

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 10/30/2023

Contract/Lease Control #: C23-3913-PW

Procurement#: _____

Contract/Lease Type: AGREEMENT

Award To/Lessee: DEPARTMENT OF THE AIRFORCE

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 09/27/2023

Expiration Date: 09/26/2024 W/(5) 1 YR RENEWALS

Description of: EAFB ENVIRONMENTAL INVESTIGATION

Department: PW

Department Monitor: AUTREY

Monitor's Telephone #: 850-689-5772

Monitor's FAX # or E-mail: JAUTREY@MYOKALOOSA.COM

Closed: _____

CC: BCC RECORDS

ACCESS AGREEMENT ENVIRONMENTAL ACTIVITIES

PREAMBLE

THIS ACCESS AGREEMENT ("**Agreement**") is made and entered into as of ~~27~~ Sept 2023 ("**Effective Date**"), by and between Okaloosa County ("**Owner**") and the United States of America, acting by and through the Secretary of the Air Force or his or her authorized delegate ("**Government**"). The Owner and Government are sometimes collectively referred to herein individually as a "**Party**" or collectively as the "**Parties**."

RECITALS

A. The Owner owns properties in Okaloosa County, FL, at

1. Parcel ID: 08-2S-24-0000-0001-0060
Location: 600 TRANSIT WAY FT WALTON BEACH 32548
2. Parcel ID: 08-2S-24-0000-0001-0110
Location: MARTIN LUTHER KING BLVD FT WALTON BEACH 32548
3. Parcel ID: 09-2S-24-0000-0077-0030
Location: CYPRESS ST NW FT WALTON BEACH 32548
4. Parcel ID: 09-2S-24-0000-0062-0060
Location: HICKORY ST FT WALTON BEACH 32548
5. Parcel ID: 09-2S-24-0000-0101-0000
Location: HICKORY ST FT WALTON BEACH 32548
6. Parcel ID: 09-2S-24-3012-0001-0240
Location: LOBLOLLY CT FT WALTON BEACH 32548
7. Parcel ID: 09-2S-24-0000-0001-0030
Location: OVERBROOK DR FT WALTON BEACH 32548
8. Parcel ID: 09-2S-24-0000-0001-0010
Location: OVERBROOK DR FT WALTON BEACH 32548
9. Parcel ID: 09-2S-24-3011-000D-0140
Location: 349 ECHO CIR FT WALTON BEACH 32548
10. Parcel ID: 09-2S-24-0000-0105-0000
Location: JONQUIL AVE NW FT WALTON BEACH 32548

as depicted in **Exhibit A** (the "**Property**"); and

B. The purpose of this Agreement is for the Owner to grant the Government, its employees, agents, authorized representatives, and contractors, (each an “**Authorized Party**”) access to the Owner’s Property for the activities and purposes described herein.

C. Activities will include advancing temporary vertical borings, collection of soil, groundwater surface water and sediment samples and all related Government actions. If necessary, based on determining needs, install permanent groundwater monitoring well(s) for periodic monitoring by collecting groundwater samples. All wells will be properly abandoned after the duration of the sampling program or this agreement in accordance with Section 1. These activities are collectively referred to as “**Permitted Activities**.”

D. The Permitted Activities are being taken by the Government under its Defense Environmental Restoration Program (“DERP”) pursuant to applicable environmental laws and requirements.

E. The locations of the Permitted Activities within the Property, including the approximate locations of any equipment or structures, if installed, are depicted in **Exhibit A**

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings set forth in this Agreement, Owner and the Government agree as follows:

1. Agreement Term.

1.1. The term of this Agreement shall be for one (1) year commencing on the Effective Date, with the option to exercise five (5) annual renewal options, not to exceed a total of six (6) years, unless otherwise agreed by the Parties. Each exercise of a renewal option shall be in writing and prepared by the Government at least thirty (30) days in advance of each annual expiration date (“**Renewal Notice**”). This Renewal Notice may be by email so long as evidence of receipt is obtained from the Owner, or by mail as provided in Section 11. Such renewal option will be effective upon written approval of the Owner.

1.2. Notwithstanding Section 1.1, either of the Parties may terminate this Agreement by providing written notice to the other Party at the address provided in Section 11 (“**Termination Notice**”) at least six (6) months prior to the termination date stated in the Termination Notice.

2. Access.

2.1. An Authorized Party may enter upon the Property at mutually agreed times to perform the Permitted Activities. Upon conclusion of any Permitted Activities the Authorized Party will restore the Property to the Owner’s reasonable satisfaction. The Government will provide Owner at least forty-eight (48) hours prior notice in any manner described in Section 11 of its intention to enter the Property, unless the Government determines the immediate entry is required for safety, environmental, operational, or security purposes requiring such immediate entry.

2.2. **Ingress and Egress from other Land.** The access right given to the Government by this Agreement includes ingress and egress on other lands of the Owner by an Authorized Party if such ingress and egress is necessary to access the Property to perform the Permitted Activities.

2.3. **Interference/Conveyance/Transfer.** The Owner will provide notice to the Government either verbally or in writing, of any activities of the Owner which may interfere with or preclude Government access to the Property and/or performance of any of the Permitted Activities. If the Owner conveys any interest in the Property to a third party, the Owner shall notify the Government prior to such conveyance in accordance with Section 11 to avoid interruption of the Permitted Activities.

2.4. **Equipment Protection.** If needed, the Government may place a protective structure on the Property to house the equipment that will be installed as part of the Permitted Activities.

3. **Costs and Expenses.** The Government shall have sole responsibility for all costs and expenses relating to the Permitted Activities.

4. **Sampling Results.** The Government will send Owner the results of any verified water or soil sampling it performs on the Property either by email or regular mail to the address provided in Section 11. The verified water or soil sampling results also will be sent to the Florida Department of Environmental Protection. Such results may be publicly available. To ensure continued transparency regarding the information supporting Government decisions, the physical address and ownership of the Property, as well as the specific location the samples were taken from, may also be disclosed to the Florida Department Environmental of Protection and the public, and Owner consents to such disclosure.

5. **Property Ownership.** All tools, equipment, structures, and property taken or placed upon the Property by or for the benefit of an Authorized Party shall remain the property of that Authorized Party, unless an alternative disposition of such tools, equipment, structures and other property is agreed to by the Parties. Such disposition shall be in compliance with applicable laws.

6. **Restoration of Property.** Unless otherwise agreed by the Parties as provided in Section 5, the Government will remove all equipment, systems and structures used or installed on the Property upon expiration of the Agreement or other termination as provided for in this Agreement and restore the Property to the reasonable satisfaction of the Owner.

7. **Damages.** The Government shall be responsible for damages to the Property which may arise from or be directly attributable or incident to the Permitted Activities other than damages to the Property caused by the negligence or wrongful act or omission of the Owner's officers, members, partners, agents, employees, sublessees, licensees, invitees, and contractors who may be on the Property. When the Government is responsible for damages it may, at its option, either repair such damage or make an appropriate settlement with the Owner. Nothing contained in this Agreement is intended to limit or waive the Government's protections or defenses under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680. The provisions of this Section 7 shall survive the expiration or earlier termination of this Agreement.

8. **Governing Law.** This Agreement shall be governed and construed, and the rights and obligations of the Government and Owner hereunder shall be determined in accordance with applicable federal law and, in the case where such federal law does not exist, in accordance with applicable Florida law. Provided however, that nothing in this Agreement shall be construed to constitute a waiver of federal supremacy or federal sovereign immunity.

9. **Government Obligations.** Consistent with the Anti-Deficiency Act, 31 U.S.C. §§ 1517, 1541-1542, any payment of funds by the Government in connection with this Agreement shall be subject to the availability of appropriated funds and shall not be interpreted as creating an obligation or payment of funds in violation of the Anti-Deficiency Act or other applicable law respecting federal funding, including but not limited to any commitment of future funding or payment. Additionally, nothing contained in this Agreement may be considered as implying that Congress would appropriate funds sufficient to meet any funding deficiencies.

10. **Amendments.** This Agreement may be amended at any time by mutual agreement of the Parties in writing and signed by a duly authorized representative of each of them.

11. **Notices.** Unless otherwise agreed in writing by the Owner and the Government, or as provided in Section 2.3, any notice or request given pursuant to this Agreement may be given personal delivery or by mailing the same by regular mail or e-mail, addressed as follows:

If to the Owner:	Name:	Okaloosa Board of County Commissioners Robert A. "Trey" Goodwin III, Chairman
	Address:	1250 N. Eglin Parkway, Suite 100 Shalimar, FL 32579
	Email:	tgoodwin@myokaloosa.com
	Telephone:	850-651-7105

If to the Government:	Department of the Air Force Attn: Joe Gootee
Organization:	AFCEC/CZOE
Mailing Address:	207 North 2 nd St Building 216 Eglin AFB, Fl 32542-5461
Physical Address:	Building 216 Eglin AFB, Fl 32542-5461
Email:	joseph.gootee.4@us.af.mil
Telephone:	850-218-8270

Or to such other address or addresses as the Owner or the Government may from time to time designate in writing.

12. **Representation of Owner.** The signatory who signs this Agreement for the Owner is authorized to do so on behalf of all individuals or entities that have an ownership interest in the Property.

13. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14. **Electronic Signatures.** This Agreement and any other documents to be delivered herewith may be electronically signed, and any electronic signatures appearing on this Agreement, or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

15. **List of Exhibits.** Exhibits are attached hereto and made a part of this Agreement:

Exhibit A - Depiction of Location of Permitted Activities on Property

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

[SIGNATURES APPEAR ON THE FOLLOWING TWO PAGES.]

Government Signature Page to the foregoing Access Agreement

GOVERNMENT:

UNITED STATES OF AMERICA,
acting by and through the Secretary of the Air Force

By: KINDT.BENJAMI Digitally signed by
N.T.1172735742 KINDT.BENJAMIN.T.1172735742
Date: 2023.10.16 10:55:51 -05'00'

BENJAMIN T. KINDT, PE, GS-15, DAF
Chief, Environmental Operations Division
Environmental Management Directorate
Air Force Civil Engineer Center

Owner's Signature Page to the foregoing Access Agreement

OWNER:

Okaloosa County

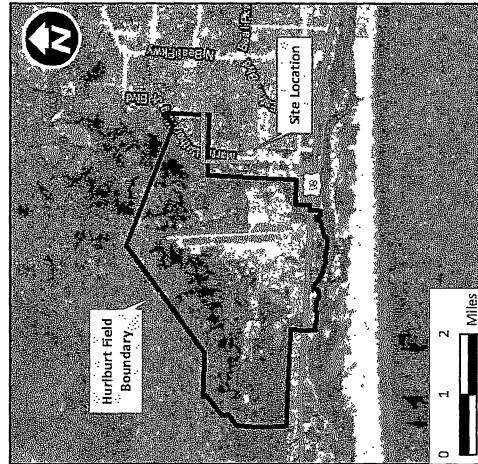
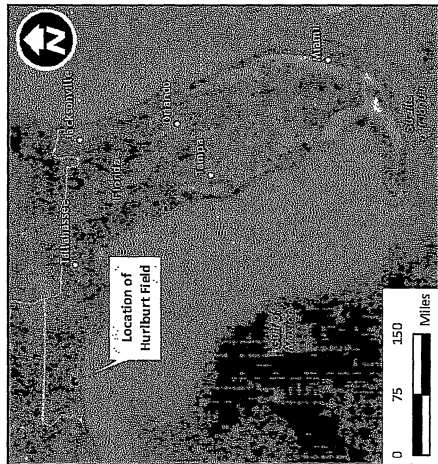


By: _____

Okaloosa Board of County Commissioners
Robert A. "Trey" Goodwin III, Chairman

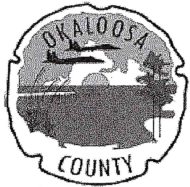


Exhibit A
 Depiction of Location of Permitted
 Activities on Property
 Site S5300P, AFFR Trailer Rupture



- Legend:**
- Designator of Proposed Location
 - Shallow DPT Groundwater Location (5-10 feet big)
 - Deep DPT Groundwater Location (35-40 feet big)
 - Shallow Monitoring Well Location
 - County Property
 - Okaloosa County Parcel Boundary
 - Eglin Air Force Base Boundary

Aerial Photography Source: Maxar, 2/14/2020



C23-3913-PW

BOARD OF COUNTY COMMISSIONERS AGENDA REQUEST

DATE: October 3, 2023
TO: Honorable Chairman and Distinguished Members of the Board
FROM: Jason Autrey
SUBJECT: Access Agreement - EAFB - Environmental Investigation
DEPARTMENT: Public Works
BCC DISTRICT: 4

STATEMENT OF ISSUE: Eglin Air Force Base, Environmental Restoration office (Eglin) is requesting an Access Agreement (attached) to specific Okaloosa County (County) properties in support of an environmental investigation. The investigation includes subsurface sampling and analysis needed to assess the nature and extent of impacts from a 2004 discharge of firefighting foam released from a tanker trailer in the ROW south of the County Emerald Coast Rider facility.

BACKGROUND: An environmental investigation has been initiated by Eglin AFB and their contractor Bhate Environmental addressing potential per and polyfluoroalkyl substances (PFAS) from a 2004 discharge of firefighting foam from a tanker trailer in the ROW south of the County Emerald Coast Rider facility. The initial stages of the PFAS investigation includes the collection of soil and groundwater samples by DPT (Direct Push Technology). DPT is a technique that is not as intrusive or as permanent as monitoring wells, or capable of collecting "clean" samples from the subsurface matrix, but it is capable of collecting samples that indicate the presence or absence of a desired chemical constituent.

Preliminary investigation activities have revealed the presence of PFAS in the immediate area of the spill. Phase 2 of the investigation is "stepping out" from the spill site to define the extent of the impact area. "Stepping out" includes potential access to sampling locations on County properties noted on the figure in the attached file. The chemical analyses will be limited to those associated with PFAS and not a full spectrum of potential contaminants.

The attached Agreement has been reviewed by the County Attorney who suggested several changes. Suggested changes to the Draft Agreement were accepted by Eglin and the Final version of the Agreement is attached.

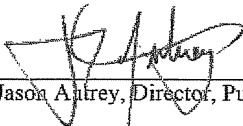
FUNDING SOURCE

No funding is required for this effort.

OPTIONS: Authorize/Deny

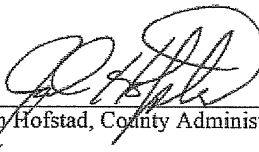
RECOMMENDATIONS: Motion to approve the Access Agreement with Eglin AFB.

RECOMMENDED BY:



Jason Alfrey, Director, Public Works 9/26/2023

APPROVED BY:



John Hofstad, County Administrator 9/27/2023