

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 11/20/2018

Contract/Lease Control #: C19-2756-BCC

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: JOHN K. REED

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 09/20/2018

Expiration Date: 12/31/2021 W/ 1 3YEAR RENEWAL

Description of Contract/Lease: VALUE ADJUSTMENT BOARD ATTORNEY

Department: BCC

Department Monitor: HOFSTAD

Monitor's Telephone #: 850-651-7515

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

Closed:

Cc: Finance Department Contracts & Grants Office

**AGREEMENT FOR SERVICES OF
VALUE ADJUSTMENT BOARD ATTORNEY**

THIS AGREEMENT is entered into by and between the OKALOOSA COUNTY VALUE ADJUSTMENT BOARD, hereinafter referred to as "VAB" and JOHN K. REED, hereinafter referred to as "Attorney." The effective date of the Agreement shall be the date that both parties have signed the Agreement.

WHEREAS, Section 194.035(1), Florida Statutes, authorizes the VAB to appoint an attorney for the purpose of providing counsel to the VAB; and

WHEREAS, the VAB has determined it is in the best interest of the public to appoint an attorney as authorized by law; and

WHEREAS, on Wednesday, August 22, 2018, the VAB appointed and approved JOHN K. REED, ESQ., of REMOL REED, P.A. as VAB Attorney for services to (continue and) be effective immediately.

NOW THEREFORE, IN CONSIDERATION of the mutual promises contained herein, the parties agree as follows:

1. **TERM:** The terms of this Agreement is for an approximate three (3) year and three (3) month period commencing immediately upon all parties signing the Agreement and terminating on December 31, 2021 (e.g., the end of the 2021 calendar year). The VAB may exercise one option to renew for an additional three (3) years upon giving written notice to the Attorney no less than sixty (60) days prior to the original Agreement's expiration date. The VAB's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Okaloosa County Board of county Commissioners. Should funding be appropriated in amounts insufficient to cover the services under this Agreement, the required services may be modified in writing and executed by both parties to provide a level of service commensurate with the funding appropriated.

2. **Scope of Service:** The Attorney will provide the following services:

Attorney shall attend all meetings of the VAB and all scheduled VAB general magistrate and attorney magistrate hearings and shall advise the VAB and VAB Special Magistrates on an as-needed basis regarding such legal issues as may arise, including but not limited to: valuation, homestead and other exemptions, late filing, and the admission of evidence, and any other legal and procedural matters concerning VAB business. Attorney shall, on an as-needed basis, also provide advice to the clerical staff provided by the Clerk to the VAB, so long as not in contradiction of and compliant with Rule 12D-9.009 of the Administrative Code. The Attorney shall further provide any additional services to the VAB so long as not in contradiction of and compliant with the Florida Administrative Code and / or Florida Statutes.

Attorney has been retained specifically because Attorney, personally, is understood by the VAB to be able to handle this matter. Employment of additional individuals, whether attorneys, paralegals, or others, who will bill time to VAB is not permitted without the advance written approval of VAB or any authorized representatives or agents of the VAB (e.g., the Clerk to the VAB if so authorized).

3. **Special Conditions Regarding Representations:**

- (a) The Client is the Okaloosa County Value Adjustment Board (VAB), and to the extent ethically permissible, its elected and appointed officers and its employees. In the event that Attorney cannot ethically represent individuals in addition to VAB, Attorney shall advise VAB in writing of that fact immediately.
- (b) Attorney is licensed to practice law in all jurisdictions relevant to this matter and meets the statutory criteria for private counsel to a value adjustment board in the State of Florida.

- (c) If Attorney practices with others who may also provide services to VAB, he or she understands that VAB expects that Attorney will be responsible for managing the representation. Assuring compliance of others with the terms of this Agreement and ethical requirements, preparing and substantiating all bills, and communicating with VAB. Attorney may not delegate or outsource this work without full written disclosure to, and prior written approval from, the VAB.
 - (d) Attorney has been retained by VAB to provide the services described in Section 2 above. Attorney represents that he or she is competent and available to handle these matters. In the event that additional matters are assigned by VAB to Attorney, this agreement shall apply to those matters as well, unless a separate Agreement is required by the VAB.
 - (e) Review of ethical obligations before initiating representation: Attorney has conducted a thorough investigation and determined that neither Attorney nor his or her firm has any ethical impediment, real or potential, to representing the VAB. To the extent that any ethical impediment, real or potential, is discovered or ever arises, Attorney shall immediately inform VAB in writing of the impediment (regardless of whether Attorney believes he or she has taken all steps necessary to avoid the impediment and regardless of whether Attorney believes that the impediment is insubstantial or questionable), make full disclosure of the situation to VAB, obtain VAB's express, written consent to continue the representation of the other client, and take all steps requested by VAB to avoid or mitigate the impediment. Attorney understands that if a direct or indirect conflict of interest arises which, in the opinion of the VAB, cannot be avoided or mitigated under the Rules of Professional Conduct of the Florida Bar, VAB may, in its discretion, (a) obtain reimbursement from Attorney for all fees and expenses paid to Attorney in this matter; (b) obtain cancellation of all amounts allegedly owed by VAB to Attorney; and (c) obtain reimbursement for consequential expenses incurred by VAB, including the cost of replacement counsel.
4. **Payment:** The VAB shall compensate the Attorney at the rate of **\$225.00** per hour. Employment of additional individuals, whether attorneys, paralegals, or others, who will bill time to VAB is not permitted without the advance written approval of VAB or any authorized representatives or agents of the VAB and rates for said additional attorneys, paralegals or others shall only be as provided for in said written approval. Payment will be made monthly upon receipt of a proper invoice with documentation of services rendered, pursuant to the Florida Prompt Payment Act. Attorney shall provide detailed, itemized bills which shall, at a minimum:
- (a) Description: Provide a general description of the matter; clearly identify each person performing services and record the time expended by each person separately; state the amount of time expended by each person daily (and, within each day, broken down by task where more than one project or task was worked upon within the same day); describe within each itemized daily task entry, in sufficient detail to readily allow the VAB to determine the necessity for and reasonableness of the time expended, the services performed, the project or task each service relates to, the subject and purpose of each service, and the names of others who were present or communicated with in the course of performing the service.
 - (b) Non-reimbursable expenses: The following expenses will in no event be reimbursable, unless specifically agreed to in advance in a writing executed by the VAB:

Personnel and Office Costs. Invoice preparation time and costs. Meals for time-keepers, overtime, word processing or computer charges, personal expenses, expenses that benefit other clients, expenses for books, costs of temporary employees, periodicals or other library materials, internal filing or other document handling charges, clerical expenses, stationery and other supply expenses, utilities, and any other expense that is either unreasonable or unnecessary. The fact that the firm charges other clients or that other firms charge their clients for an expense does not make it reasonable or necessary.
 - (c) Attorney is not authorized to retain experts, additional counsel, consultants, support services or the like, or to outsource or delegate work outside Attorney's law firm, without prior written approval by VAB.

- (d) VAB will not pay any markup for expenses. VAB will only reimburse the Attorney for actual approved out-of-pocket costs and expenses, whether incurred personally, by an approved time-keeper or incurred by other approved personnel (such as experts, consultants, support services personnel, or outsourced services personnel). VAB will not pay for any "expense" items that are in fact part of Attorney's overhead which should be included within Attorney's fee.
 - (e) Attorney shall include copies of receipts for all expenses with the itemized monthly bill. VAB may refuse to pay any expense item for which documentation is not provided by Attorney.
5. **Termination:** The Agreement can be terminated by either party with or without cause with **90 days** prior written notice.
6. **Accounting Records:** Records of the Attorney pertaining to this Agreement shall be kept on generally recognized accounting principles, acceptable to the Okaloosa County Clerk.

Access to Records: Attorney shall maintain all books, records, and documents directly pertinent to performance under this Agreement, including but not limited to the documents referred to in Section 4 of this Agreement, in accordance with generally accepted accounting principles, consistently applied and approved by the Clerk of the Board.

Florida Public Records law: Attorney agrees that, unless specifically exempted or accepted by Florida law or Rules and Regulations of The Florida Bar, the provisions of Chapter 119, Florida Statutes, generally require public access to all records and documents which may be made or received under this Agreement. Attorney agrees to consult with the County Attorney's office concerning the application of the Public Records Law from time to time concerning specific circumstances that may arise during the term of this Agreement.

7. **Modification:** Additions to, modification to or deletions from the provisions set forth in this agreement shall be effective only in writing and approved by VAB.
8. **Indemnification and Hold Harmless:** The Attorney agrees to indemnify and hold VAB harmless for any and all claims, liability, losses and causes of action which may arise out of its fulfillment of the Agreement. Attorney agrees to pay all claims and losses. Including related court costs and reasonable attorney's fees, and shall defend all suits filed due to the negligent acts, errors or omissions of the Attorney employees and/or agents.
9. **Insurance:** Professional Liability Insurance shall also be maintained as specified. In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the Attorney's failure to purchase or maintain the required insurance, the Attorney shall indemnify the VAB from any and all increased expenses resulting from such delay.

The coverage provided herein shall be provided by an insurer with an A.M. Best Rating of VI or better, that is licensed to do business in the State of Florida and that has an agent for service of process within the State of Florida. The coverage shall contain an endorsement providing sixty (60) days' notice to the VAB prior to any cancellation of said coverage. Said coverage shall be written by an insurer acceptable to the VAB and shall be in a form acceptable to the VAB.

The Attorney shall obtain and maintain the following policies:

- (a) Workers' Compensation insurance if and as required by the State of Florida.
- (b) Employers Liability Insurance / Malpractice Insurance with limits of \$100,000 per accident, \$300,000 Disease, policy limits, \$100,000 Disease each employee.
- (c) Comprehensive business automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, hired, or non-owned vehicles, with minimum limits of \$100,000

combined Single Limit, and if split limits are provided, the minimum acceptable limits shall be \$50,000 per person, \$100,000 per occurrence, \$25,000 property damage.

- (d) Commercial general liability covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of the Attorney or any of its employees, agents or subcontractors or sub consultants, including Premises and/or Operations, Independent Contractors; Broad Form Property Damage and a Contractual Liability Endorsement with \$300,000 Combined Single Limit, and if split limits are provided, the minimum acceptable limits shall be \$100,000 per person, \$300,000 per occurrence, \$50,000 property damage.
 - (e) VAB shall be named as an additional insured with respect to Attorney's liabilities hereunder in insurance coverage identified in Paragraphs C and D.
 - (f) Attorney shall require its sub consultants to be adequately insured at least to the limits prescribed above, and to any increased limits of Attorney if so required by VAB during the term of this Agreement VAB will not pay for increased limits of insurance for sub consultants.
 - (g) Attorney shall provide to the VAB certificates of insurance or a copy of all insurance policies including those naming the VAB as an additional insured. The VAB reserves the right to require a certified copy of such policies upon request.
10. **Taxes:** The VAB and Okaloosa County are exempt from Federal Excise and State Florida Sales Tax.
 11. **Finance Charges:** The VAB and Okaloosa County will not be responsible for any finance charges.
 12. **Independent Contractor:** It is the intent of the parties hereto that Attorney shall be legally considered as an independent contractor and that neither it nor its employees or agents shall, under any circumstance, be considered servants or agents of the VAB and the VAB shall at no time be legally responsible for any negligence on the part of said successful responder, its employees or agents, resulting in either bodily or personal injury or property damage to any individual, firm, or corporation.
 13. **Disclosure:** The Attorney shall be required to list any or all potential conflicts of interest, as defined by Chapter 112, Florida Statutes. The Attorney shall disclose all actual or proposed conflicts of interest, financial or otherwise, direct or indirect, involving any client's interest which may conflict with the interests of the VAB.
 14. **Assignment:** the Attorney shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of any or all of its right, title or interest therein, or his or its power to execute such contract to any person, company or corporation without prior written consent of the VAB.
 15. **Compliance with Laws:** Attorney shall comply with all international, federal, state and local laws and ordinances applicable to the work or payment for work thereof.
 16. **Force Majeure:** The Attorney shall not be liable for delay in performance or failure to perform, in whole or in part, the services due to the occurrence of any contingency beyond its control or the control of any of its subcontractors or suppliers, including labor dispute, strike, labor shortage, war or act of war whether an actual declaration thereof is made or not, insurrection, sabotage, riot or civil commotion, act of public enemy, epidemic, quarantine restriction, accident, fire, explosion, storm, flood, drought, or other act of God, act of any governmental authority, jurisdictional action, or insufficient supply of fuel, electricity, or materials or supplies, or technical failure where the Attorney has exercised reasonable care in the prevention thereof, and any such delay or failure shall not constitute a breach of this agreement.
 17. **Governing Law/Venue:** This Agreement shall be governed and construed by and in accordance with the laws of the State of Florida and constitutes the entire agreement between the VAB and Attorney, Venue of any court action filed relative to this agreement shall lie in Okaloosa County, Florida.
 18. **Anti-solicitation:** The Attorney warrants that no person has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee and

that no member of the Okaloosa County government or the VAB has any interest, financially or otherwise in the Attorney or its subcontractors.

19. **Severability:** If any provision of the agreement shall be held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement, or the application of such provision other than those as to which it is invalid or unenforceable, shall not be affected thereby; and each provision of the agreement shall be valid and enforceable to the fullest extent permitted by law.
20. **Notice:** Any notice required or permitted under this agreement shall be in writing and hand-delivered or mailed, postage prepaid by certified mail, return receipt requested, to the other party as follows:

For VAB:

Okaloosa County Clerk of Courts (VAB)
302 N. Wilson Street, Suite 203
Crestview, FL 32536

For Attorney:

John R. Reed Esq., REMOL REED, P.A.
623 Harbor Boulevard, Suite 7
Destin, FL 32541

VAB shall give notice to Attorney of any meetings at which the Attorney's presence is required or requested and can be communicated via email at john@remolreed.com

21. **Ethics Clause:** The Attorney warrants that it has not employed, retained or otherwise paid any County Officer or employee to influence the award of this contract.
22. **Public Entity Crime Statement:** A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a response on a contract to provide any goods or services to a public entity, may not submit a response/bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit responses/bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

23. General Requirements of Contractors:


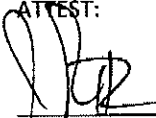
- a) **Ownership of Attorney files and work product:** Attorney understands that all files and work product prepared by Attorney or his or her firm at the expense of VAB (or for which VAB is otherwise billed) is the property of VAB. Without VAB's prior written approval, this work product may not be used by Attorney or his or her firm not disclosed by Attorney or his or her firm to others, except in the normal course of Attorney's presentation of VAB in this matter. Attorney agrees that VAB owns all rights, including copyrights, to materials prepared by VAB or by Attorney on behalf of VAB. Attorney shall notify VAB in writing at least sixty (60) days in advance of destroying any such records and, in the event that VAB requests that they be preserved, shall preserve them at least one additional year (with VAB responsible for paying the actual cost of storage). Attorney shall provide VAB with prompt access to (including the ability to make copies of) all attorney files and work product, regardless of whether the representation or matter is ongoing and whether attorney fees and expenses have been paid in full.
- b) **Dispute resolution:** Attorney and VAB agree that all disputes regarding attorney's fees or expenses are to be resolved pursuant to the procedures and practices for mediation by the Attorney Consumer Assistance Program of The Florida Bar.
- c) **Entire Agreement:** the entire agreement between the VAB and Attorney with respect to the subject matter hereof is contained in this Agreement. This Agreement supersedes all prior oral and written proposals and communications between the VAB and Attorney related to this Agreement. No provision of this Agreement shall be deemed waived, amended or modified by either party. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their permitted successors and assigns.


- d) Captions: The captions set forth herein are for convenience of reference only and shall not define, modify, or limit any of the terms hereof.
- e) Conflicts of interpretation: The VAB and Attorney agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between them, the final interpretation by the VAB shall apply.
- f) Adjudication of Disputes and Disagreements: The VAB and Attorney agree that all disputes and disagreements between them shall be attempted to be resolved by a meet and confer session between representatives of the VAB and Attorney. If the issue or issues are still not resolved to the satisfaction of both within 30 days after the meet and confer session, then either shall have the right to seek such relief as may be provided by this Agreement or by Florida law.
- g) Cooperation: In the event any administrative or legal proceeding is instituted against either the VAB or Attorney relating to the formation, execution, performance, or breach of this Agreement, the VAB and Attorney each agree to participate, to the extent required by the other, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement. The VAB and Attorney each agree that neither shall be required to enter into any arbitration proceedings related to this Agreement or any Attachment or Addendum to this Agreement.
- h) Legal Obligations and Responsibilities: No-delegation of Constitutional or Statutory Duties. This Agreement is not intended to relieve, nor shall it be construed as relieving, either the VAB or Attorney from any obligation or responsibility imposed upon each by law except to the extent of actual and timely performance thereof by the other, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further the Agreement is not intended to authorize, nor shall it be construed as authorizing, the delegation of the constitutional or statutory duties of the VAB, except to the extent permitted by the Florida Constitution, state statutes, case law, and specifically, the provisions of Chapter 125, Florida Statutes.
- i) Attorney's Fees and Costs: In the event any administrative proceedings or cause of action is initiated or defended by the VAB or Attorney relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement or as may be required by a court of competent jurisdiction shall be conducted in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Okaloosa County.
- j) Authority: Attorney warrants that he and the authorized time keepers are authorized by law and the Rules and Regulations of The Florida Bar to engage in the performance of the activities encompassed by this Agreement. If Attorney is a member of a law firm, either as partner, shareholder, associate, or other relationship, Attorney warrants that he is authorized to enter into this Agreement by Attorney's law firm.
- k) Non-Discrimination: Attorney shall not discriminate, in its employment practices and in providing services hereunder, on the basis of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status, or age, and shall abide by all federal and state laws regarding non-discrimination. Upon a determination by a court of competent jurisdiction that such discrimination has occurred, this Agreement automatically terminates without any further action by the VAB, effective the date of the court order.
- l) Claims for State or Federal Aid: The VAB and Attorney agree that each shall be, and is empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement, provided that all applications, requests, grant proposals, and funding solicitations by Attorney shall be approved by the VAB prior to submission.
- m) Non-Reliance by Non-Parties: No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the VAB and Attorney agree that neither the VAB nor Attorney or any office, agent, or employee of each shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or

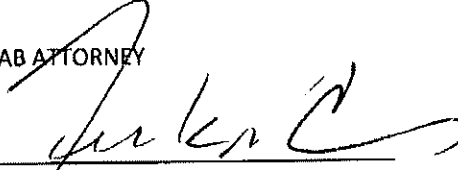
entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated under this Agreement.

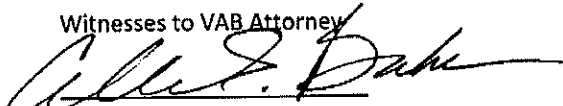
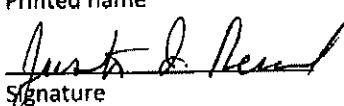
- n) Attestations: Attorney agrees to execute such documents as the VAB may reasonably require, including a Drug-Free Workplace Statement, and a Public Entity Crime Statement.
- o) Signatures of parties Required: this Agreement shall not be effective until executed by both VAB and Attorney and received in final executed form by an authorized representative of VAB.
- p) No Personal Liability: No covenant or obligation contained in this Agreement shall be deemed to be a covenant or obligation of any member, officer, agent or employee of the VAB in his or her individual capacity and no member, officer, agent or employee of the VAB shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.
- q) Execution in Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and the VAB and Attorney may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF, the parties have executed this Agreement the day(s) and year written below.

ATTEST: 

JD Peacock II, Clerk of Court
9/20/18
Date

VALUE ADJUSTMENT BOARD

VAB Chair, Graham W. Fountain
9/13/18
Date

VAB ATTORNEY

John K. Reed, Esquire
9/16/18
Date

Witnesses to VAB Attorney

Signature
COLLEEN E. BRAKE
Printed name

Signature
Justin Reusel
Printed name



REMOL REED, P.A.
ATTORNEYS & COUNSELORS

JUSTIN I. REMOL
JOHN K. REED

September 6, 2018

Okaloosa County Clerk of Courts (VAB)
Attn: Renee Ramirez
302 N. Wilson Street, Suite 203
Crestview, FL 32536

Re: *Value Adjustment Board*

Dear Ms. Ramirez:

Enclosed is the original Agreement for Services of Value Adjustment Board Attorney which has been signed by John K. Reed. Please provide our office with a fully executed copy for our files. Thank you.

Please contact me should you have any questions or if you require anything further.

Sincerely,

Colleen E. Brake, FRP
Paralegal to John K. Reed, Esq.

/ceb
Enc.

Rec'd 9/10/18
MCC