

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 03/29/2021

Contract/Lease Control #: C21-3056-AP

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: KAPLAN, KIRSCH & ROCKWELL, LLP

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 03/19/2021

Expiration Date: INDEFINITE

Description of: AVIATION COUNSEL FOR OKALOOSA COUNTY

Department: AP

Department Monitor: STAGE

Monitor's Telephone #: 850-651-7160

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

Closed:

Cc: BCC RECORDS



CONTRACT#: C21-3056-AP
KAPLAN, KIRSCH & ROCKWELL, LLC
AVIATION COUNSEL FOR OKALOOSA COUNTY
EXPIRES: INDEFINITE

March 23, 2021

VIA E-MAIL

Mr. Tracy Stage, AAE
Okaloosa County Airports
1701 State Route 85 N
Eglin AFB, FL 32542-1498

Re: Engagement for Legal Services

Dear Mr. Stage:

We are very pleased that Okaloosa County wishes to retain Kaplan Kirsch & Rockwell LLP (the "Firm") to advise Okaloosa County with regard to federal airport regulatory matters. This letter sets forth the terms under which the Firm will represent Okaloosa County on this matter and any other matters as directed by Okaloosa County.

While we are reluctant to be overly formal, we have found that a detailed retainer letter is the best way to satisfy our ethical obligations and to be sure that each parties' obligations are clearly set forth in writing.

The effective date of our representation is March 19, 2021. I will be the partner-in-charge of this engagement and will be the contact person for the Firm on this matter. At any time during our representation, you and your colleagues should always feel free to contact me or any other Firm partner if you have any questions or concerns about our work on your behalf. Our Firm's managing partner, Stephen H. Kaplan, is always available in the event you have questions about our representation.

Scope of Our Representation. Okaloosa County is engaging the Firm to advise on matters related to federal regulation and federal requirements concerning operation of the County's three-airport system and other matters to which we may jointly agree in writing. The scope of our representation is limited to these matters. We have not been engaged to provide more general representation of Okaloosa County.

Attorneys within the Firm are licensed to practice law before the U.S. Supreme Court, most federal appellate and many federal district courts, as well the highest court in many states. Neither I nor any other Firm lawyer is licensed to practice Florida law. To the extent that you seek advice with respect to Florida law, we will provide advice in a manner consistent with the rules of professional conduct applicable to the practice of law in that state. As we discussed, we will work closely with

Kaplan Kirsch & Rockwell LLP
Attorneys at Law

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the County Attorney and your outside counsel at Nabors Giblin & Nickerson on matters of Florida law and to ensure compliance with our ethical obligations as out-of-state lawyers.

Opinions on Likely Outcomes. Either at the commencement or during the course of our representation, attorneys in the Firm may express opinions or conclusions concerning the likely outcome of the matters or various courses of action and the results that might be anticipated. We trust that you understand that, while we will always endeavor to give you candid and accurate assessments, any such statements will be an expression of our opinion based on information available to us at the time and are not a promise or guarantee.

Fees and Charges. The Firm will charge for its services according to the fees set out herein. I will be the partner-in-charge of this matter but anticipate involvement by other attorneys, as needed, including both my partners and associates. For purposes of this engagement, my hourly rate is \$425 per hour. The hourly rate for other partners is \$425 and for associates is \$300 per hour. The normal hourly rates for attorneys in the Firm range from \$295 to \$795 per hour. Paralegal/law clerk rates are charged \$160 per hour. The Firm charges fees in six-minute (1/10 hour) increments. These rates will be effective through the end of calendar year 2022. The Firm annually evaluates its rates and will notify you in advance of any anticipated changes in rates in 2023, which would be commensurate with any increases charged to any other comparable government client and would never exceed five percent in one year.

In addition to the hourly fee for services, the Firm will charge you for all necessary and incidental out-of-pocket expenses, including, but not limited to, travel costs, office expenses, computerized legal research, court reporting services, and court or other filing fees. We do not generally charge for routine photocopying and long-distance telephone or cell phone calls but do charge for especially large copying jobs, color copies and hosting conference calls, in some instances. Out-of-pocket expenses are charged at our actual cost. **Please let us know if you have any special requirements for the expenditure or reporting of expenses.**

Invoices. It is the Firm's practice to send our clients a consolidated monthly invoice showing the amounts billed for particular matters during the period covered by the invoice. Unless you request otherwise, our invoices will contain daily detail for each professional's work on the client's matter. We can, however, prepare that invoice in any format that meets your needs. We urge you to raise any questions regarding our invoices as soon as they arise so that we can resolve any problems promptly. We require that Okaloosa County pay our fees promptly on a monthly basis. We consider any invoice more than 30 days old to be overdue. If Okaloosa County does not inform the Firm, in writing, of any questions or concerns with respect to the charges contained on an invoice within 30 days of receipt, the Firm will assume and Okaloosa County agrees that such charges are acceptable to Okaloosa County. The Firm reserves the right to charge interest of one percent per month on any outstanding amounts on invoices over 60 days old.

Conflicts Evaluation. In accordance with the applicable ethical rules, we have confirmed that we have no current actual conflicts between Okaloosa County and any Firm clients. Further, we are

not aware of any potential conflicts. As you are aware, the Firm represents Jay Odom and his firm, Crystal Beach Development on matters related to defense of litigation brought against the County and Mr. Odom under the Federal False Claims Act. We have evaluated that representation and concur with your assessment that it does not represent a conflict. We also represent a number of public sector and private sector clients in the airport industry. We cannot foreclose the possibility that, at some time in the future, any existing or future Firm client may be adverse to Okaloosa County on matters completely unrelated to this engagement. It is also possible that an existing Firm client is currently adverse to Okaloosa County on a matter of which we are unaware or in which we have no involvement. In the event a conflict arises between a client of the Firm and Okaloosa County, the Firm shall immediately advise Okaloosa County of such conflict, resign from such conflicting representation and assist the conflicting client in obtaining other counsel.

Public Records. Any record created by the Firm in accordance with this contract shall be retained and maintained in accordance with public records law, Chapter 119, Florida Statutes. Specifically, the Firm must:

- a. Keep and maintain public records required by the County to perform the service.
- b. Upon request from the County's custodian of public records, provide the 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.
- c. 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 Firm does not transfer the records to the County.
- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the Firm or keep and maintain public records required by the County to perform the service. If the Firm transfers all public records to the County upon completion of the contract, the Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Firm keeps and maintains public records upon completion of the contract, the Firm 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 County's custodian of public records, in a format that is compatible with the information technology systems of the County.

IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT,

CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 N. WILSON ST., CRESTVIEW, FL 32536 PHONE: (850) 689-5977 riskinfo@myokaloosa.com.

Termination of Our Engagement. Upon completion or termination of our representation on the matters described above, the attorney-client relationship will end unless Okaloosa County and the Firm have agreed to a continuation with respect to other matters. Okaloosa County has the right, at any time, to terminate our services and representation upon written notice to the Firm. We reserve the right to withdraw from our representation if, among other things, you fail to honor the terms of this engagement letter, you fail to cooperate or follow our advice on a material matter or any fact or circumstance (including any conflict of interest with another client) that would, in our view, render our continuing representation unlawful or unethical. If we elect to withdraw, you will take all steps necessary to free us of any obligation to perform further, including the execution of any documents necessary to complete our withdrawal. No termination of our representation by Okaloosa County or the Firm will relieve you of your obligations under the terms of our engagement to pay for services rendered or for costs or expenses paid or incurred on your behalf. In the unusual event that a court of competent jurisdiction refuses to permit us to withdraw upon termination, you would remain responsible for fees and costs. In the event we are compelled to intervene in a pending lawsuit or initiate any proceeding in order to recover any amount due under the terms of our engagement, the prevailing party is entitled to be reimbursed for any and all reasonable attorneys' fees, court costs, and expenses incurred in such proceeding.

Entire Understanding of Terms of Our Representation. This engagement letter constitutes our entire understanding and agreement with respect to the terms of our engagement and supersedes any prior understandings and agreements, written or oral, regarding representation on this matter. If any provision of our engagement letter is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect. This engagement letter may only be amended in writing by the Firm and Okaloosa County.

If the terms described above are satisfactory, please so indicate by signing this letter and returning one signed copy to me. We look forward to working with you and your colleagues on this matter, and we look forward to a mutually satisfactory relationship. Thank you again for your interest in engaging the Firm.

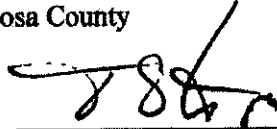
Sincerely,

KAPLAN KIRSCH & ROCKWELL LLP

By: 
Peter J. Kirsch

Tracy Stage, AAE
March 23, 2021
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ACCEPTED AND AGREED ON BEHALF OF
Okaloosa County

By: 
Tracy Stage, Airports Director

Date: 3.23.21

By: **John Hofstad** Digitally signed by John Hofstad
Date: 2021.03.24 08:09:36 -05'00'
John Hofstad, County Administrator

Date: 03/23/2021

By: 
Lynn M. Hoshihara, County Attorney

Date: 3/23/21