

EXHIBIT B

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 7/23/2002

Contract/Lease Control #: C02-0741-PWI-68

Bid #: N/A

Contract/Lease Type: AGREEMENT

Award To/Lessee: CITY OF DESTIN

Lessor:

Effective Date: 7/16/2002 \$0

Term: INDEFINITE

Description of Contract/Lease: TRANSPORTATION SETTLEMENT INTERLOCAL

Department Manager: PUBLIC WORKS

Department Monitor: MS. SLATERPRYCE

Monitor's Telephone #: 689-5772

Monitor's FAX #: 689-5715

Date Closed:

OKALOOSA COUNTY
STATE OF FLORIDA

INTERLOCAL AGREEMENT

The City of Destin, hereafter referred to as "City" a Florida municipal corporation, and Okaloosa County, hereafter referred to as "County" a political subdivision of the State of Florida, hereby enter into this Interlocal Agreement to establish a unified concurrency methodology for evaluating traffic impacts for development in the geographical area described herein.

WHEREAS, the City of Destin previously filed an action against Okaloosa County challenging certain decisions of the County relating to a Regional Activity Center (RAC) proposed to be located in the unincorporated county adjacent to the city limits of the City of Destin; and,

WHEREAS, the City of Destin and Okaloosa County resolved the aforementioned litigation by entering into an Interlocal Settlement Agreement; and,

WHEREAS, the Interlocal Settlement Agreement, among other things, requires the City and County to jointly establish a unified concurrency methodology for evaluating the traffic impacts for a geographic area which includes the area lying within the city limits of the City of Destin and certain areas lying within unincorporated Okaloosa County; and,

WHEREAS, staff of the City of Destin and Okaloosa County, together with the City's Transportation Planning Consultant, have developed a unified concurrency methodology to be implemented jointly by the City and County within this designated area; and,

WHEREAS, Section 163.01 (4), Florida Statutes, authorizes local governments of the State of Florida to enter into interlocal agreements for the joint exercise of any power or program; and,

WHEREAS, the City and County Comprehensive Plans mandate interlocal coordination.

NOW THEREFORE, the City of Destin and Okaloosa County hereby jointly create a unified concurrency methodology for evaluating traffic impacts according to the following specific terms and conditions:

I. UNIFIED TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEM GEOGRAPHIC (UTCMS) AREA

This Agreement applies to the area specifically described as an area bounded by Choctawhatchee Bay on the north, East Pass on the west, the Gulf of Mexico to the south, and the Walton County line to the east, said area comprised of the entire city limits of the City of Destin and a portion of unincorporated Okaloosa County. This area shall hereinafter be referred to as the Unified Transportation Concurrency Management System (UTCMS) Area.

II. INTERLOCAL TECHNICAL REVIEW COMMITTEE (ITRC)

There is hereby created an Interlocal Technical Review Committee (ITRC), which shall be primarily responsible for implementing the UTCMS. The composition of the ITRC shall be as follows: The City Director of Community Development, the City Engineer, the County Director of Growth Management, and the County Public Works Director. The above individuals may designate such other staff, as they deem necessary to carry forth their respective duties as members of the ITRC. The ITRC shall meet quarterly. On a project by project basis the ITRC shall review and approve appropriate mitigation strategies, developed by the applicant on transportation infrastructure within the project study area as described above in instances where there is insufficient present or future capacity to support a finding of traffic concurrency.

III. UNIFIED TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEM (UTCMS)

There is hereby created a unified concurrency methodology for evaluating traffic impacts for the geographic area described above which shall be known as the City of Destin Okaloosa County Unified Transportation Concurrency Management System (UTCMS). As further defined below, the UTCMS shall be utilized by the City and County for evaluating the traffic concurrency of any proposed development for which a development order is required and where a net change or new traffic impact occur. The following Administrative Framework, Technical Methodology, and Implementation Strategy shall apply to all such projects reviewed by the City or County. Notwithstanding the UTCMS created hereby, it shall be the responsibility of each respective participant to this agreement to make the final determination of development approval or denial according to the procedures required in their respective Comprehensive Plans and Land Development Codes.

A. ADMINISTRATIVE FRAMEWORK

This section describes the administrative procedures and timing proposed for implementation of the UTCMS.

Both the City and County agree to provide each other with the trips generated by a development proposal within its jurisdiction upon issuance of a development order. The information will be copied to pre-designated personnel.

The City and County each will be responsible for maintaining an accurate account of trips including available trips, on roadways subject to concurrency within their jurisdictional area within the UTCMS area. This will also include the continuous accounting of approved development trips. The City and County agree to provide each other with monthly updates regarding the status of approved development orders in the UTCMS area to facilitate this accounting process.

The City and County through the Interlocal Technical Review Committee (ITRC), will develop the initial traffic data tables based on data available at the time this agreement is executed. Any discrepancies will be addressed and resolved by the ITRC. The ITRC may request

that the City and County provide an independent third party to evaluate and validate the initial traffic data tables.

The City and County agree that approved development orders will remain valid for a period of not more than one year from the date of the fully executed Development Order (D.O.) unless the supporting infrastructure is under construction. "Construction of infrastructure" shall be defined as site work, grading or other construction activity (not including land clearing and grubbing) relating to installation of roadways, access drives, parking lots, underground utilities, stormwater or drainage facilities, or building foundations." Trips reserved for approved developments will be returned to the pool of available trips upon expiration of a development order. Vested trips associated with recorded plats, Developer Development Agreements and development orders issued pursuant to Chapter 380 Florida Statutes are exempt from this paragraph.

The County agrees that the City of Destin may utilize the multimodal transportation evaluation when assessing transportation impacts in multimodal districts.

The City agrees to delete use of geographic limits to define traffic impact areas in favor of an analysis based on the magnitude and extent of impact. The details of this methodology are discussed in the Technical Methodology section below.

The City and County agree that projects deemed to have a de minimus impact pursuant to Rule 9J-5.0055(3)(c) 6.a, Florida Administrative Code, shall not be subject to concurrency requirements.

The City and County agree that traffic data from each jurisdiction will be compiled and combined for planning purposes resulting in a review of transportation infrastructure needs occurring in FY2005 and every three years thereafter. The combined traffic data will not be used to determine concurrency.

B. TECHNICAL METHODOLOGY

This section describes the technical methodologies that will be employed to evaluate all development proposals in the UTCMS area subject to the requirements of transportation concurrency. These methodologies are based on procedures described in the Florida Department of Transportation *Site Impact Handbook*, April 1997, as may be amended.

1. Trip Generation

Trip Generation will be based on the guidelines and rates published in the latest edition of ITE's *Trip Generation* as may be amended.

Projects with a mix of land uses may apply an internal capture rate based on original or published land use analysis (e.g. planned unit developments (PUDS) or office buildings with support services such as banks). Internal capture rates must be justified by the applicant. Published empirical data used to estimate internal capture rates should be from a source generally acceptable to the transportation planning profession. Internal capture rates should be

derived from similar land uses located in similar urban environments. Other land uses that by definition (in the ITE *Trip Generation Manual*) contain a mix of land uses should not apply an internal capture rate, (e.g., planned unit developments (PUDs) or office buildings with support services such as banks and restaurants). Internal capture rates for mixed-use developments rarely exceed 20-25 percent of gross project trips. If Internal capture rates for mixed-use developments exceed 25 percent of gross project trips the applicant will have to justify the rate to and receive approval from the Interlocal Technical Review Committee (ITRC).

Concurrency and site impact analysis will be based on the PM peak hour peak direction volume of adjacent roadways.

Credit for pass-by and diverted trips may be allowed for retail and some commercial uses (e.g., fast-food restaurants, service stations and drive-in banks). Pass-by and diverted trip rates must be justified by the applicant. The percent of pass-by trips should generally not exceed 10 percent of adjacent street traffic or 25 percent of the project's net external trip generation potential. If either or both of these percentages are exceeded the applicant will have to justify the rate(s) to and receive approval from the Interlocal Technical Review Committee (ITRC).

Trip generation for redevelopment projects will be based upon net change in project trips. Net change in project trips will be estimated by subtracting trips generated by existing site development from trips estimated for the proposed development.

2. Trip Distribution and Assignment

Trip distribution and assignment will follow the procedures as outlined in the FDOT Site Impact Handbook for manual assignments. A manual distribution assignment process, based on local knowledge of travel patterns may be applied. The applicant's transportation analysis is required to include clear justification for assumptions used to determine distribution assignment.

3. Project Study Area Requirements

The project study area shall include all major transportation facilities (urban collectors and arterials) as identified in the City or County Comprehensive Plan, where project traffic is equivalent to five percent of the new trips generated by that project. This determination will be based on the trip generation, distribution, and assignment methodology described above.

4. LOS Analysis

A LOS analysis will be conducted by the developer for all projects that exceed the de minimus threshold to determine the effects of new development proposals on the operating characteristics of all major transportation facilities (urban collectors and arterials) as identified in the City or County Comprehensive plan within the project study area. The latest version of FDOT's arterial analysis software (Art-Plan) will be used in the UTCMS area and in multimodal districts to allow for evaluation of all modes. The applicant may perform or the responsible jurisdiction may request a more detailed traffic analysis if the nature of the project or its impacts warrant such an analysis. The latest version of SYNCHRO will be the traffic operational model used for this analysis. Traffic volumes used for this analysis will include existing background

traffic plus vested and committed development trips which have been approved by the government with jurisdictional authority over the project.

5. Mitigation Analysis

When the LOS analysis indicates that a proposed project's impacts will cause a facility's segment LOS to fall below the applicable adopted LOS standards, a more detailed analysis will be conducted. The latest version of SYNCHRO will be the traffic model used for this analysis. The SYNCHRO program will be used by the developer to test the transportation improvements needed to meet adopted LOS standards for affected segments.

C. IMPLEMENTATION STRATEGY

The City and County agree on the following implementation schedule:

1. First ITRC Meeting: Within 30 days of the effective date of this agreement by both jurisdictions, the City and County will conduct the first ITRC meeting.
2. Method of Counting and Combining Trips:
 - A. Within 120 days of the effective date of this agreement, the City and the County will develop databases (count trips) utilizing the methodology set forth in this agreement.
 - B. Additionally within 150 days of the effective date of this agreement, the City and the County will develop a database which will combine trips generated by projects within both jurisdictions to determine the combined impact on public roads within the UTCMS area. The "combined" trip counts will be used for "planning purposes only" unless by subsequent agreement, the City and County specify any additional purpose.
3. "Planning Purposes": "Planning purposes" include:
 - A. Local government determination of transportation infrastructure improvement needs and costs.
 - B. Long range planning and capital improvement programming.
 - C. Informing the Metropolitan Planning Organization (MPO) through their Technical Coordinating Committee (TCC) and other regional entities as appropriate.
4. Agree on Same Level of Service (LOS): Each jurisdiction shall adopt on the same LOS for each road segment to be evaluated in the UTCMS area for inclusion in their respective Comprehensive Plan Amendments.

5. Amend Comprehensive Plans/Land Development Codes: Upon the effective date of this agreement by both jurisdictions, each jurisdiction will initiate (legislative body will direct staff/consultants, as appropriate) Comprehensive Plan/Land Development Code amendments to accomplish the following:
 - A. Adopt new unified concurrency methodology as policy,
 - B. Adopt the agreed upon LOS as set forth in Section 4, above.

These amendments shall be adopted not later than six months after the effective date of this agreement.

IV. DISPUTE RESOLUTION

It shall be the initial responsibility of the ITRC to attempt to resolve any dispute, which arise regarding the UTCMS. If the ITRC is unable to resolve any dispute, the party with jurisdiction will govern. Nothing herein shall preclude this agreement from being enforced by any other legal method.

V. ENFORCEMENT

In the event that either party fails to perform an obligation set out in this Agreement, the other party may file an action in Circuit Court for specific performance of this Agreement. Provided however that suit for specific performance of this Agreement shall not relieve either party from its obligations under State law to timely challenge any project to which the UTCMS applies.

VI. TERMINATION

This agreement shall not be terminated for a period of five (5) years from the effective date hereof, after which this agreement may be terminated by either party upon the provision of one hundred eighty (180) days written notice.

VII. EFFECTIVE DATE

The County Manager of Okaloosa County is authorized and directed, after approval of this Interlocal Agreement by the respective governing bodies of County and City in the execution thereof by the duly qualified and authorized officers of each of the parties hereto, to file this Interlocal Agreement with the Clerk of the Circuit Court of Okaloosa County, Florida, and this Agreement shall become effective when so filed.

Jackie Burkette

Board of County Commissioners
Okaloosa County, Florida
By: Jackie Burkette, Chairman



July 16, 2002

Date

ATTEST:

Newman C. Brackin

Newman C. Brackin, Clerk
Okaloosa Board of County Commissioners



APPROVED AS TO FORM:

John Dowd

John Dowd, Okaloosa County Attorney

Craig H. Barker

The City of Destin, Florida
By: Craig H. Barker, Mayor

6/20/02

Date

ATTEST:

Dana L.S. Williams

Dana L.S. Williams, City Clerk, City of Destin

APPROVED AS TO FORM:

Scott Shirley

Scott Shirley, City of Destin, Land Use Attorney