal Agreement. The parties also agree to engage, when feasible and desirable, to jointly seek grants to fund the activities that are the subject of this Interlocal Agreement.

SECTION 11. DISCLAIMER OF THIRD PARTY BENEFICIARIES: This Interlocal Agreement is solely for the benefit of the formal parties to this Interlocal Agreement, and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal party hereto.

SECTION 12. TIME OF THE ESSENCE: Time is of the essence in the lawful performance of the duties and obligations contained in this Interlocal Agreement. The parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Interlocal Agreement.

SECTION 13. SUCCESSORS AND ASSIGNS. This Interlocal Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the CITY and the SHERIFF and their respective successors in interest.

SECTION 14. BINDING EFFECT. Each party hereto represents to the other that it has undertaken all necessary actions to execute this Interlocal Agreement and to undertake all obligations imposed on it.

SECTION 15. ASSIGNMENTS. No party shall assign this Interlocal Agreement or any interest herein, or obligation undertaken herein, without the express written consent of the other party.

SECTION 16. CONFLICT OF INTEREST: The parties agree that they will not engage in any action that would create a conflict of interest in the performance of their respective obligations pursuant to this Interlocal Agreement.

SECTION 17. COMPLIANCE WITH LAWS AND REGULATIONS: In performing under this Interlocal Agreement, the parties shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations pertaining to, or regulating the performance set forth herein, including those now in effect and hereafter adopted. Any violation of said laws, statutes, ordinances, rules or regulations shall entitle the non-violating party to terminate this Interlocal Agreement immediately upon delivery of written notice of termination to the violating party.

SECTION 18. PUBLIC RECORDS: The parties shall allow public access to all documents, papers, letters or other materials that have been made or received by the SHERIFF in conjunction with the work performed under this Interlocal Agreement. Records shall be maintained in accordance with State law and generally accepted accounting and auditing principles. The parties hereto agree that this instrument may be recorded in public records and that the performance hereunder is subject to the Florida Public Records Laws as set forth in Chapter 119, *Florida Statutes*, and Article 1, Section 24 of the *Constitution of the State of Florida*.

SECTION 19. DISPUTE RESOLUTION: The parties agree to attempt to ensure that maximum communications and collaboration occurs relative to the work to be accomplished under the terms and conditions of this Interlocal Agreement. If the parties to the Interlocal Agreement are unable to resolve any issue arising out of the performance of this Interlocal Agreement in which they may be in disagreement, every reasonable attempt shall be made by the parties to resolve such dispute in accordance with the alternative dispute resolution process of mediation including, but not limited to, informal discussions between the Dive Team Supervisor and the Dive Team T.E.M.S. Leader.

SECTION 20. FORCE MAJEURE: In the event any party hereunder fails to satisfy a requirement imposed in a timely manner, due to a hurricane, flood, tornado, or other Act of God or force majeure, then said party shall not be in default hereunder.

SECTION 21. ATTORNEYS FEES AND COSTS: In the event it becomes necessary to institute legal action to enforce any of the terms of this Interlocal Agreement, the prevailing party shall be entitled to recover all out-of-pocket expenses and costs and all reasonable attorney's fees, paralegal fees and associated fees and costs from the date of filing until the termination of litigation whether incurred at trial, on appeal, or otherwise.

SECTION 22. WAIVER OF JURY TRIAL: Each of the parties hereto hereby knowingly, voluntarily and intentionally waives the right it may have to a trial by jury in respect to any litigation based hereon, or arising out of, under, or in connection with this Interlocal Agreement and any document contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing,

statements (whether verbal or written) or actions of either party. This provision is a material inducement for each of the parties to enter into this Interlocal Agreement.

SECTION 23. GOVERNING/CONTROLLING LAW: This Interlocal Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

SECTION 24. VENUE: Venue for any dispute shall be in the Seventh Judicial Circuit court in and for Flagler County, Florida.

SECTION 25. CONSTRUCTION OR INTERPRETATION OF THE INTERLOCAL AGREEMENT: This Interlocal Agreement is the result of *bona fide* arm's length negotiations between the CITY and the SHERIFF, and the parties have contributed substantially and materially to the preparation of this Interlocal Agreement. The fact that one of the parties may be deemed to have drafted or structured any provision hereof shall not affect the interpretation of this Interlocal Agreement, and the fact that one or another party drafted this Interlocal Agreement, or any part of it, shall not be considered in construing the particular provision either in favor of or against such party.

SECTION 26. SECTION HEADINGS/CAPTIONS: The section headings herein contained are inserted for convenience of reference only and shall not be deemed to be a part of this Interlocal Agreement; they shall be ignored in construing this Interlocal Agreement and do not, in themselves, have any legal significance and shall not be afforded any and are in no way intended to describe, interpret, define, or limit the scope, extent of intent of this Interlocal Agreement, or any provision hereto.

SECTION 27. SEVERABILITY: Each provision of this Interlocal Agreement is intended to be severable. If any provision of this Interlocal Agreement to the deletion of which would not adversely affect the receipt of any material benefits by either party to the Interlocal Agreement or substantially increase the burden of either party to this Interlocal Agreement, shall be held to be unconstitutional, invalid or unenforceable to any extent by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Interlocal Agreement.

SECTION 28. COUNTERPARTS: This Interlocal Agreement may be executed by the parties in any number of counterparts, each of which shall be deemed an original, and all such counterparts shall be deemed one and the same Interlocal Agreement. In the event this Interlocal Agreement is executed in counterparts, the Effective Date of this Interlocal Agreement shall be determined with reference to the date of the last execution of any of the counterparts.

SECTION 29. RELATIONSHIP OF EMPLOYEES:

(a) This Interlocal Agreement does not, and shall not be construed to, make any employee of the CITY an employee of the SHERIFF or the FCSO for any purpose whatsoever, nor any employee of the SHERIFF or the FCSO an employee of the CITY for any purpose whatsoever. The DIVE T.E.M.S. Team members shall remain employees of the CITY for all purposes related to their employment and shall not be considered to be jointly employed by the FCSO and the CITY. The FCSO shall have the unilateral right to rescind at any time, permanently or temporarily, the status of any DIVE T.E.M.S. Team member appointed under this agreement and shall promptly notify the CITY of such

action as well as the reason for the action. DIVE T.E.M.S. Team members' duties and responsibilities will be strictly limited to serving as medical officers for the members of the FCSO's Dive Team.

(b) Nothing in this agreement shall be construed to render any DIVE T.E.M.S. Team member an employee or volunteer of the FCSO for the purposes of Chapter 440, Florida Statutes, the Workers' Compensation Law, Chapter 447, Part II, Florida Statutes, or the Public Employees Relations Act.

(c) The FCSO shall report to the CITY any conduct on the part of a DIVE T.E.M.S. Team member that the FCSO determines to be inappropriate, unlawful, unprofessional, or in violation of its rules and regulations. Upon being advised by the FCSO of such conduct, the CITY shall determine what disciplinary action, if any, will be taken against the DIVE T.E.M.S. Team member as a CITY employee.

SECTION 30: ENTIRE AGREEMENT/INTEGRATION OF TERMS/MODIFICATION: This Interlocal Agreement (and all exhibits thereto) constitutes the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. No modification or amendment of this Interlocal Agreement shall be valid and binding upon the parties unless in writing and executed by the parties to be bound thereby. Each person executing this Interlocal Agreement warrants and represents that he/she has full authorization to bind his/her respective party. This Interlocal Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous Interlocal Agreements and understandings of the parties, if any, relating to the same matters, but not any other Interlocal Agreements between the parties. The parties may execute multiple counterparts of this Interlocal Agreement hereto. Each such executed counterpart shall have the full force and effect of an original executed instrument.

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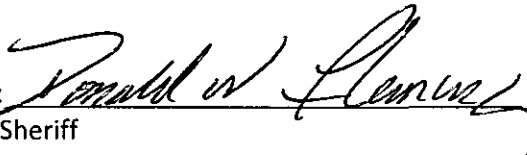
IN WITNESS WHEREOF, the parties to this Interlocal agreement have caused the same to be signed by their duly authorized representatives this 26th day of Sept, 2011.

ATTEST:

SHERIFF OF FLAGLER COUNTY



Authorized Attesting Authority

By: 

Sheriff

Date: 9/26/11

ATTEST:

CITY OF PALM COAST

Virginia A. Smith, City Clerk

By: _____
Jon Netts, Mayor

Date: _____