

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: JULY 15, 2013

Contract/Lease Control #: C13-2053-IS

Bid #: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: KRA HOLDINGS OF FLORIDA, LLC.

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 07/02/2013 (BCC APPROVED)

Term: INDEFINITE

Description of Contract/Lease: REVOCABLE LICENSE AGREEMENT

Department: IS

Department Monitor: DON VANDERHOEK

Monitor's Telephone #: 850-651-7570

Monitor's FAX # or E-mail: DVANDERHOEK@CO.OKALOOSA.FL.US

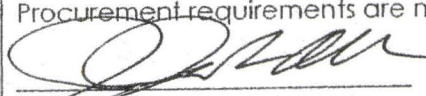
Date Closed: _____

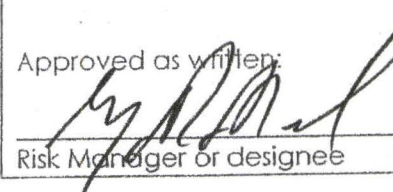
cc: Finance Department Contracts & Grants Office

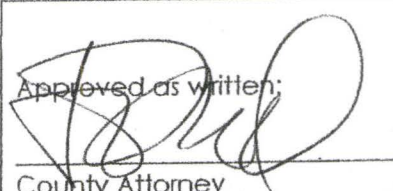
e-mailed to Don & Dan 6/17 *JH*

CONTRACT & LEASE INTERNAL COORDINATION SHEET

Contract/Lease Number: <u>C13-2053-15</u>	Tracking Number: <u>643-13</u>
Contractor/Lessee Name: <u>KRA Holdings of Florida, LLC</u>	Grant Funded: YES ___ NO <input checked="" type="checkbox"/>
Purpose: <u>Revocable License Agreement</u>	
Date/Term: <u>Indefinite</u>	1. <input type="checkbox"/> GREATER THAN \$50,000
Amount: <u>-0-</u>	2. <input type="checkbox"/> GREATER THAN \$25,000
Department: <u>IS</u>	3. <input type="checkbox"/> \$25,000 OR LESS
Dept. Monitor Name: <u>D. Vanderhoek / Dan S.</u>	
Document has been reviewed and includes any attachments or exhibits.	

Purchasing Review	
Procurement requirements are met:	
 Purchasing Director or designee	Date: <u>6/7/13</u>

Risk Management Review	
Approved as written:	<i>I think the indemnity clause is too broad, needs to at least limit it to sovereign immunity</i>
 Risk Manager or designee	

County Attorney Review	
Approved as written:	<i>Delete Paragraph 6</i>
 County Attorney	

Following Okaloosa County approval:

Contracts & Grants	
Document has been received:	
_____	Date: _____
Contracts & Grants Manager	

Jack Allen

From: Gary Real
Sent: Thursday, June 20, 2013 8:32 AM
To: Jack Allen; Dan Sambenedetto
Cc: Don Vanderhoek; John Dowd; Richard Brannon
Subject: RE: Revocable License Agreement

I'm okay.

Gary R. Real
Risk Manager, Okaloosa County Florida
850-689-5979

Please note: 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: Jack Allen
Sent: Thursday, June 20, 2013 7:45 AM
To: Dan Sambenedetto
Cc: Don Vanderhoek; Gary Real; John Dowd; Richard Brannon
Subject: FW: Revocable License Agreement
Importance: High

Thanks Mr. Dowd!

Dan,
Please proceed with getting 3 signed originals from KRA and prepare an agenda request. Let me know if you have any questions.
Thanks,
Jack

From: John Dowd
Sent: Wednesday, June 19, 2013 4:21 PM
To: Jack Allen
Cc: Gary Real
Subject: FW: Revocable License Agreement

Jack:

Please find attached revised License Agreement. They have added a third paragraph to Section 6 that satisfies my concerns.

Thanks,

John

From: Christopher Hart [<mailto:chart@cphlaw.com>]
Sent: Wednesday, June 19, 2013 3:50 PM
To: John Dowd

Jack Allen

Trk # 643-13

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To: Dan Sambenedetto
Cc: Don Vanderhoek; Gary Real; John Dowd; Richard Brannon
Subject: FW: Revocable License Agreement
Attachments: A1382748.DOC

Importance: High

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To: John Dowd
Cc: Phil Metz
Subject: FW: Revocable License Agreement

John: Here is the final with my suggested language added along with your editing. Chris

W. CHRISTOPHER HART ATTORNEY	CLARK BARTINGTON HART LARRY BOND & STEPHEN HOUSE
(850) 650-3304 MAIN (850) 269-8845 DIRECT (850) 650-3305 FAX chart@cphlaw.com	34990 Emerald Coast Parkway, Suite 301 Destin, FL 32541 www.cphlaw.com

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Follow Up Flag: Follow Up
Flag Status: Flagged

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Search Results

Current Search Terms: KRA* holdings* of florida* LLC*

No records found for current search.

SAM | System for Award Management 1.0

IBM v1.1016.20130614-1637

Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.



REVOCABLE LICENSE AGREEMENT

This Revocable License Agreement (the "Agreement") is made on the 21st day of June, 2013, between KRA Holdings of Florida, LLC, a Florida limited liability company ("KRA") and Okaloosa County, Florida ("County").

KRA and the County agree as follows:

1. **Revocable License.** KRA, as the owner of the Kelly Plantation Golf Club located at 307 Kelly Plantation Drive, Destin, Florida 32541 which includes the Fifth Hole Fairway identified on Exhibit A attached hereto and made a part hereof, hereby grants to the County a Revocable License for the installation, maintenance, and occupation of a Fiber Optic Installation Project (the "Project"). The Project shall include: (a) the right of the County, its employees and its subcontracting firms including, without limitation, Gator Boring and Trenching, Inc. and World Fiber Technologies, Inc., to install a single 2" HDPE conduit by directional bore at sufficient depth to avoid all existing utilities, drainage and irrigation structures (minimum depth of 36") and (b) to install Fiber Optic Communication Cable within the 2" conduit system.

2. **Terms.** The Revocable License is granted upon the following terms:

(a) The Project will connect Okaloosa County's existing underground conduit system located at Pull Box 5220 SR 293 (Danny Wuerffel Way) to a building entry located at the southeast corner of Tower 1 at One Water Place, a condominium, all as set forth on Exhibit A;

(b) There will be no above ground or otherwise visible structures installed within the Kelly Plantation Golf Course grounds;

(c) All entry onto Kelly Plantation Golf Course property pertaining to this Project will be properly coordinated with the Kelly Plantation Golf Course staff, at least 24 hours in advance;

(d) Golf Course Play shall not be interrupted by installation or maintenance; and

(e) Any property of Kelly Plantation Golf Club damaged or destroyed as a result of the Project by Okaloosa County, its employees or its subcontracting firms will be promptly repaired or replaced by Okaloosa County at the County's expense.

3. **Termination.** KRA reserves the right to revoke and terminate this Agreement upon sale of the Kelly Plantation Golf Club or should the County fail to comply with or abide by each and all of the provisions hereof. Waiver by KRA of any breach of any term or provision hereof shall not be deemed a waiver of any subsequent breach of the same or any other term or provision hereof. In the event of termination, the County shall cease all use of the Fiber Optic Communications Cable within sixty (60) days of receipt of notice of termination from KRA.

**CONTRACT # C13-2053-IS
KRA HOLDINGS OF FLORIDA, LLC.
REVOCABLE LICENSE AGREEMENT
EXPIRES: INDEFINITE**

4. **No Claim of Interest or Estate.** County agrees that it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the premises, by virtue of this Agreement or the use of the premises.

5. **No Assignment.** County's privileges hereunder shall not be assignable by County in whole or in part.

6. **Indemnity.** County shall exercise its privileges hereunder at its own risk, and, irrespective of any negligence of KRA, County shall indemnify KRA against all liability for damages, costs, lawsuits and expenses resulting from, arising out of, or in any way connected with, the occupation or use of the premises by County, the County's employees, or the County's subcontractors, or the failure on the part of the County to perform fully all and singular County's promises herein.

County shall indemnify KRA for any liability for injuries to persons or property made against KRA with respect to the use of the premises by County, its employees, or its subcontractors. County shall maintain policies of insurance in such amounts as normally carried by the County against insurable hazards which may incur as a result of County's use of the premises. County shall require its contractors and subcontractors working on the Project to maintain insurance in such amounts as normally required by the County for a project of this type.

However, nothing contained herein shall contractually, or otherwise constitute a waiver by the County of sovereign immunity or the provisions of Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

7. **Accidental or Negligent Damage to Fiber Optic Communications Cable.** KRA shall not be liable to County if for any reason whatsoever the Fiber Optic Communications Cable is damaged, hindered, interrupted or disturbed regardless of any negligence of KRA or its customers or contractors.

8. **Notice.** Any notices under this Agreement shall be sent to the following addresses:

KRA: KRA Holdings of Florida, LLC
Atten: Mary C. Anderson
Manager
4750 Cromwell Avenue
Memphis, TN 38118

With a copy to:

Michael L. Woodham
235 Mattie's Way
Destin, FL 32541

COUNTY:

Okaloosa County
Atten: Dan Sambenedetto
Telecom/GIS Manager
Okaloosa County, FL
micro@co.okaloosa.fl.us

With a copy to:

Phillip D. Metz, Medical Division Chief
Destin Fire Control District
848 Airport Road
Destin, FL 32541

9. **No Reliance Created by Expenditures:** County stipulates and agrees that any expenditure of money made in reliance upon this Agreement was done at County's risk and with the full and complete understanding that this Agreement was and remains revocable by KRA in accordance with the terms hereof.

10. **Attorney's Fees.** In any litigation arising out of this Agreement the prevailing party shall be entitled to recover costs and reasonable attorney's fees.

IN WITNESS WHEREOF, KRA and the County have entered into this Agreement effective the day and year first above set forth.

(signature pages to follow)

Witnesses:

Jodi E. Saveley
Print Name: Jodi E. Saveley

Jon Douvrent
Print Name: Jon Douvrent

LICENSOR:

KRA Holdings of Florida, LLC
a Florida limited liability Company

By: Mary C. Anderson
Mary C. Anderson

Print: Mary C. Anderson
Its: Manager

STATE OF TENNESSEE
COUNTY OF Shelby

The foregoing instrument was acknowledged before me this 21st day of June, 2013, by Mary C. Anderson, as Manager for KRA Holdings of Florida, LLC, a Florida limited liability company, who () is personally known to me or () who has produced _____ as identification, and who certifies that she is authorized to bind this LLC.

(Notary seal)



Jodi E. Saveley
Notary Public in and for State of ~~Florida~~ Tennessee
Printed name: Jodi E. Saveley
My Commission expires: December 16, 2013
My Commission No.: _____

Witnesses:

Print Name: _____

Print Name: _____

LICENSEE:

OKALOOSA COUNTY, FLORIDA

By: Don R. Amundson
Its: Chairman,
Board of County Commissioners



ATTEST:

By: Mary J. Stansfeld
for Clerk, Board of County Commissioners



STATE OF FLORIDA
COUNTY OF OKALOOSA

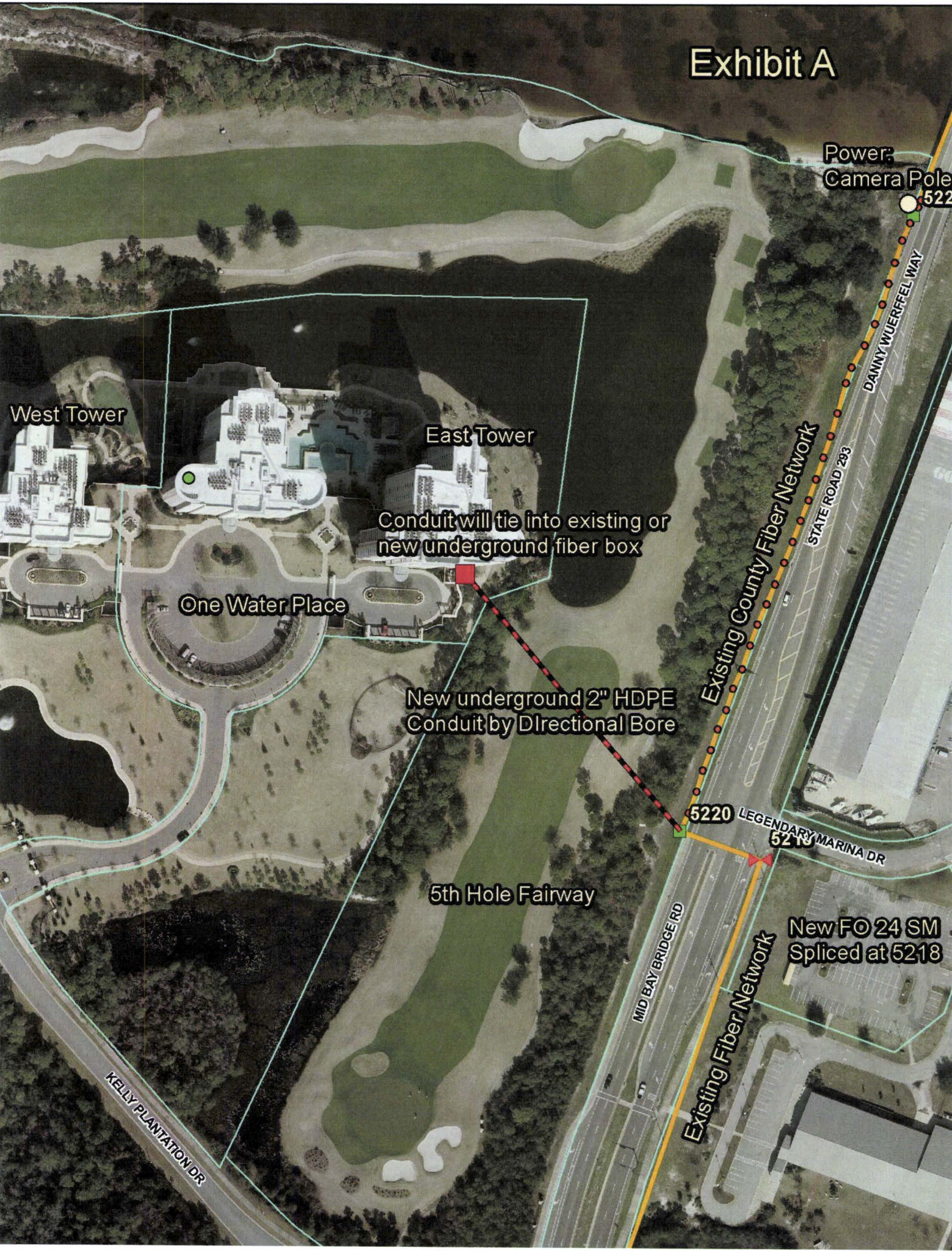
The foregoing instrument was executed before me as of the 11th day of July, 2013, by Don R. Amundson, as Chairman of the Board of County Commissioners of Okaloosa County, Florida and GARY J. STANSFELD, as Clerk of the Court and ex officio clerk of the Board of County Commissioners of Okaloosa County, Florida. Such persons are personally known to me or have produced _____ as identification.

(Notary seal)



Mary L. Carson
Notary Public in and for State of Florida
Printed name: _____
My Commission expires: _____
My Commission No.: _____

Exhibit A



Power:
Camera Pole
522

West Tower

East Tower

One Water Place

Conduit will tie into existing or
new underground fiber box

New underground 2" HDPE
Conduit by Directional Bore

5th Hole Fairway

Existing County Fiber Network

Existing Fiber Network

5220

5218

New FO 24 SM
Spliced at 5218

KELLY PLANTATION DR

MID BAY BRIDGE RD

STATE ROAD 293

DANNY WUERFFEL WAY

LEGENDARY MARINA DR