

EXHIBIT B

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: September 6, 2012

Contract/Lease Control #: C12-1975-WS

Bid #: NA Contract/Lease Type: INTERLOCAL

Award To/Lessee: CITY OF FORT WALTON BEACH

Lessor/Owner: OKALOOSA COUNTY

Effective Date: 08/14/2012

Expiration Date: 08/14/2037

Description of Contract/Lease: INTERLOCAL WASTEWATER FORCE MAIN CONSTRUCTION

Department Manager: WS

Department Monitor: LITTRELL

Monitor's Telephone #: 651-7172

Monitor's FAX # OR E-Mail: JLITTRELL@CO.OKALOOSA.FL.US

Date Closed: _____

REMARKS:

Cc: Finance Dept Contracts & Grants Division

e-mailed to Mark Wise
6/22/12

RECEIVED JUN 13 2012

EXHIBIT D

CONTRACT & LEASE
INTERNAL COORDINATION SHEET

Contract/Lease Number: _____ Tracking Number: 446-12

Contractor/Lessee Name: City of Fort Walton Beach

Purpose: Interlocal for Construction of Wastewater Force main

Date/Term: 25 years 1. ☒ GREATER THAN \$50,000

Amount: County's Share - \$2,000,000.00 2. ☐ GREATER THAN \$25,001

Department: Water & Sewer 3. ☐ \$25,000 OR LESS

Dept. Monitor Name: J. Liffrell / Mark Wise

Purchasing Review

Procurement requirements are met:

[Signature]
Contracts & Lease Coordinator

Date: 6/16/12

Risk Management Review

Approved as written:

[Signature]
Risk Management Director

Date: 6-19-12

County Attorney Review

Approved as written:

[Signature]
County Attorney

Date: 6/21/12

Following Okaloosa County approval:

Contract & Grant

Document has been received:

Contracts & Grants Manager

Date: _____

**INTERLOCAL AGREEMENT BETWEEN OKALOOSA COUNTY
AND THE CITY OF FORT WALTON BEACH FOR
CONSTRUCTION OF WASTEWATER FORCE MAIN**

THIS AGREEMENT is made and entered into this 14th day of August, 2012 by and between **OKALOOSA COUNTY**, a political subdivision of the State of Florida (the "County"), whose mailing address is 1804 Lewis Turner Boulevard, Suite 100, Ft. Walton Beach, Florida 32547 and the **CITY OF FORT WALTON BEACH**, a municipal corporation organized under the laws of the State of Florida (the "City"), whose mailing address is 107 SW Miracle Strip Parkway, Ft. Walton Beach, Florida 32548.

WHEREAS, the City and the County have previously entered into a Wastewater Service Interlocal Agreement, in August of 2009, to consolidate the parties' wastewater services; and

WHEREAS, the City and the County wish to continue their cooperative efforts to provide wastewater services to the people at the lowest cost to the taxpayers and customers; and

WHEREAS, there are currently three (3) sewer force mains connected to the 36" force main feeding into the Arbennie Pritchett Water Reclamation Facility (the "APWRF"): two County 20" force mains and one City 30" force main; and

WHEREAS, the two County 20" force mains are formerly effluent mains not designed to convey raw wastewater and in need of replacement; and

WHEREAS, the City's 30" force main is an aging concrete line in need of replacement and in conflict with FDOT's proposed Gap Creek Bridge; and

WHEREAS, the City has plans to replace its 30" force main, which a portion of the project will run parallel with the County's two 20" force mains for approximately 1.7 miles, with construction to be completed by November 2013; and

WHEREAS, the City and the County have determined that a significant cost savings would result from cost-sharing the construction of the 36" force main for the 1.7-mile pipeline route shared by both utilities (the "Project"); and

WHEREAS, the shared portion of the 36" force main is an integral component of both the City and the County's wastewater system, as it will transmit all the wastewater from Ft. Walton Beach, including unincorporated areas, into the APWRF; and

WHEREAS, subject to the terms and conditions set forth below, the County and the City desire to work collaboratively in designing, constructing, and maintaining the mutually beneficial improvements to the 36" force main.

NOW THEREFORE, in consideration of the foregoing and the mutual obligations set forth below, the parties, intending to be legally bound, agree as follows:

Section 1. Recitals. The above recitals are true and accurate and are incorporated herein as essential terms of the Agreement.

Section 2. The Project. The City and the County agree to jointly participate in the construction of a 36" force main from Bob Sikes Blvd. to Roberts Blvd. as more particularly set forth on the concept plan which is attached hereto as Exhibit "A" (the "Project"). The Project shall consist of the following features:

- A) The connection point at the northern end will be the County's 36" force main on Roberts Blvd.
- B) At the connection point at the southern end on Bob Sikes Blvd., three force mains will connect to the 36" force main. These will consist of the two existing 20" force mains of the County and the proposed 20" force main of the City.
- C) There will be an intermediary connection point on Park View Road where the City's 12" force main will connect.
- D) Magnetic flowmeters will be installed on the City's proposed 20" force main (Pump Station #1) and its proposed 12" force main (Park View Road Force Main). The County will manually read the meters each month for billing purposes. Only manual meter readings shall be used for billing purposes. The City shall grant the County access to the site and permission to install SCADA equipment on the magnetic flowmeters.
- E) The City's Engineers and the County's Engineers will work together in a cooperative effort to develop a mutually agreeable hydraulic model. No modifications may be made to the County's Garniers Re-Pump Station or to the City's Stations (PS #1, PS #2, LS #32, LS #36) without written

consent by both parties. Prohibited modifications shall include all control logic variations and modifications to operational set points, such as pressure setpoints and pump start conditions.

Section 3. City's Responsibilities. The City shall be responsible for the following:

- A) Designing and permitting the 36" force main. However, the City shall coordinate with the County at the following key intervals:
 - 1) Preliminary engineering & surveying;
 - 2) 75% design;
 - 3) 90% design; and
 - 4) 100% design, which shall be produced to the County by August 15, 2012.
- B) The City's Engineer shall perform the hydraulic model and provide a digital version to the County's Engineer for review and use. The City and the County shall mutually approve the hydraulic model;
- C) Compliance with all environmental requirements;
- D) Obtaining all necessary easements, licenses or rights of access;
- E) Installation and maintenance of a magnetic flowmeter on the City's proposed 20" force main;
- F) Procurement of all materials for the Project, including the magnetic flowmeter on the 12" force main along Park View Road. Materials include, but are not limited to, the following: 36" ductile iron pipe (coated), fittings, valves (both 36" and 20"), taps, erosion control, and limerock base. Upon receipt of the 100% design, the County will review and provide a quantity takeoffs list to the City;
- G) Procurement of a contractor, in consultation with the County, for the following work to be performed: bores, asphalt restoration, magnetic flowmeter certification, and right-of-way restoration (i.e. grass). This work includes materials, labor, and equipment. Further, the County shall be provided notice of the commencement of the boring activity and may, at their option, monitor those activities for quality control purposes; and
- H) Upon completion of the as-built plans (in Section 4(C) below), the City will provide an easement to the County for access and maintenance of the 36" force main on City property (i.e. golf course).

Section 4. County's Responsibilities. The County shall be responsible for the following:

- A) Construction of the Project (by County employees and equipment) which shall be substantially completed by November 1, 2013, excluding the work described in Sections 3(E) and 3(G) above, which will be performed by the City and their contractor. The County shall provide a materials quantity takeoff to the City for bidding no later than September 1, 2012. The construction completion date is based on 100% design being completed by August 15, 2012 and materials being received by January 1, 2012, and shall be extended accordingly if these dates are extended; and
- B) The County shall provide maintenance for the 36" force main and shall be responsible for the locating of the line. The County will also maintain any and all taps on the 36" force main and the magnetic flowmeter at the 12" force main connection; and
- C) Upon completion of the Project, the County will provide the City as-built plans, certified by a registered Florida engineer or surveyor.

Section 5. Appropriations; Funding.

- A) The City will be responsible for a hundred percent (100%) of any and all costs for the following:
 - a. Soft costs (e.g., engineering design, survey, geotechnical work, Level A line locates at bores, planning, etc.)
 - b. Magnetic flowmeter installation on the proposed 20" force main at PS #1
 - c. Golf course restoration
 - d. Relocation of any City water/sewer mains
 - e. Relocation of any County water/sewer mains within County rights-of-way when constructing the proposed 20" City force main prior to the connection point
- B) The County will be responsible for a hundred percent (100%) of any and all costs for the following:
 - a. Linestops, bypasses, valves, tees, and piping related to the County's two (2) 20" force mains and a 36" tee and valve to serve as a future connection.
 - b. Magnetic flowmeter installation on the proposed 12" force main on Park View Road, which shall be procured by the City
 - c. Relocation of any County water/sewer mains within the 1.7-mile Project

- d. Maintenance of Traffic
 - e. Level A line locates on the 1.7-mile Project, except those locates for the bores
- C) The City and the County shall each be responsible for fifty percent (50%) of the total cost of the Project listed in Sections 3(F), 3(G), and 4(A). This total cost of the Project is currently estimated at \$4,000,000. The total cost of the materials (Section 3(F)) and contracted work (Section 3(G)) shall be based on actual bid amounts. The parties to this Agreement agree that the cost for the County labor and equipment shall be \$250,000.
- D) The City's contribution, estimated at \$2,000,000, will be made by securing a State Revolving Fund (SRF) loan.
- E) The County's contribution, estimated at \$2,000,000, will be in the form of \$1,750,000 payment and a \$250,000 credit for County labor and equipment. Such contribution may be made 1) over a term of twenty (20) years at the same interest rates as the SRF loan obtained by the City; or 2) in one lump sum payment during the material procurement stage on or about November 15, 2012. If the County elects to pay in one lump sum payment, an accounting reconciliation shall be conducted upon final completion of the Project to ensure each party has contributed 50% of the total cost of the Project.
- F) In addition to the County's contribution listed in Section 5(E) above, the County will pay the City for the costs associated with the magnetic flowmeter on the 12" force main on Park View Road.
- G) The City and the County do not foresee any change orders. However, should a change order be required during construction, the cost shall be shared equally, except for any change orders related to Section 5(A) or 5(B), which shall be borne by the respective party.

Section 6. Ownership of Project.

- A) For the life of the City's SRF loan, the City shall be the owner of the 36" force main; and
- B) Upon satisfying the SRF loan (not to exceed 20 years), the City shall convey ownership of the 36" force main to the County and assign to the County all easements, licenses or rights of access held by the City for the 36" force main.

Section 7. Additional Considerations.

- A) Any and all future taps to the 36" force main and capacity upgrades to existing pump stations must be mutually agreed to by both the City and the County in perpetuity.
- B) As the City will be the owner of the 36" force main while the SRF loan is in place, should any fines be levied against the City as a result of a sewer spill along the 36" force main route, the County and City will each be responsible for the dollar percentage of the fine to the proportionate extent caused by their operations or actions and based on the flow percentage as determined from actual meter readings during the spill event.
- C) Should the County fail to complete the construction per Section 4(A), at no fault of the City, any fees that are levied against the City as a result, will be the County's responsibility. However, if the delay is mutually attributable to the County and the City, the cost of the fine shall be shared equally.

Section 8. Effective Date and Term of Agreement. This Agreement shall be effective upon the execution by all parties and shall remain in effect for a period of twenty five (25) years. This Agreement may be continued beyond this original term only by mutual written consent of the parties for ten year increments.

Section 9. Termination, Default and Dispute Resolution. This Agreement may only be terminated by notice to and the written consent of both parties. In the event of a material breach of this Agreement which is not cured in ninety (90) days following receipt of written notice of the default, then either party may institute litigation to protect their rights under this Agreement. The prevailing party shall be entitled to a reasonable attorney's fee and costs of such litigation.

Section 10. Disclaimer of Third Party Beneficiaries. This Agreement is solely for the benefit of the parties and no right or cause of action shall accrue to or for the benefit of any third party that is not a formal party hereto. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give any person or corporation other than the parties any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions of it; and all of the provisions, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties.

Section 11. Authority. Each party represents and warrants that it, through its elected board, has the right, power, and authority to execute and deliver this Agreement and to perform all of the obligations stated herein.

Section 12. Notice. Any notice or document required to be delivered under this Agreement shall be in writing and shall be deemed received by the other party at the earlier of the date actually received, or five (5) business days after the date deposited in a United States Postal Service depository, postage prepaid, registered or certified mail, addressed to the County or the City as the case may be, at the addresses set forth below:

As to the City:

City Manager
City of Fort Walton Beach
107 Miracle Strip Parkway
Fort Walton Beach, Florida 32548

As to the County:

County Administrator
Okaloosa County
1804 Lewis Turner Boulevard, Suite 400
Fort Walton Beach, Florida 32547

Section 13. Entire Agreement. This Agreement represents the entire understanding between the parties with respect to the undertakings covered hereunder and there are no oral or collateral agreements with respect thereto between the parties.

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 Okaloosa County, Florida.

Section 15. Construction. The parties acknowledge and agree that this Agreement has been drafted jointly by the parties and that no uncertainty or ambiguity as to the proper application or interpretation of the Agreement or any term herein is to be construed against either party as the drafter of the Agreement.

Section 16. Assignment. This Agreement shall not be assigned except by consent of the parties.

Section 17. Indemnification.

A) Subject to the limitations provided in section 768.28, Florida Statutes, and without otherwise waiving sovereign immunity, the City shall indemnify and hold harmless the County from and against any and all third party claims, demands, damages, losses, and expenses, including attorney's fees and costs, arising out of the County's participation in this Agreement, except for those claims, demands, damages, losses, and expenses arising out of the County's negligence, malfeasance, nonfeasance, or misfeasance.

B) Subject to the limitations provided in section 768.28, Florida Statutes, and without otherwise waiving sovereign immunity, the County shall indemnify and hold harmless the City from and against any and all third party claims, demands, damages, losses and expenses, including attorney's fees and costs, arising out of the City's participation in this Agreement, except for those claims, demands, damages, losses and expenses arising out of the City's negligence, malfeasance, nonfeasance, or misfeasance.

Section 18. Severability. If any portion of the Agreement, the deletion of which would not adversely affect the receipt of any material benefit by either party, is for any reason held or declared to be invalid or unenforceable, such determination shall not affect the remaining portions of this Agreement. If this Agreement or any portion of this Agreement is held or declared to be inapplicable to any person, property or circumstance, such determination shall not affect its applicability to any other person, property or circumstance.

Section 19. Conflicting Provisions. Any provision(s) of the Wastewater Service Interlocal Agreement, entered into by the parties in August of 2009, in conflict with this Agreement are deemed repealed and the terms in this Agreement shall control.



Exhibit A: Concept Plan of Proposed 36" Force Main

36" FM Route Street Centerlines 1 inch = 1,000 feet

MAP PROJECTION:
Lambert Conformal Conic Projection
Stateplane: Florida North (0903)
NAD 1983(90), NAVD 1988.

PUBLIC RECORD:
This map was created by Okaloosa County GIS
and is in the public domain pursuant to
Chapter 119, Florida Statutes.

DISCLAIMER:
Okaloosa County hereby expressly disclaims
any liability for errors or omissions in
these maps, indexes or legends.

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

ATTEST:

CITY OF FORT WALTON BEACH

Helen A. Spencer
Helen Spencer, City Clerk

By: Mike Anderson
Mike Anderson, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Harold R. [Signature]
Attorney for City of Fort
Walton Beach



BOARD OF COUNTY
COMMISSIONERS OF
OKALOOSA COUNTY, FLORIDA

ATTEST:

Dany J. Stanford
Okaloosa County, Clerk of Court

By: Don R. Amunds
Don R. Amunds, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

[Signature]
County Attorney