

## CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 06/05/2019

Contract/Lease Control #: C19-2816-PW

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: CITY OF CRESTVIEW

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 06/04/2019

Expiration Date: UPON COMPLETION OF PJ ADAMS PROJECT

Description of Contract/Lease: INTERLOCAL AGREEMENT FOR UTILITIES ON PJ ADAMS

Department: PW

Department Monitor: AUTREY

Monitor's Telephone #: 850-689-5772

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

Closed:

Cc: Finance Department Contracts & Grants Office

**AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN  
OKALOOSA COUNTY, FLORIDA AND CITY OF CRESTVIEW, FLORIDA  
CONTRACT NO. C19-2816-PW**

This First Amendment to the Interlocal Agreement between Okaloosa County, a political subdivision of the state of Florida (the "County"), and the City of Crestview, a municipality organized under the state of Florida (the "City"), executed this 4th day of May, 2021, is made a part of the original Agreement dated June 4, 2019, Contract No. C19-2816-PW (the "original Agreement"), incorporated herein by reference. The County and City hereby agree as follows:

**1. THE RECITALS OF THE EXISTING CONTRACT ARE AMENDED AS FOLLOWS:**

- a. WHEREAS, the PROJECT corridor for the widening of PJ Adams Parkway has been extended adding the segment from Wild Horse Drive to Crab Apple Avenue and the County intends to add the widening of the added segment to the scope of work with County's current contractor on the project; and
- b. WHEREAS, the City has water and sewer infrastructure (CITY UTILITIES) within the added segment that will require relocation and City also desires to add the scope of work for the relocation of CITY UTILITIES to the current scope of work of County's current contractor; and
- c. WHEREAS, the County's current contractor has provided a price of \$1,168,838 to perform the relocation of CITY UTILITIES based on City's prepared scope of work and estimated quantities; and
- d. WHEREAS, City staff and their consultant have reviewed the pricing submitted by the County's contractor and find the pricing favorable;
- e. WHEREAS, the City has previously deposited with the County the sum of \$1,365,000 with the County to fund the original scope of work based on actual pricing received by County;

**2. SECTION 6A OF THE EXISTING CONTRACT IS AMENDED TO ADD:**

Within 10 business days of County entering into an agreement with their contractor to include the added scope of widening PJ Adams Parkway from Wild Horse Drive to Crab Apple Avenue and relocation of CITY UTILITIES to the existing construction contract, the City shall deposit with the County the estimated total construction cost associated with relocation of CITY UTILITIES in the amount of \$1,200,000 representing the received estimated cost and a 2.67% contingency.

- 3. OTHER PROVISIONS REMAIN IN EFFECT.** Except as specifically modified herein, all terms and conditions of the original Agreement between the parties, dated June 4, 2019 and any amendments thereto, shall remain in full force and effect.

4. **CONFLICTING PROVISIONS.** The terms, statements, requirements, or provisions contained in this Amendment shall prevail and be given superior effect and priority over any conflicting or inconsistent terms, statements, requirements or provisions contained in any other document or attachment.

**(Remainder of Page Intentionally Left Blank)**

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day and year first written above.

OKALOOSA COUNTY, FLORIDA

CITY OF CRESTVIEW, FLORIDA

By: *Carolyn N. Ketchel*  
Carolyn N. Ketchel, Chairman

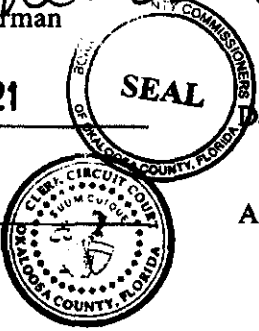
By: *JB Whitten*  
JB Whitten, Mayor

Date: MAY 04 2021

Date: 3/8/2021

Attest: *J.D. Peacock II*  
J.D. Peacock II, Clerk

Attest: *Elizabeth M. Roy*  
Elizabeth M. Roy, City Clerk



Approved as to Form:  
*Lynn Hoshihara*  
Lynn Hoshihara, County Attorney

Approved as to Form:  
*Jonathon Holloway*  
Jonathon Holloway, City Attorney

## DeRita Mason

---

**From:** Parsons, Kerry <KParsons@ngn-tally.com>  
**Sent:** Friday, May 24, 2019 2:30 PM  
**To:** Roy Petrey  
**Cc:** Lynn Hoshihara  
**Subject:** RE: Interlocal with the City of Crestview

Roy:

This is approved for legal purposes.

**Kerry A. Parsons, Esq.**

**Nabors  
Giblin &  
Nickerson**  
ESTABLISHED 1911

1500 Mahan Dr. Ste. 200  
Tallahassee, FL 32308  
T. (850) 224-4070  
[kparsons@ngn-tally.com](mailto:kparsons@ngn-tally.com)

*The information contained in this e-mail message is intended for the personal and confidential use of the recipient(s) named above. This message and its attachments may be an attorney-client communication and, as such, is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or e-mail and delete the original message. Thank you!*

**From:** Roy Petrey  
**Sent:** Friday, May 24, 2019 3:19 PM  
**To:** Parsons, Kerry  
**Cc:** Lynn Hoshihara  
**Subject:** Interlocal with the City of Crestview

Kerry,

The City of Crestview accepted the Interlocal as we drafted, there are no changes to what you'd previously approved.

Note that a copy of the Interlocal is attached as a placeholder – we are waiting on the signed original from the City.

Thanks,

Roy

**Roy Petrey, PE**

Project Manager | Design Engineer  
Okaloosa County Public Works  
1759 South Ferdon Blvd.  
Crestview, FL 32536  
850-423-4854 (direct)  
850-689-5772 (main)

**INTERLOCAL AGREEMENT BETWEEN OKALOOSA COUNTY AND  
THE CITY OF CRESTVIEW TO BID UTILITY ADJUSTMENTS AS A  
COMPONENT OF PJ ADAMS PARKWAY WIDENING PROJECT**

**THIS INTERLOCAL AGREEMENT ("Agreement")** is entered into by and between **OKALOOSA COUNTY, FLORIDA**, a political subdivision of the State of Florida (the "County") and the **CITY OF CRESTVIEW**, a municipality organized under the laws of the State of Florida (the "City").

**WHEREAS**, the County has undertaken a public works project known as the PJ Adams Parkway Widening consisting of widening from 2 lanes to 4 lanes the existing PJ Adams Parkway from SR 85 to I-10, and that project has been designed, rights-of-way acquired, and is being prepared for bid for construction of the segment of the project from SR 85 to Wild Horse Drive (hereinafter known as "PROJECT"); and

**WHEREAS**, the City has water and sanitary sewer infrastructure within the PROJECT corridor (hereinafter known as "CITY UTILITIES") that must be relocated to accommodate construction of the PROJECT; and

**WHEREAS**, the City has obtained professional services and has prepared utility adjustment plans, specifications, and a cost estimate for the scope of work necessary to relocate CITY UTILITIES; and

**WHEREAS**, the City and the County agree it is in the best interest of City to bid the relocation of the CITY UTILITIES as a component of the PROJECT; and

**WHEREAS**, the County has obtained funding to construct PROJECT from a variety of sources including federal, state, and local; and

**WHEREAS**, the City and the County understand that including the relocation of CITY UTILITIES as a component of the PROJECT will require the component to follow the same terms and conditions the County must abide by as required by its fund sources including, but not limited to, the Davis-Bacon Act, compliance monitoring and reporting for adherence to Equal Employment Opportunity/Affirmative Action requirements, and utilization of Construction

Engineering and Inspections professional services to administer and inspect all work (hereinafter referred as "CEI SERVICES") performed under the County's construction contract for the PROJECT; and

**WHEREAS**, the CITY has furnished the County the engineer's construction estimate of cost to relocate CITY UTILITIES of \$915,000 including a 10% contingency and City and County agree an initial estimate of \$125,000 is reasonable for the CEI SERVICES required for the relocation of CITY UTILITIES for a total initial estimate of construction cost being \$1,040,000; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the County and the City do agree as follows:

**SECTION 1. AUTHORITY.** This Agreement is entered into pursuant to the provisions of Chapter 163.01, Florida Statutes, and other applicable provisions of law.

**SECTION 2. RECITALS.** The above recitals are true and accurate and are incorporated herein as essential terms of the Agreement.

**SECTION 3. PARTIES.** The parties to this Agreement are the County and the City.

**SECTION 4. DETAILS OF THE PJ ADAMS PARKWAY WIDENING PROJECT.** The project widens PJ Adams Parkway from two to four lanes from near SR 85 to Wild Horse Drive. Included in the project are drainage improvements and construction of noise barrier walls to mitigate the impact by the PROJECT to surrounding property. Finally, new traffic signals will be constructed at Key Lime Place and Ashley Drive and the signal at Wild Horse will be modified to accommodate the revised roadway.

Additional rights-of-way were identified during the PROJECT design and have since been acquired to accommodate construction of the PROJECT and also to provide room for relocation of existing utilities that are in conflict with the new construction.

During the design phase, and as part of utility coordination, each utility within the corridor including the City, undertook steps to resolve conflicts with their utilities and the proposed

construction and prepared plans including a utility work schedule to relocate their utilities within the construction corridor concurrent with the construction contract for the PROJECT.

**SECTION 5. PARTY RESPONSIBILITIES.**

- A. COUNTY - PJ Adams Parkway is a county road and as such, the County has full authority and responsibility to undertake and manage the Project including entering into construction contract that contains as a component the relocation of CITY UTILITIES. The County will provide CEI SERVICES via a consultant to provide general oversight, inspection and compliance. The County's CEI consultant, as a representative and on behalf of the County, will schedule and conduct meetings with contractors and other stakeholders and will coordinate resolution of field conflicts. The County will coordinate with the City any contract change orders associated with the costs to relocate CITY UTILITIES.
  
- B. CITY – The City is responsible for all design associated with relocation of CITY UTILITIES including any design costs required during construction due to conflicts with others. The CITY agrees to provide responsible personnel including, but not limited to, design professionals to coordinate resolution of conflicts that may arise during the relocation of CITY UTILITIES. The City will conduct inspections independent to any performed by the CEI and will be responsible for all permits including payment and any certifications that may be needed to place the completed utility work into operation.

**SECTION 6. FUNDING FOR THE PROJECT.**

- A. The City shall fund the full cost for the relocation of CITY UTILITIES including the City's share of CEI costs. Upon notice there is an Intent to Award a contract for construction, the City shall, within ten (10) business days' of receipt of said notice, deposit with the County the estimated total construction cost associated with relocation of CITY UTILITIES the sum of \$1,040,000. The County will



provide an accounting of all costs paid that are associated with relocation of CITY UTILITIES and shall provide copies of said invoices to City upon request. If it becomes apparent that the construction or CEI costs associated with relocation of CITY UTILITIES will exceed the initial estimate, the County Engineer and the City's Public Services Director shall meet and decide the appropriate additional sum that should be deposited by the City to the County. The City shall deposit such amount determined within fifteen (15) business days' of that determination.

- B. Should the City require additional information or documentation concerning the work, then the City shall make that request to the County, who shall coordinate the production of that information from the respective contractor or consultant. If the County is unable to procure the records requested by the City, then this shall not be deemed a breach of this Agreement by the County.
  
- C. If the CITY UTILITIES portion of the PROJECT is completed and the County is holding excess funds, which the City has provided to the County, then the County shall return these excess funds to the City within forty-five (45) days of the final completion of the CITY UTILITIES portion of the PROJECT.

**SECTION 7. TERM.** This Agreement shall take effect on the last date of adoption by both the respective governing bodies and shall expire on the latest of the date of completion of the PROJECT or the date the County returns to the City any excess funds as described in Section 6(C).

**SECTION 8. RECORDS AND REPORTING.**

- A. The parties agree to maintain books, records, documents and other evidence according to generally accepted governmental accounting principles, procedures and practices which sufficiently and properly reflect the receipt, processing and payment of amounts in connection with the CITY UTILITIES relocation or otherwise paid or to be paid.

- B. Neither the City nor the County shall assume any responsibility for the other entity's failure to respond, timely, or at all, to a public records request. A request upon one entity, shall not be deemed to be a request on the other entity.
- C. The parties must comply with the public records laws, Chapter 119, F.S., specifically the parties must:
- 1) Keep and maintain public records required by the City/County to perform the service.
  - 2) Upon request from the City/County's custodian of public records, provide the City/County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
  - 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the City/County does not transfer the records to the City/County.
  - 4) Upon completion of the contract, transfer, at no cost, to the City/County all public records in possession of the City/County or keep and maintain public records required by the City/County to perform the service. If the City/County transfers all public records to the public agency upon completion of the contract, the City/County shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the City/County keeps and maintains public records upon completion of the contract, the City/County shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the public agency, upon the request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

**IF THE CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT, 5479 OLD BETHEL ROAD, CRESTVIEW, FL 32536 PHONE: (850) 689-5977 riskinfo@myokaloosa.com.**

**IF THE COUNTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CRESTVIEW CITY CLERK, 198 N. WILSON STREET, CRESTVIEW, FL 32536 PHONE: (850) 682-1560 cityclerk@cityofcrestview.org.**

**SECTION 9. REPRESENTATIONS AND WARRANTIES.** Each party hereby represent and warrant to the other that it has all requisite power, authority, and authorization to enter into this Agreement, has taken all necessary actions required to enter into this Agreement, and to fulfill any and all of its obligations, duties, and responsibilities provided for or required of it by this Agreement, whether exercised individually or collectively.

**SECTION 10. AMENDMENTS.** With the exception of additional deposit amount made pursuant to Section 6(A), neither this Agreement nor any portion of it may be modified or waived orally. The provisions hereof may be amended or waived only pursuant to an instrument in writing, approved by the City Council and the Board of County Commissioners, and jointly executed by the parties hereto. This Agreement shall be enforced and be binding upon, and inure to the benefits of, the parties hereto and their respective survivors and assigns, if any. This Agreement shall not be assigned without the permission of all parties to the agreement.

**SECTION 11. DISPUTE RESOLUTION.** The parties shall attempt to resolve any dispute that arise under this Agreement in good faith by participating in mediation. This mediation shall be in lieu of the requirements of the “Florida Governmental Conflict Resolution Act.” The mediator shall be mutually agreed upon by the parties and the cost of mediation shall be borne equally between the parties. In the event the matter is not resolved through the mediation process, each party shall be free to pursue any of its available remedies.

**SECTION 12. JURY TRIAL WAIVER. IN THE EVENT THAT LITIGATION IS FILED BY ANY PARTY TO ENFORCE ANY TERMS OF THIS AGREEMENT, THEN ALL PARTIES AGREE THAT THEY HEREBY WAIVE ANY RIGHT TO A JURY TRIAL ON ANY ISSUES ARISING OUT OF THIS AGREEMENT.**

**SECTION 13. SEVERABILITY.** If any one or more of the provisions of this Agreement shall be held contrary to any express provision of law or contrary to any policy of express law, then the remainder of this Agreement shall remain in full force and effect.

**SECTION 14. GOVERNING LAW AND VENUE.** The validity, construction and performance of this Agreement shall be governed by the laws of the State of Florida. Venue for any action arising out of this Agreement shall be in the state courts of Okaloosa County, Florida.

**SECTION 15. NOTICE.** If written notice to a party is required under this Agreement, such notice shall be given by hand delivery, recognized overnight delivery service, or by first class mail, registered and return receipt requested.

As to the County as follows: County Administrator  
Okaloosa County  
1250 Eglin Pkwy N  
Suite 102  
Shalimar, FL 32579

As to the City as follows: City Manager  
City of Crestview  
198 North Wilson Street  
Crestview, FL 32536

**SECTION 16. NO MEMBER LIABILITY.** Neither the members of the governing body of the County, the City, nor anyone executing this Agreement, shall be liable personally or shall be subject to any accountability for reason of the execution by the County, the City or any executing authority of the County or the City for any act pertaining thereto.

**SECTION 17. SOVEREIGN IMMUNITY.** The parties further agree that nothing contained herein is intended to, nor shall be construed as, a waiver of the County or City's rights and immunities under the common law or section 768.28, Florida Statutes, as amended from time to time.

**SECTION 18. INSURANCE, LIABILITY AND INDEMNIFICATION.**

- A. Each party agrees to be fully responsible for all claims, liabilities, damages, costs, actions, suits, or proceedings at law or in equity which may occur as a result of the wrongful or negligent acts of their respective officers, employees, representatives, and agents.
- B. Any contractor or consultant engaged by the County for work on the PROJECT shall be required to protect, defend, indemnify, and hold both the City and County harmless from all claims, demands, causes of action, or liability resulting from injury to or death of persons or damage to or loss of property sustained as a

consequence of the PROJECT and arising from said contractor's operations or as a proximate result of the acts or omissions of the contractor or their employees.

**SECTION 19. CONSTRUCTION.** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

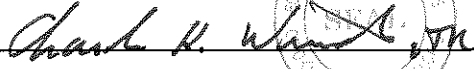
**SECTION 20. FILING.** The County and the City are hereby authorized and directed after approval, to file this Agreement with the Clerk of the Circuit Court of Okaloosa County, Florida, for recording in the public records of Okaloosa County, Florida as provided in Section 163.01 (11), Florida Statutes.

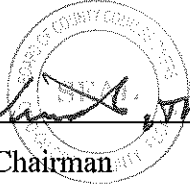
**SECTION 21. WAIVER.** No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

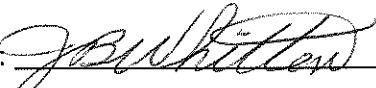
IN WITNESS WHEREOF, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement on the date and year last written below.

**OKALOOSA COUNTY, FLORIDA**

**CITY OF CRESTVIEW, FLORIDA**

By:   
Charles K. Windes, Jr., Chairman



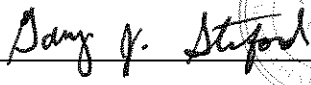
By:   
JB Whitten, Mayor

**JUN 04 2019**

Date: \_\_\_\_\_


Date: 5-24-19

ATTEST:

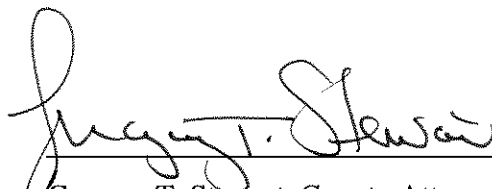
  
J.D. Peacock II, Clerk



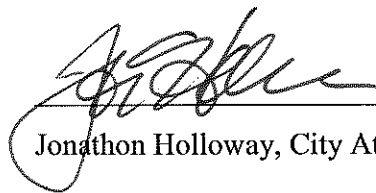
ATTEST:

  
Elizabeth M. Roy, City Clerk

APPROVED AS TO FORM:

  
Gregory T. Stewart, County Attorney

APPROVED AS TO FORM:

  
Jonathon Holloway, City Attorney