

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 10/09/2020

Contract/Lease Control #: C21-2997-WS

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: CITY OF NICEVILLE

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 10/06/2020

Expiration Date: INDEFINITE

Description of: WHOLESALE RECLAIMED WATER

Department: WS

Department Monitor: LITTRELL

Monitor's Telephone #: 850-651-7195

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

Closed:

Cc: BCC RECORDS

PROCUREMENT/CONTRACT/LEASE INTERNAL COORDINATION SHEET

Procurement/Contract/Lease Number: T310 Tracking Number: 4114-20

Procurement/Contractor/Lessee Name: City of Muenfle Grant Funded: YES ___ NO ___

Purpose: interlocal agreement - water use captim area

Date/Term: _____ 1. GREATER THAN \$100,000

Department #: _____ 2. GREATER THAN \$50,000

Account #: _____ 3. \$50,000 OR LESS

Amount: _____

Department: WS Dept. Monitor Name: Lithell

Purchasing Review

Procurement or Contract/Lease requirements are met:

Wilota Mason Date: 8-29-2020

Purchasing Manager or designee Jeff Hyde, DeRita Mason, Jessica Darr, Angela Etheridge

2CFR Compliance Review (if required)

Approved as written: no federal funds Grant Name: _____

_____ Date: _____

Grants Coordinator Danielle Garcia

Risk Management Review

Approved as written: see email attached Date: 9-8-2020

Risk Manager or designee Edith Gibson or Karen Donaldson

County Attorney Review

Approved as written: see email attached Date: 9-8-2020

County Attorney Lynn Hoshihara, Kerry Parsons or Designee

IT Review (if applicable)

Approved as written: _____

_____ Date: _____

DeRita Mason

From: Lisa Price
Sent: Wednesday, September 2, 2020 11:30 AM
To: Mark Wise; DeRita Mason
Subject: FW: Okaloosa County/Eglin/Niceville Reclaimed Water - City of Niceville Interlocal Agreement
Attachments: Interlocal Agreement_08.31.2020_clean version.doc; Exhibit A_Project Map.pdf

This is approved by Risk Management, No insurance element.

Lisa Price
Public Records & Contracts Specialist
302 N Wilson Street, Suite 301
Crestview, FL. 32536
(850) 689-5979
lprice@myokaloosa.com



Due to Florida's very broad public records laws, most written communications to or from county employees regarding county business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: Mark Wise <mwise@myokaloosa.com>
Sent: Wednesday, September 2, 2020 10:37 AM
To: Lisa Price <lprice@myokaloosa.com>
Subject: FW: Okaloosa County/Eglin/Niceville Reclaimed Water - City of Niceville Interlocal Agreement

Hi Lisa,
I want to catch you up to speed on this project. Please call me when you have a few minutes.

Thanks,
Mark

Mark Wise, P.E.
Deputy Director
Okaloosa County Water & Sewer
(850) 651-7502

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From: Mark Wise
Sent: Monday, August 31, 2020 5:03 PM
To: Lynn Hoshihara <lhoshihara@myokaloosa.com>; DeRita Mason <dmason@myokaloosa.com>

DeRita Mason

From: Lynn Hoshihara
Sent: Tuesday, September 8, 2020 4:43 PM
To: DeRita Mason
Cc: 'Parsons, Kerry'
Subject: Re: Okaloosa County/Eglin/Niceville Reclaimed Water - City of Niceville Interlocal Agreement

This agreement is approved as to legal sufficiency.

Lynn M. Hoshihara
County Attorney
Okaloosa County, Florida

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From: DeRita Mason
Sent: Tuesday, September 8, 2020 10:51:55 AM
To: Lynn Hoshihara
Cc: 'Parsons, Kerry'
Subject: FW: Okaloosa County/Eglin/Niceville Reclaimed Water - City of Niceville Interlocal Agreement

Please see attached.
The last I had was you requesting the track changes.
You might have approved and I missed it.

DeRita Mason



DeRita Mason
Contracts and Lease Coordinator
Okaloosa County Purchasing Department
5479A Old Bethel Road
Crestview, Florida 32536
(850) 689-5960
dmason@myokaloosa.com

**INTERLOCAL AGREEMENT
BETWEEN OKALOOSA COUNTY AND THE CITY OF NICEVILLE
FOR WHOLESALE RECLAIMED WATER**

This **INTERLOCAL AGREEMENT** (the “Agreement”) is made and entered into this 6th day of October, 2020, by and between **OKALOOSA COUNTY**, a political subdivision of the State of Florida (the “County”), whose mailing address is 1250 North Eglin Parkway, Shalimar, Florida 32541, and the **CITY OF NICEVILLE**, a municipal corporation organized under the laws of the State of Florida (the “City”), whose mailing address is 208 North Partin Drive, Niceville, Florida 32578.

WHEREAS, the County and the City have a long history of working together, specifically on wastewater and reclaimed water projects, partnerships, and service area issues; and

WHEREAS, the southern portion of Okaloosa County has been deemed a “Water Use Caution Area” by the Northwest Florida Water Management District (the “NFWMD”); and

WHEREAS, as a result of this designation, utilities operating within the Water Use Caution Area, and their customers, are urged to conserve water and reuse water supplies to help offset strained aquifers that are experiencing saltwater intrusion and a declining water table; and

WHEREAS, the NFWMD and the Florida Department of Environmental Protection (the “FDEP”) have strongly encouraged the use of reclaimed water, as a way to keep the environment and water supply sustainable for the long term; and

WHEREAS, with regards to reclaimed water, the County has an available resource (effluent from water reclamation facility), and the City has a need for reclaimed water; and

WHEREAS, the County, the City, and Eglin Air Force Base entered a Memorandum of Understanding (the “MOU”) in October of 2014, establishing a reclaimed water partnership and generally defining the project to accomplish the reclaimed water connection. The MOU includes the project description, need, and additional background. The MOU states that “rates and flow commitments would be, at a minimum, sufficient to allow the County to recoup monthly operations and

maintenance costs.” The MOU is a byproduct of the Eglin Air Force Base Community Partnership Program, aimed at bringing Air Force and community leadership together to develop, prioritize, and implement community partnership ideas, such as sharing of resources and innovative projects; and

WHEREAS, the Okaloosa County/Eglin/Niceville Reclaimed Water Project (the “Project”) includes upgrades at the County’s Arbennie Pritchett Water Reclamation Facility (the “APWRF”) and an 11-mile pipe transmission main (the “Pipeline”), depicted on the attached map, as Exhibit “A”. The total project is estimated at \$10.5 million; and

WHEREAS, in December of 2015, the County entered into a Grant Agreement (via state appropriation) with FDEP to fund \$3 million of the Project; and

WHEREAS, in May of 2019, the Okaloosa County Board of County Commissioners approved the Water & Sewer Department self-performing the construction of the Pipeline; and

WHEREAS, in March of 2020, the County entered into a Grant Agreement (via state alternative water supply funding) with NFWFMD to fund \$2.5 million of the Project; and

WHEREAS, in May of 2020, the County approved and executed an easement agreement with Eglin Air Force Base for the Pipeline; and

WHEREAS, the County has \$4 million available from its Capital Improvement Plan and approximately \$1 million in available resources in the form of in-house labor and equipment; and

WHEREAS, construction of the APWRF upgrades is expected to be complete in the summer of 2020 (funded by FDEP Grant Agreement). Design of the Pipeline is complete, and construction has not yet begun. This Pipeline represents a significant investment by the County; and

WHEREAS, the County and the City wish to continue their cooperative efforts to provide utility services to the public at the lowest possible cost; and

WHEREAS, subject to the terms and conditions set forth below, the County and the City desire to continue working collaboratively on matters related to reclaimed water.

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. County's Responsibilities. The County will construct, own, operate, and maintain the Pipeline and provide wholesale reclaimed water, which meets all FDEP requirements for Part III, Public Access Reuse, to the City. The County will sample the reclaimed water leaving the APWRF, to ensure that the above-mentioned FDEP requirements are met. Construction of the Pipeline is planned for calendar year 2021. The demarcation point will be the eastern end of the Pipeline, located at the City's 19-million gallon reclaimed water lagoon, located on the Eglin AFB Falcon Golf Course. A sample port will be installed by the County at that location for the City to perform any future sampling and testing. A County-owned and maintained water meter will be located near the eastern end of the Pipeline. The County will have this meter calibrated at least annually by a qualified independent party. In addition, within 30 days of receiving a request from the City, the County will have the meter calibrated. The City will pay for such requested calibration. The City will be granted access to the meter for inspection within three days following a request. The County will read the meter monthly and bill the City for reclaimed water utilized. The bill will include the reading from the meter for the end of the billing period.

Section 3. City's Responsibilities. The City will continue to own, operate, and maintain their reclaimed water distribution system to customers, fields, common areas, etc. The City will be responsible for the reclaimed water quality once it enters the 19-million gallon reclaimed water lagoon and after it leaves this lagoon (in the City's transmission and distribution system). The City will pay the County monthly for the volume of reclaimed water utilized.

Section 4. Flow Commitment. The City commits to pay for a minimum of 800,000 gallons per day of annual average daily flow, and the County commits to provide at least this amount, unless the City takes less than this amount, in

which case, the County commits to meeting the City's wholesale reclaimed water needs. The County will review annual usage for the fiscal year (October 1 to September 30) after October 1 each year, and if the City's payment is less than this committed amount, a true-up amount will be billed to the City, and will be due within 30 days.

Section 5. Wholesale Rate. The rate shall be \$0.21 per thousand gallons of reclaimed water utilized. This rate is for the County to recoup monthly operations and maintenance costs related to the operations of the APWRF upgrades and the Pipeline and is based on the above flow commitment. The rate does not include capital costs. Should future capital improvements be needed or if operations result in the need to increase or decrease the rate, the rate shall only be revised by a written amendment to this Agreement.

Section 6. Capacity. The Pipeline has a hydraulic capacity of four (4) million gallons per day. At the wholesale rate above, this capacity is available to the City (and Eglin Air Force Base), but not reserved.

Section 7. Effective Date and Term of Agreement. This Agreement shall be effective upon the execution by all parties.

Section 8. Termination, Default and Dispute Resolution. 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 terminate this Agreement and 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 9. Third Party Beneficiaries. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

Section 10. 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 11. 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 County:
Water & Sewer Director
Okaloosa County
1804 Lewis Turner Boulevard, Suite 300
Fort Walton Beach, Florida 32547

As to the City:
City Manager
City of Niceville
208 N. Partin Drive
Niceville, Florida 32578

Section 12. 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 13. Governing Law and Venue. This Agreement shall be interpreted in accordance with the laws of the State of Florida without regard to its principles of conflicts of laws. Venue for any legal proceedings arising out of this Agreement shall be in Okaloosa County, Florida.

Section 14. 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 15. Assignment. This Agreement shall not be assigned except by consent of the parties.

Section 16. Indemnification. Subject to the limitations provided in section 768.28, Florida Statutes, and without otherwise waiving sovereign immunity, the

County and the City shall indemnify and hold harmless each other from and against any and all third party claims, demands, damages, losses, and expenses, including attorney's fees and costs, arising out of the negligence, malfeasance, nonfeasance, or misfeasance of its agents, employees and assigns.

Section 17. 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 18. Conflicting Provisions. Any provision(s) of past agreements, entered into by the parties, in conflict with this Agreement are deemed repealed and the terms in this Agreement shall control.

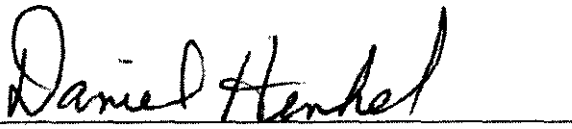
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

ATTEST:

CITY OF NICEVILLE



Dan Doucet, City Clerk

By: 

Daniel Henkel, Mayor


**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**



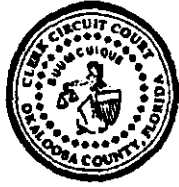
Attorney for City of Niceville

Dixie DAN POWELL

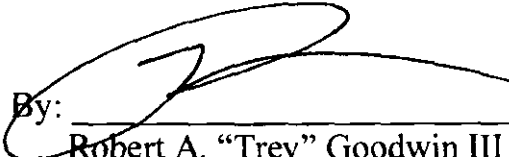
ATTEST:



J.D. Peacock II
Clerk of Circuit Court



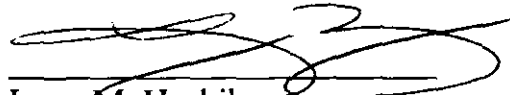
OKALOOSA COUNTY, FLORIDA

By: 

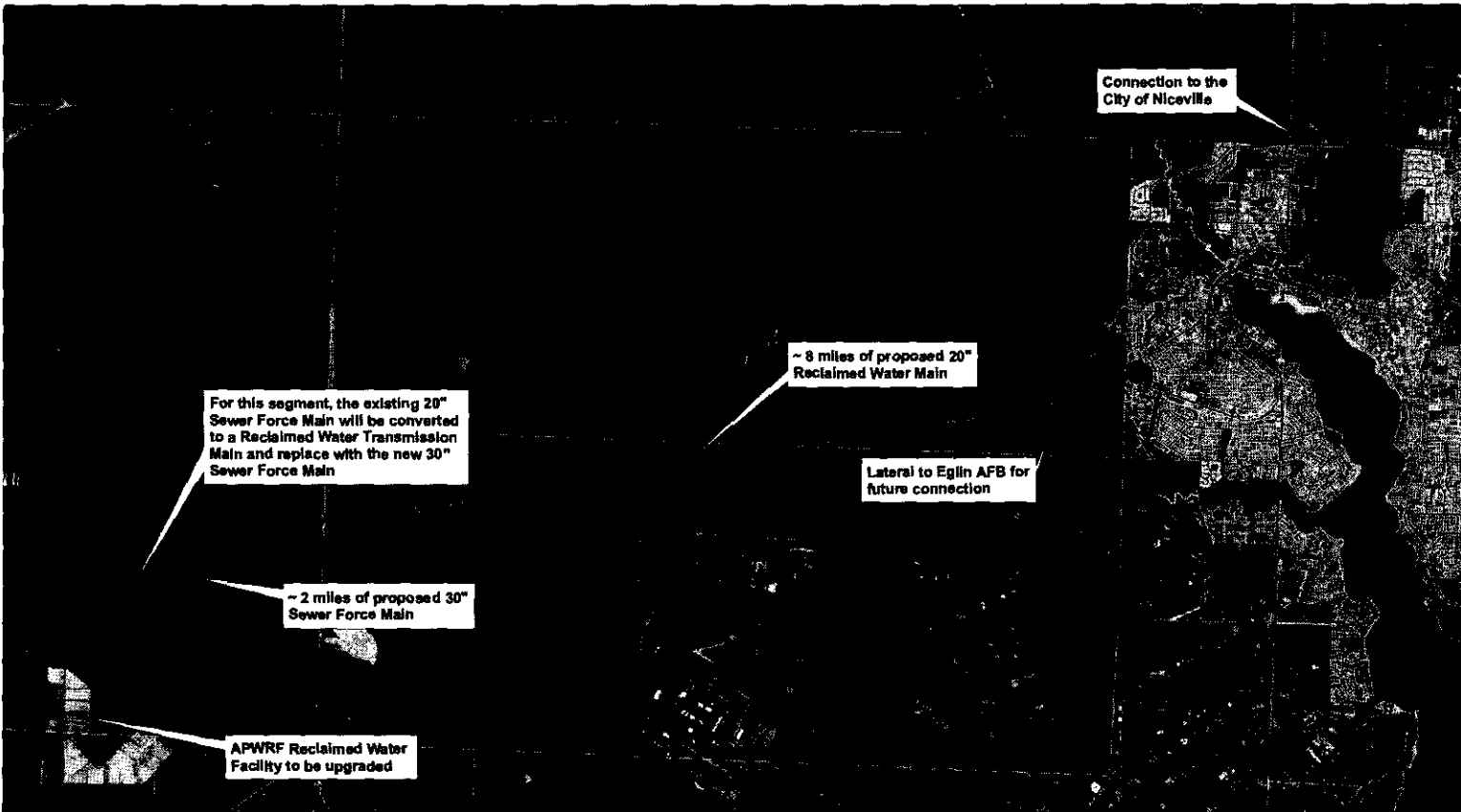
Robert A. "Trey" Goodwin III
Chairman, Board of County Commissioners



**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**



Lynn M. Hoshihara
County Attorney



12" Reclaimed Water Line
 20" Reclaimed Water Line
 30" Force Main Line
 Property Lines
 Lease Legal Boundary

Okaloosa County/Eglin AFB/Niceville Reclaimed Water Project

Produced by: OCWS
November 2018

0.5 0 0.5 1 Miles

Okaloosa County, FL
 This map is for informational purposes only and does not constitute a contract. The user assumes all liability for any use of this map. The map is not to be used for any purpose other than that intended. The map is not to be used for any purpose other than that intended. The map is not to be used for any purpose other than that intended.

SUMMARY OF PAST BCC ACTION RELATED TO THIS PROJECT

The following is a summary of primary past BCC action related to the Okaloosa County/Eglin AFB/Niceville Reclaimed Water Project, which has a total estimated cost of \$10,500,000:

- September 16, 2014: Executed a Memorandum of Understanding (MOU) with the City of Niceville and Eglin AFB. The MOU established a reclaimed water partnership and contains the project description, need, and other background information.
- December 15, 2015: Board approved State appropriation to fund \$3,000,000 of the project. The appropriation is being administered via a Florida Department of Environmental Protection (FDEP) Grant Agreement. The \$3,000,000 is for the complete design (pipeline and plant upgrades) and for the construction of the Arbennie Pritchett WRF (APWRF) upgrades.
- November 1, 2016: Following the qualifications-based selection process and negotiations, the Board approved a contract with Polyengineering (now Poly, Inc.) for the design and other professional services related to the reclaimed water transmission main.
- March 7, 2017: Following the qualifications-based selection process and negotiations, the Board approved a contract with Constantine Engineering for the design and other professional services related to the APWRF upgrades.
- August 7, 2018: Board approved an easement agreement with Valparaiso Realty Co. for a portion of the reclaimed water transmission main.
- January 5, 2019: Following the competitive bid process, the Board approved the issuance of a Purchase Order for the reclaimed water pumps at the APWRF.
- May 7, 2019: At a Public Hearing, the Board approved OCWS self-performing the construction of the transmission main. The BCC also provided authorization for the procurement of the pipeline materials to be via quotes in lieu of bids.
- June 18, 2019: Following the competitive bid process, the Board approved a contract with J & P Construction Company (J&P) for the construction of the APWRF upgrades.
- November 5, 2019: Above-mentioned contract with Poly, Inc. was renewed/extended one year.
- February 4, 2020: Above-mentioned contract with Constantine Engineering was renewed/extended one year.
- March 17, 2020: Board approved Northwest Florida Water Management District (NFWMD) grant, in the amount of \$2,500,000 for the construction of the reclaimed water transmission main. In addition, the J&P contract was extended 75 days, with no financial impact.
- May 26, 2020: Eglin AFB Easement was approved by the Board for the 11-mile pipeline.