

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 11/01/2022

Contract/Lease Control #: C23-3273-FM

Procurement#: NA

Contract/Lease Type: AGREEMNET

Award To/Lessee: STATE OF FLORIDA DEPT OF ENVIRONMENTAL PROTECTION

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 11/01/2022

Expiration Date: 10/31/2032

Description of: AIR MONITORING AT 710 ESSEX RD. FWB, FL 32547

Department: FM

Department Monitor: HENDRICK

Monitor's Telephone #: 850-689-5790

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

Closed:

Cc: BCC RECORDS

License Agreement

(Ozone and Particulate Matter Air Monitoring Station at **710 Essex Rd, Fort Walton Beach, FL 32547**)

This LICENSE AGREEMENT (“Agreement”), entered into this 1st day of November, 2022, by and between THE OKALOOSA COUNTY, FLORIDA, BOARD OF COUNTY COMMISSIONERS (“County”), and the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION including its contractors, (“FDEP”), together the “Parties”.

RECITALS:

WHEREAS, the Parties have developed a cooperative and collaborative working relationship with each other to better serve the community by monitoring local air quality;

WHEREAS, the FDEP will install and operate an ozone and particulate matter air monitoring station/trailer, with a surrounding fence and gate (collectively, the “Air Monitoring Station”) at **710 Essex Rd, Fort Walton Beach, FL 32547** to monitor air quality in Okaloosa County;

WHEREAS, the FDEP owns and operates the Air Monitoring Station and is solely responsible for permitting, installing, operating, repairing, and maintaining the Air Monitoring Station WHEREAS, the Parties are interested in reestablishing the operation of the Air Monitoring Station.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein set forth, and other valuable consideration, and intending to be legally bound hereby, the Parties agree as follows:

Section 1 – Recitals: The foregoing Recitals are true and correct.

Section 2 – License of Use: The County shall allow the FDEP to install and to use and occupy the Air Monitoring Station to monitor air quality in Okaloosa County for the benefit of the community. The FDEP, at its sole cost and expense, shall be responsible for properly permitting, installing, using, operating, repairing, maintaining, and removing the Air Monitoring Station in compliance with all applicable laws, regulations and ordinances.

Section 3 –Term: The County agrees to allow the FDEP to use and occupy the Air Monitoring Station for a term of ten (10) years commencing on November 1, 2022 and terminating at the end of the day on October 31, 2032. The Parties agree they are providing needed public facilities and services under the terms of this Agreement and that they may desire to extend or renegotiate the term of this Agreement prior to its expiration.

Section 4 – Utilities: The FDEP shall be responsible for any and all utility requirements to operate the Air Monitoring Station. Electrical service for the Air Monitoring Station shall be separately metered and the FDEP shall be responsible for connecting utility service lines and pipes in compliance with all applicable laws, regulations, and ordinances.

Section 5 - Repairs & Maintenance: The FDEP shall be responsible for all repairs and maintenance of the Air Monitoring Station. The FDEP shall assume the risk of loss with respect to the Air Monitoring Station and any personal property or equipment placed within it. However, nothing in this section is intended to waive the FDEP’s sovereign immunity to any extent beyond the waiver set forth in statute. The FDEP shall operate and maintain the Air Monitoring Station in compliance with all applicable laws, regulations, and ordinances.

Section 6 – Cleaning & Security: The FDEP shall be responsible for the performance of custodial and groundskeeping services for the Air Monitoring Station. The FDEP shall ensure adequate personnel supervise and secure the Air Monitoring Station at relevant times and shall

also be responsible for locking and securing the Air Monitoring Station in a safe and reasonable manner that promotes community health, public safety and the proper care and preservation of the public facilities.

Section 7 – Air Monitoring Operations: The FDEP shall be responsible for providing all staff, furniture, improvements, and equipment necessary to monitor air quality.

Section 8 – Access: The County shall allow the FDEP and its employees, representatives, agents, and invitees reasonable access to the Air Monitoring Station in compliance with all applicable County policies and procedures and all applicable laws, regulations and ordinances.

Section 9 – Indemnity & Insurance: The FDEP shall be responsible for the acts or omissions of the FDEP, and its employees, representatives, agents and invitees, and when appropriate, for all other persons permitted in, on, or about the licensed County facilities or property with respect to injuries or damage that occur as a consequence of the FDEP's usage of County facilities or property. Notwithstanding anything contained herein to the contrary, the FDEP specifically does not waive its sovereign immunity as to liability or damages pursuant to Section 768.28, Florida Statutes. The FDEP agrees that at all times material to this Agreement, it shall be insured on a self-insured basis complying with all applicable State laws and regulations. The FDEP shall provide the County documentation of such insurance prior to the continuation of its use and occupancy of the Air Monitoring Station in accordance with this Agreement.

Section 10 – Conflict Resolution: In the event that the Parties disagree regarding the interpretation of this Agreement, or the fulfillment of obligations required hereunder, either Party may request an appeal to the County Administrator, or the FDEP Director of Air Resource

Management, as applicable. Should the problem not be resolved to the mutual satisfaction of any Party, it shall be entitled to pursue any legal or equitable remedy available to it.

Section 11 – Termination: If the County needs the space occupied by the Air Monitoring Station for its operations, the County reserves the right to revoke and terminate this Agreement upon providing the FDEP sixty (60) days written notice. If the Parties are unable to resolve any issues or disputes arising from this Agreement through good faith negotiations, the County or the FDEP may, at any time, and for any reason, terminate this Agreement after sixty (60) days written notice to the other Party. In the event the Agreement is terminated or expires, the FDEP, at its sole cost and expense, shall remove the Air Monitoring Station and any associated infrastructure or improvements from the 710 Essex Rd, Fort Walton Beach, FL 32547 property and restore the grounds to their previous condition prior to the installation of the Air Monitoring Station.

Section 12 – Assignability: The Parties shall not assign any interest in this Agreement without the prior written consent of the other.

Section 13 – Educational Opportunities: The FDEP shall cooperate in a collaborative manner concerning any potential educational benefits for County students that can be reasonably derived from the operation of the Air Monitoring Station on County property, including but not limited to, presentations and field trips involving environmental air quality.

Section 14 – Funding: The FDEP agrees to seek sufficient funding through the budgetary process of the State of Florida to the extent this Agreement contemplates costs to the FDEP. Any requirement for the expenditure or payment of funds shall be subject to the availability of funds annually appropriated by the legislature. No provision herein shall be interpreted to require obligation or payment of funds in violation of applicable state law.

Section 15 – Miscellaneous: This Agreement contains the entire understanding between the Parties and any modifications to this Agreement shall be mutually agreed upon in writing by the County and the FDEP. The prevailing party in any action, or in any ancillary proceeding or appeal, to enforce or interpret any of the terms or provisions of this Agreement shall be entitled, in addition to damages, injunctive relief or other relief, to recover from the other party all costs otherwise obtainable under law, including without limitation, costs and expenses of litigation and reasonable attorney's fees. The captions and section numbers used in this Agreement are for purposes of convenience and for reference only and shall not be used to define, limit, or extend the scope or meaning of any part of this Agreement. Whenever in this Agreement a party is called upon to give its consent or approval to any action, said consent shall not be unreasonably withheld or delayed. The Parties hereto agree to promptly review, and sign when approved, all documents reasonably required to give effect to the provisions of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

Nothing contained in this Agreement shall be deemed or construed, either by the Parties hereto or by any third party, to create the relationship of principal and agent, or create any partnership, joint venture, or other association between the Parties. In the event of default by a party hereto in its respective obligations hereunder, the non-defaulting party shall have all remedies available to it at law or in equity. In the event any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect. Each Party hereby represents and warrants to the other that the execution of this Agreement and any other documents required or necessary to

be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with their terms.

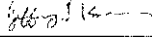
IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be executed by their appropriate officials, as of the date first above written.

AS TO FDEP:

Sandra F. Veazey Digitally signed by Sandra F. Veazey
Date: 2022.09.26 14:20:38 -04'00'
Witness (Signature)
Name: Sandra F. Veazey
(Print or Type)

Joshua Slappey Digitally signed by Joshua Slappey
Date: 2022.09.26 14:26:21 -04'00'
Witness (Signature)
Name: Joshua Slappey
(Print or Type)

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

By:  Jeffery F. Koerner
2022.09.26 13:27:37 -04'00'
Jeffery F. Koerner, Director
Division of Air Resource Management

AS TO COUNTY:

Mary L. Carson

Witness (Signature)

Name: Mary L. Carson
(Print or Type)

Maria Everton

Witness (Signature)

Name: Maria Everton
(Print or Type)

THE OKALOOSA COUNTY BOARD OF
COUNTY COMMISSIONERS
OKALOOSA COUNTY, FLORIDA

By:

Met Ponder

Met Ponder, Board Chair



Attest:

For J.D. Peacock II

J.D. Peacock II, Clerk of Court

