

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 06/09/2022

Contract/Lease Control #: C22-3187-WS

Procurement#: NA

Contract/Lease Type: AGREEMENT

Award To/Lessee: CITY OF CRESTVIEW

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 06/07/2022

Expiration Date: 12/31/2022

Description of: INTERLOCAL AGREEMENT/FOXWOOD ADDITION UTILITIES

Department: WS

Department Monitor: LITTRELL

Monitor's Telephone #: 850-651-7195

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

Closed:

Cc: BCC RECORDS

CONTRACT: C22-3187-WS
CITY OF CRESTVIEW
INTERLOCAL AGREEMENT/FOXWOOD
ADDITION UTILITIES
EXPIRES: 12/31/2022

**INTERLOCAL AGREEMENT FOR
THE PURCHASE AND SALE OF
UTILITY ASSETS ASSOCIATED WITH FOXWOOD
ADDITION**

By and Between

OKALOOSA COUNTY, FLORIDA

Seller,

and

CITY OF CRESTVIEW, FLORIDA

Purchaser

June 7, 2022

INTERLOCAL AGREEMENT
FOR THE PURCHASE AND SALE OF UTILITY ASSETS

This Interlocal Agreement for the Purchase and Sale of Utility Assets (the “Purchase Agreement”) is made and entered into this 7th day of June, 2022, by and between Okaloosa County, a political subdivision of the State of Florida (“County” or “Seller”), and the City of Crestview, a municipal corporation of the state of Florida (“City” or “Purchaser”), hereafter collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Seller owns and maintains water infrastructure within what is commonly known as the Foxwood Addition plat, consisting of potable water mains, services, meters, and associated parts, (collectively, the “Utility System”), serving customers within the unincorporated area of the County pursuant to its home rule authority and authority provided pursuant to Florida law; and

WHEREAS, the Utility System is interconnected with the utility assets associated with a residential subdivision known as Foxwood Estates, which was annexed into the incorporated City of Crestview in 2021, and which assets were acquired from the County to the City via an existing Interlocal Agreement known as Revised Water and Sewer Area Map entered into on May 15, 2001, Foxwood Addition is not within the incorporated areas of the City; and

WHEREAS, the Purchaser, pursuant to Section 180.02, Florida Statutes (the “Florida Interlocal Cooperation Act”), is authorized to acquire the Seller’s Utility System and has the power and authority under certain circumstances to provide potable water infrastructure and service outside of its corporate limits when desirable or necessary to promote the public health, safety, and welfare; and

WHEREAS, the Seller desires to transfer and the Purchaser desires to acquire the Utility System of the Seller for the consideration and on the terms and subject to the conditions set forth in this Purchase Agreement; and

WHEREAS, as required by law, the Seller and the Purchaser held public hearings on the proposed purchase and sale contemplated herein to determine whether such purchase is in the public interest; and

WHEREAS, this Interlocal Agreement for the Purchase and Sale of Utility Assets within Foxwood Addition is authorized pursuant to the provisions of Chapters 163, Florida Statutes, and other applicable law.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. Recitals. The above Recitals are true and correct and are hereby incorporated into this Purchase Agreement by reference.

SECTION 2. Covenant to Purchase and Sell; Description of Purchased Assets.

a. Purchaser shall buy from Seller, and Seller shall sell to Purchaser, the Purchased Assets (as hereinafter defined) upon the terms, and subject to the conditions precedent, set forth in this Purchase Agreement.

b. "Purchased Assets" shall include all assets and rights, which may be both tangible and intangible, that Seller owns, and which comprise the Utility System, including but not limited to:

i. All existing utility system infrastructure contained within the Foxwood Addition plat (Exhibit A), including but not limited to water mains, services, and all equipment contained within each meter box.

ii. All service area rights, responsibilities, and obligations to construct and maintain the utility system within the Foxwood Addition for purposes of providing water and/or sewer service to existing and future customers.

iii. Listing of each existing meter location with associated meter number, meter size, and service address and well as the final meter reading associated with each existing customer of the Seller.

iv. Copies of all sets of record drawings, including as-built drawings of the Utility System and rights of Seller to obtain copies of such items from engineers, contractors, consultants or other third parties, in paper and electronic form.

c. EXCEPT AS SPECIFICALLY PROVIDED FOR IN THIS PURCHASE AGREEMENT, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES GIVEN TO PURCHASER IN CONNECTION WITH THIS PURCHASE AGREEMENT.

SECTION 3. Purchase Price. The total consideration to be paid for the Utility System is the Purchase Price. Seller and Purchaser covenant and agree that the Purchase Price is to be paid to Seller upon Closing.

a. Cash Payment: Purchaser shall pay to Seller \$327,500 which is representative of 5 years of estimated revenue generated by the existing 88 water service connections.

c. Accounts Receivable: After Closing, and once the Purchaser completes all connections to the existing water infrastructure necessary to take over the provision of potable water service, a final meter reading will be obtained for each of the meters within Foxwood Addition. The associated customer utility accounts that were established with the Seller will be finalized utilizing the final reading, and the customers will be issued a final bill. Any customer

deposits held by the Seller will be applied to the customer's account prior to issuance of the final bill. Any debts owed at that time will be the Seller's responsibility to attempt to collect from the account holder. The Purchaser will establish new accounts for each meter location. The final meter reading taken by the Seller at each location will be used as the starting meter reading when the Purchaser establishes their own customer account for each responsible party within Foxwood Addition.

d. Capacity Expansion Charges: All existing Capacity Expansion Charges that have been paid by the property owners within Foxwood Addition to the Seller are for locations that have been connected to the public water system and therefore shall not be refunded to the customer, nor transferred in any part to the Purchaser.

SECTION 4. Representations and Warranties of Seller. As a material inducement to the Purchaser to execute this Purchase Agreement and perform its obligations hereunder, the Seller represents and warrants to the Purchaser as follows:

a. The Seller is a political subdivision of the State of Florida with all requisite power and authority, and has taken all requisite action necessary, to (i) enter into this Purchase Agreement, and (ii) perform all of the terms and conditions of this Purchase Agreement.

b. The governing body of Seller has approved Seller entering into this Purchase Agreement and has held all necessary public hearings required to authorize the Seller's sale of the Utility System, and Seller has taken or will take prior to Closing all other appropriate governmental actions required to be taken by the Seller.

c. This Purchase Agreement constitutes, and all other agreements to be executed by the Seller with respect to this Purchase Agreement will constitute, when executed and delivered, valid and binding obligations of the Seller, enforceable in accordance with their terms.

d. To the best of Seller's knowledge, the execution, delivery and performance of this Purchase Agreement will not violate any provision of law, order of any court or agency of government applicable to the Seller, or any bond, Certificate, indenture, agreement, or other instrument to which the Seller is a party, or by which it is bound.

e. To the best of Seller's knowledge, Seller's access to the utilities is pursuant to the utility easements and structures dedication as shown on the plat for Foxwood Addition as found in Plat Book 18, Page 59 of the public records of Okaloosa County, Florida. At time of closing Seller shall provide an Assignment of Interest to Purchaser for its interest within the utility easement and structures for purposes of providing water services. The County retains any right it may have, if any, in the roads, easements, parks, drainage and utility easements for other purposes.

f. Environmental Law Compliance.

i. Definitions.

(a) “Environmental Law” means any federal, state, or local statute, order, regulation, ordinance, or common law or equitable doctrine, relating to the protection of human health or the environment in effect as of the Closing Date and includes but is not limited to, The Florida Air and Water Pollution Control Act (Chapter 403, Florida Statutes), the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”)(42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. § 300f et seq.), as such have been amended or supplemented as of the Closing Date, the regulations promulgated pursuant thereto and in effect as of the Closing Date and any conditions and requirements contained in any permits possessed by the Seller from any federal, state or local agencies necessary to operate the Utility System.

(b) “Hazardous Material” means petroleum or any substance, material, or waste which is regulated under any Environmental Law in the jurisdictions in which the Seller conducts its utility operations including, without limitation, any material or substance that is defined as or considered to be a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste,” “pollutant,” “toxic waste,” or “toxic substance” under any provision of Environmental Law.

(c) “Release” means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, or dispersal into the environment, at or from any property owned or operated by the Seller or related to Hazardous Materials generated by Seller.

(d) “Remedial Action” means all actions required to (i) clean up, remove, or treat any Hazardous Material; (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not endanger or threaten to endanger public health or welfare or the environment; or (iii) perform pre-remedial studies and investigations or post-remedial monitoring and care directly related to or in connection with any such remedial action.

ii. Representations of Seller regarding Environmental Law Compliance:

(a) To the best of Seller’s knowledge, the Utility System is in material compliance with all applicable Environmental Laws relating to the Utility System and the Seller is aware of no material liability thereunder, and there is no reasonable basis for the Seller to believe that any such liability exists.

(b) To the best of Seller’s knowledge, Seller has obtained all permits required, or has submitted application renewals for such permits in a timely manner under applicable Environmental Laws necessary for the operation of the Utility System as of the date of this Purchase Agreement.

(c) To the best of Seller’s knowledge, Seller has not received within the last three years notice of any violations or alleged violations of applicable federal, state or local statutes, laws and regulations (including, without limitation, any applicable environmental,

building, zoning, or other law, ordinance or regulation) relating to the Utility System, and to Seller's knowledge, there are no currently outstanding violations.

(d) To the best of Seller's knowledge, no polychlorinated biphenyl or asbestos-containing materials, in violation of any Environmental Law are, or have been, present on Utility System property when owned, operated, or leased by Seller, nor are there any underground storage tanks, active or abandoned, on Utility System property owned, operated, or leased by Seller.

(e) To the best of Seller's knowledge, there is no Hazardous Material in violation of any Environmental Law located on any Utility System site other than properly stored chemicals used for treatment (such as chlorine or Countymag); no Utility System site is listed or formally proposed for listing under CERCLA, the Comprehensive Environmental Response, Compensation Liability information System ("CERCLIS") or on any similar state list that is the subject of federal, state, or local enforcement actions or other investigations that may lead to claims against Seller for clean-up costs, remedial work, damages to natural resources, or for personal injury claims, including, but not limited to, claims under CERCLA; and there is no reasonable basis for Seller to be named in such claims or for any similar action to be brought against Seller.

(f) To the best of Seller's knowledge, no written or verbal notification of a Release of a Hazardous Material has been filed by or on behalf of Seller or any third party with respect to the Utility System. No Utility System property is listed or proposed for listing on the National Priority List promulgated pursuant to CERCLA, or CERCLIS, or any similar state list of sites requiring investigation or clean up.

(g) To the best of Seller's knowledge, no Hazardous Material has been released in material violation of Environmental Law at, on, or under any Utility System property.

g. To the best of Seller's knowledge there are no current actions, suits or proceedings at law or in equity pending or, to the Seller's knowledge, threatened against the Seller before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Utility System or any of the Purchased Assets or the Seller's right and ability to enter and perform its obligations under this Purchase Agreement; nor is the Seller aware of any facts which to its knowledge are likely to result in any such action, suit or proceeding. To the Best of Seller's knowledge, the Seller is not in default with respect to any Certificate, permit, order or decree of any court or of any administrative or governmental agency or instrumentality affecting the Utility System or any of the Purchased Assets. The Seller agrees and warrants that it shall have a continuing duty to disclose to Purchaser up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings and orders which in any way relate to the Utility System.

j. To the best of Seller's knowledge, there are no facts known to Seller which have or would have a material adverse effect upon the physical condition of the Utility System or the Purchased Assets which are not readily observable or which have not been disclosed or provided to Purchaser in connection with this transaction.

k. To the best of Seller's knowledge, no representation or warranty made by the Seller in this Purchase Agreement contains any untrue statement of material facts or omits to state any material fact required to make the statements herein contained not misleading.

l. To the best of Seller's knowledge, no part of the Utility System's plant utility facilities, other facilities, or property was acquired by Seller through the use of eminent domain.

SECTION 5. Representations and Warranties of Purchaser. As a material inducement to Seller to execute this Purchase Agreement and to perform its obligations hereunder, Purchaser represents and warrants to Seller as follows:

a. Purchaser is a municipal corporation of the state of Florida, with all necessary power and authority and has taken all requisite action necessary to (i) enter into this Purchase Agreement, and (ii) perform all of the terms and conditions of this Purchase Agreement.

b. The governing body of Purchaser has approved Purchaser entering into this Purchase Agreement and has held all necessary public hearings required to authorize the Purchaser's sale of the Utility System, and Purchaser has taken or will take prior to Closing all other appropriate governmental actions required to be taken by the Purchaser.

c. This Purchase Agreement constitutes, and all other agreements to be executed by Purchaser with respect to this Purchase Agreement, will constitute, when executed and delivered, valid and binding obligations of Purchaser, enforceable in accordance with their terms.

d. The execution, delivery and performance of this Purchase Agreement will not violate any provision of law, order of any court or agency of government applicable to Purchaser, nor any bond, indenture, agreement, or other instrument to which Purchaser is a party, or by which it is bound.

f. All necessary public hearings required to authorize Purchaser's purchase of the Utility System and Purchaser entering into this Purchase Agreement have been duly held and all appropriate governmental actions required to be taken by Purchaser will have been duly taken prior to the Closing Date.

SECTION 6. Conditions Precedent to Closing. The obligations of each Party to close the transaction contemplated by this Purchase Agreement are subject to the conditions that, on or before the Closing Date:

a. Neither Party is prohibited by decree or law from consummating the transaction.

b. There is not pending on the Closing Date any legal action or proceeding that prohibits the acquisition or sale of the Purchased Assets or prohibits Purchaser or Seller from closing the transaction or Purchaser from paying the Purchase Price, or that inhibits or restricts in

any material manner Purchaser's use, title, or enjoyment of the Utility System and Purchased Assets.

c. Each of the other Parties hereto has performed all the undertakings required to be performed by them under the terms of this Purchase Agreement.

d. There is not material adverse change in applicable law or in the condition or value of the Purchased Assets or the Utility System. For purposes of this Purchase Agreement, a "material adverse change" shall mean any event, condition, development or effect that, either individually or in the aggregate, shall have been, or insofar as can reasonably be foreseen will be, materially adverse to the business operations, assets, value or conditions (financial or otherwise) of the Utility System or the Purchased Assets.

e. All warranties and representations of the other Party are true in all material respects as of the Closing Date, except to the extent they specifically refer to another date.

SECTION 7. Pre-Closing Conduct; Covenants. The Parties covenant to each other, and shall conduct themselves, as follows:

a. To the extent not previously provided to Purchaser, at the time of execution of this Purchase Agreement, Seller shall have furnished to Purchaser the following, to the extent they are in the possession of Seller, its employees, representatives, or agents (including engineers, surveyors and other contractors utilized by Seller):

i. Copies, including electronic and digital formats, of all plans and specifications showing the Utility System as now constructed (as-built), including any under construction, together with detailed engineering maps showing the water supply and distribution lines, pumps, tanks, wells, wastewater collection lines, lift stations, effluent disposal facilities, including public access reuse water, and appurtenances as now constructed, and all other facilities constituting the Utility System;

ii. Copies of Seller's schedules reflecting the rates, fees, and charges of Seller;

iii. A list of customers and contact information;

iv. Copies of any and all effective insurance policies with respect to the Purchased Assets and Utility System;

b. During the period between the Effective Date of this Purchase Agreement and the Closing Date, Seller shall:

i. Operate and maintain the Utility System and Purchased Assets in a normal and ordinary manner to ensure that the condition of the Utility System and the Purchased Assets remains in all material respects unchanged, normal wear and tear and usage excepted, and the

chemical, tool and equipment inventory on hand shall not be materially diminished or depleted unless required to be used by the Seller, in its absolute and sole discretion;

ii. Notify Purchaser within five (5) days of Seller's receipt of any notification from any person, business, or agency, including but not limited to any agency of the state or a local government, of any existing or potential Environmental Law violation;

iii. Not make any material changes to the Utility System or the Purchased Assets without the prior written consent of Purchaser, said consent to not be unreasonably withheld;

iv. Notify Purchaser within five (5) days of any event, activity or occurrence that has, or may have, a material adverse effect upon the Utility System or the Purchased Assets or this transaction;

v. Not enter any contract, lease, certificate or agreement that materially and directly effects the Utility System or the Purchased Assets without the prior written consent of Purchaser, said consent to not be unreasonably withheld;

vi. Develop with Purchaser a transition plan to ensure the orderly transfer of assets and operations;

vii. Not enter into any additional long or short term debt or other financial obligation related to the Utility System and not make any transfers from the Utility System Funds except to make debt service payments or to pay other Utility System obligations subject to Purchaser approval.

c. The risk of loss, injury, or destruction of the Utility System and Purchased Assets shall be on the Seller until the Closing Date.

SECTION 8. Termination of Agreement.

a. This Purchase Agreement may be terminated (i) by mutual written consent of the Parties, (ii) by either Party if the transactions contemplated hereby have not closed on or before the time required for Closing. Either party may terminate this Agreement without cause upon five (5) days notice.

SECTION 9. Closing Date and Closing.

a. The Parties shall use their best efforts to close this transaction ("Closing") on or before June 30, 2022, at a location mutually acceptable to both Parties. As used in this Purchase Agreement, the term "Closing Date" shall mean the date on which the Closing occurs, but in no event shall the Closing Date be extended beyond December 31, 2022, unless a later date is agreed upon in writing by the Parties.

b. At Closing:

Purchaser shall pay the Purchase Price as required under Section 3 of this Purchase Agreement, subject to any adjustments as provided for in this Agreement; Title to the Purchased Assets shall be conveyed to Purchaser by Bill of Sale free of all claims, liens, or encumbrances, whatsoever, other than Permitted Encumbrances. Seller shall further provide to Purchaser such other instruments of conveyance as shall be, in the reasonable opinion of Purchaser, its counsel and Title Agent, necessary to transfer the Utility System and Purchased Assets in accordance with this Purchase Agreement and, when necessary or desirable, in recordable form;

c. Seller shall assign to Purchaser its right, title and interest in the Foxwood Addition plat dedication as it relates solely to the use of the utility easement and structures for water and/or sewer services.

d. All transfers required or necessary to carry out the intent and purpose of this Purchase Agreement shall take place, unless waived or extended by mutual consent.

e. Each of the Parties shall pay the fees of its own attorneys, bankers, engineers, accountants, and other professional advisers or consultants in connection with the negotiation, preparation and execution of this Purchase Agreement, and any documents associated with the Closing.

f. All bills for services, materials and supplies rendered in connection with the construction, operation and maintenance of the Utility System prior to the Closing Date, including but not limited to electricity, phone service, and payroll for a period up to and including the Closing Date, shall be paid by Seller. Purchaser shall be responsible for all such costs and expenses incurred subsequent to Closing.

g. Each Party shall deliver to the other Party a certificate in writing stating that the Party is not prohibited by decree or law from consummating the transaction contemplated hereby, that there is not pending on the Closing Date any legal action or proceeding that hinders the ability of either Party to close the transaction, and that all warranties and representations of such Party contained in this Purchase Agreement are true and correct in all material respects as of the Closing Date.

SECTION 10. General Provisions.

a. This Purchase Agreement, the Exhibits hereto, and the documents referred to herein, collectively embody the entire agreement and understandings between the Parties and there are no other agreements or understandings, oral or written, with reference to this Purchase Agreement that are not merged into and superseded by this Purchase Agreement. This Purchase Agreement may be executed in one or more counterparts, each of which shall be considered an original.

b. This Purchase Agreement is entered into solely for the benefit of the Parties hereto and no other causes of action shall accrue upon or by reason hereof to or for the benefit of any third party (other than successors and assigns), who or which is not a formal party hereto.

c. Any notice or other document required or permitted to be given pursuant to the provisions of this Purchase Agreement shall be in writing and shall be delivered personally, by recognized overnight courier, or sent by certified mail, postage prepaid, return receipt requested, or by electronic or facsimile transmission with written confirmation to the following:

i. If to Seller, such notice shall be delivered at:

Nicole Nabors, CPA, CAM
1804 Lewis Turner Boulevard, Suite 300
Fort Walton Beach, Florida 32547

ii. If to Purchaser, such notice shall be delivered at:

Wayne Steele
P.O. Box 1209
Crestview, Florida 32536

d. The headings used are for convenience only, and they shall be disregarded in the construction of this Purchase Agreement.

e. The drafting of this Purchase Agreement was a joint effort of the Parties, and in the interpretation hereof, it shall be assumed that no Party had any more input or influence than any other.

f. This Purchase Agreement and the rights of the Parties shall be governed by, construed and enforced in accordance with the laws of the State of Florida, without regard to the conflict of laws rules thereof.

g. If any one or more of the provisions of this Purchase Agreement is held to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall, for any reason whatsoever, be held invalid, then such covenants or provisions shall be null and void, shall be deemed separable from the remaining covenants or provisions of this Purchase Agreement, and shall in no way affect the validity of the remaining covenants or provisions of this Purchase Agreement; provided, however, that the public interest in the terms set forth herein is not substantially adversely impacted.

h. Except as provided herein, no amendment or modification of this Purchase Agreement shall be binding upon the Parties unless evidenced in a writing signed by duly authorized officers of each Party. Any waiver on the part of any Party of any provision or condition of this Purchase Agreement must be in a writing signed by the Party to be bound by such waiver.

i. The Exhibits referred to in this Purchase Agreement are incorporated herein by reference.

j. Except as provided for herein, this Purchase Agreement may not be assigned without the prior written consent, which consent may not be unreasonably withheld or denied, of the non-assigning Party. If properly assigned, this Purchase Agreement shall be binding upon and inure to the benefit of the Parties' successors and assigns. Notwithstanding the foregoing, Purchaser may collaterally assign its rights hereunder to any financial institution providing financing in connection with the transaction contemplated hereby.

k. For the purposes of this Purchase Agreement, an individual is deemed to have "knowledge" of a particular fact or other matter if such individual has actual awareness of such fact or matter, or a prudent individual could be expected to discover or otherwise become aware thereof in the ordinary course of conducting his business.

l. Each Party to this Purchase Agreement expressly retains all rights, benefits and immunities of sovereign immunity that they presently enjoy under the Constitution and statutes of the State of Florida, and particularly with respect to Chapter 768, Florida Statutes. Notwithstanding anything set forth in any section of this Purchase Agreement to the contrary, nothing in this Purchase Agreement shall be deemed as a waiver of immunity or the limits of liability of either Party beyond any statutory limited waiver of immunity or limits of liability which may have been enacted by the Florida Legislature or may be enacted by the Florida Legislature. Nothing in this Purchase Agreement shall inure to the benefit of any third party for the purposes of allowing any claim against the Seller or Purchaser, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

m. The Parties acknowledge that all documents related to this Purchase Agreement or the Utility System are subject to the provisions of Chapter 119, Florida Statutes. Such documents shall be available for inspection and copying upon request and/or payment of any reasonable expenses associated therewith.

n. The Parties agree and acknowledge that they have complied with the requirements of Florida Statutes, Section 163.01 in exercising their home rule or statutory powers in executing this Purchase Agreement. The Parties agree that this Purchase Agreement is valid, binding, and enforceable, and each Party warrants that it has the requisite power and authority to be bound by the terms hereof. The Parties agree that they shall not challenge in any administrative or judicial forum the validity or enforceability of this Purchase Agreement.

o. Venue for all lawsuits involving any dispute, controversy, or claim arising out of or in connection with this Purchase Agreement shall be brought in Okaloosa County, Florida.

p. The Purchaser shall not be obligated to pay any liability arising out of or in any connection whatsoever with this Purchase Agreement from any funds except from the net revenues realized by the Purchaser after Closing from its ownership and operation of the Utility System. As to matters for the pre-Closing activities of its consultants and agents, Purchaser shall require that adequate insurance is in place to protect Seller from any property damage or personal injury as may be caused by said consultants and agents during such pre-Closing period. It is further agreed between the Purchaser and Seller that this Purchase Agreement and any obligations arising in

connection therewith, whether for payment of the Purchase Price, or for any claim of liability, remedy for breach or otherwise, shall not constitute a lien on the Utility System or any other property or utility system owned or operated by Purchaser.

q. This Purchase Agreement may be executed and delivered (including by facsimile or other electronic transmission) in counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute one and the same agreement. The parties agree that a photocopy of a signature and/or an electronic signature are acceptable as original signatures of the respective parties as allowed by applicable law and that the transmission by one party to another party is an express representation that the photocopied or electronic signature of the transmitting party is an exact copy of the party's signature and that such signature is valid and binding upon the transmitting party and is deemed to be an original signature.

r. PURCHASER AND SELLER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, DEFENSE OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE PURCHASED ASSETS, THE UTILITY SYSTEM AND/OR THIS PURCHASE AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS PURCHASE AGREEMENT AND/OR THE PURCHASED ASSETS, OR ANY DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO OR TO ANY DOCUMENT, THIS PROVISION IS A MATERIAL INDUCEMENT FOR PURCHASER AND SELLER ENTERING INTO THE SUBJECT TRANSACTION.

SECTION 14. Effective Date. The "Effective Date" shall be the date that the last Party authorizes by its official action the execution of this Purchase Agreement.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have hereunto caused this Purchase Agreement to be executed the day and year aforesaid in counterparts, each counterpart to be considered and original.

ATTEST:

OKALOOSA COUNTY

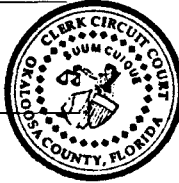
[Handwritten signature of J.D. Peacock II]

By: *[Handwritten signature of Mel Ponder]*
Mel Ponder, Chairman

Fax

J.D. Peacock II, County Clerk

Date: June 7, 2022



STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 7th day of June, 2022, by Mel Ponder, as Chairman on behalf of the Board of County Commissioners, who is personally known to me or who has produced _____ as identification.

[Handwritten signature of Mary L. Carson]

Notary Public
Printed Name:
License No:
Expiration Date:



ATTEST:

CITY OF CRESTVIEW, FLORIDA

Maryanne Schrader
City Clerk

By: [Signature]
Mayor

(SEAL)



STATE OF FLORIDA
COUNTY OF Okaloosa

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 25 day of May, 2022, by Maryanne Schrader, as City Clerk on behalf of City of Crestview, who is personally known to me or who has produced _____ as identification.



OFFICIAL NOTARY SEAL
Loretta A. Scardina
Commission No. HH151659
My Commission Expires
July 11, 2025

[Signature]

Notary Public
Printed Name:
License No:
Expiration Date:

(Notary Stamp)

RESOLUTION NO. 2022- 74

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA, DIRECTING AND AUTHORIZING THE ACQUISITION OF SUBSTANTIALLY ALL OF ASSETS COMPRISING THE WATER UTILITY SYSTEM AT THE FOXWOOD ADDITION SUBDIVISION IN CRESTVIEW OWNED BY OKALOOSA COUNTY, FLORIDA; FINDING THAT THE ACQUISITION IS IN THE PUBLIC INTEREST AND SERVES A PARAMOUNT PUBLIC PURPOSE; APPROVING AND AUTHORIZING THE CHAIR TO EXECUTE THE INTERLOCAL AGREEMENT OF PURCHASE AND SALE; APPROVING AND AUTHORIZING THE CHAIR OR VICE CHAIR AND SECRETARY TO EXECUTE ACQUISITION CLOSING DOCUMENTS; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE OKALOOSA COUNTY, AS FOLLOWS:

SECTION 1. AUTHORITY. Pursuant to Article VII, Florida Constitution and chapter 125, Florida Statutes, the Board of County Commissioners (“Board”) of Okaloosa County (the “County”) has the power to acquire, own, improve, operate, maintain, contract for management and operational services, and dispose of water utility facilities.

SECTION 2. INCORPORATION BY REFERENCE. The Executive Summary, including a description of the Okaloosa County (the "County") Foxwood Addition water utility system and facilities within Crestview (the “System”), the most recent income and expense statement, the most recent available balance sheet, a description of the system’s physical condition, a statement on the reasonableness of the price, a statement on customer impacts, a statement on additional investments required by the City and the City’s ability and willingness to make these investments, a description of any alternatives to acquisition by the City, and a statement regarding the ability of the City to operate acquired systems, presented at this public hearing and filed with the Clerk of Courts are hereby incorporated herein by reference and made a part hereof (hereafter referred to as the “Report”). The Report is attached hereto as **Appendix A**. The Report is intended to be a statement demonstrating that the acquisition of the System is in the public interest.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared:

(A) Pursuant to Article VII, Florida Constitution and chapter 125, Florida Statutes, the County has the power to acquire, own, operate, maintain, improve, contract for operational services, and dispose of water and wastewater utility facilities.

(B) The County owns and operates certain water production, treatment storage, transmission and distribution systems; wastewater collection, treatment and disposal systems; and reuse systems within the State of Florida.

(C) The Board is required to hold a public hearing on the acquisition of the County System to the City of Crestview, in accordance with s. 125.3401, Florida Statutes, to ensure that such acquisition serves the public interest. A public hearing was held on June 7, 2022. The public hearing was advertised in the Northwest Daily News which is a newspaper of general circulation within the County including within the City of Crestview. All interested persons had an opportunity to attend and participate and to file written comments.

(E) City of Crestview ownership of the System will provide an opportunity for the City to:

(1) further develop a regional approach to the comprehensive supply, distribution, and treatment of water;

(2) achieve economies of scale relative to utility operations, maintenance, customer service and management;

(3) provide current and future users of the System with cost efficient services at rates lower than can be achieved by the County if it continues to own and operate the system;

(4) ensure that the operation and maintenance of the System is done in a proactive and environmentally responsible manner;

(5) stabilize rates over the long term, reduce inefficient expansion and optimize public infrastructure capacity investments;

(6) focus on the appropriate expansion and interconnection of existing facilities and the construction of future facilities in a coordinated and uniform manner which ensures full regulatory compliance and improvements of environmental conditions in a fragile springshed area; and

(7) coordinate the expansion and extension of facilities in a manner consistent with local government comprehensive planning.

SECTION 4. DETERMINATION OF PUBLIC USE AND BENEFIT.

(A) Contingent upon the approval by the City of Crestview of water and wastewater rates to be effective on the closing date that meet the requirements set forth in the Interlocal Agreement for Purchase and Sale; and based upon its legislative findings incorporated in Section

3, the Board expressly determines that the acquisition of the System to the City, pursuant to the terms of the Interlocal Agreement for the Purchase and Sale of Utility Assets, by and between Okaloosa County, Florida, and the City of Crestview, attached hereto as **Appendix C**; and the provision of water services through facilities owned by the City constitutes a paramount public purpose and is in the best interests of the health, safety, and welfare of affected ratepayers and the inhabitants of Okaloosa County that are within the Foxwood Addition subdivision service area of the System.

SECTION 5. PUBLIC INTEREST DETERMINATION OF PURCHASE. In making the public interest determination concerning the transactions contemplated by the County relating to the acquisition of the System, the Board has considered numerous factors, including but not limited to the following matters:

(A) The County's most recently available income and expense statement(s) relating to the County System;

(B) The County's most recently available balance sheet(s) relating to the County System;

(C) The general physical condition of the County System;

(D) The reasonableness of the purchase price;

(E) The impacts of the contemplated transition on utility customers served by the County System, both positive and negative;

(F) Any additional investment required and the ability and willingness of the City to make that investment;

(G) The alternatives to the contemplated transition and the potential impact on utility customers if the County System is not acquired by the City;

(H) The ability of the City to provide and maintain high quality and cost-effective utility service; and

SECTION 7. APPROVAL OF THE INTERLOCAL AGREEMENT FOR THE PURCHASE AND SALE OF UTILITY ASSETS BY AND BETWEEN OKALOOSA COUNTY, FLORIDA, AND THE CITY OF CRESTVIEW. The Interlocal Agreement for the Purchase and Sale of Utility Assets by and between Okaloosa County, Florida, and the City of Crestview ("Purchase Agreement"), submitted to this public meeting is hereby approved in substantially the form attached hereto as **Appendix B**. The Chair or Vice Chair are hereby authorized to execute said Purchase Agreement.

SECTION 8. AUTHORITY TO CLOSE; APPROVAL OF ACQUISITION DOCUMENTS. The Chair or Vice Chair, staff and legal counsel are hereby authorized and

directed to execute and deliver all documents, papers, and instruments (collectively, the "Acquisition Documents") and take all actions necessary and proper to effect the acquisition of the System. Execution of the Acquisition Documents by the Chair or Vice Chair shall be deemed to be conclusive evidence of approval of such Acquisition Documents.

SECTION 9. APPLICABILITY AND EFFECTIVE DATE. This Resolution shall be liberally construed to affect the purposes hereof and shall take effect immediately upon its adoption.


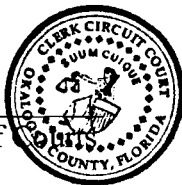
PASSED AND DULY ADOPTED at the meeting of the Board of County Commissioners of Okaloosa County, Florida on the 7th day of June, 2022.

OKALOOSA COUNTY, FLORIDA

ATTEST:

BY: 
Mel Ponder, Chairman




J.D. Peacock II, Clerk of 

APPROVED AS TO FORM:


Lynn Hoshihara, County Attorney

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RESOLUTION NO. 2022- ____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA, DIRECTING AND AUTHORIZING THE ACQUISITION OF SUBSTANTIALLY ALL OF ASSETS COMPRISING THE WATER UTILITY SYSTEM AT THE FOXWOOD ADDITION SUBDIVISION IN CRESTVIEW OWNED BY OKALOOSA COUNTY, FLORIDA; FINDING THAT THE ACQUISITION IS IN THE PUBLIC INTEREST AND SERVES A PARAMOUNT PUBLIC PURPOSE; APPROVING AND AUTHORIZING THE CHAIR TO EXECUTE THE INTERLOCAL AGREEMENT OF PURCHASE AND SALE; APPROVING AND AUTHORIZING THE CHAIR OR VICE CHAIR AND SECRETARY TO EXECUTE ACQUISITION CLOSING DOCUMENTS; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE OKALOOSA COUNTY, AS FOLLOWS:

SECTION 1. AUTHORITY. Pursuant to Article VII, Florida Constitution and chapter 125, Florida Statutes, the Board of County Commissioners (“Board”) of Okaloosa County (the “County”) has the power to acquire, own, improve, operate, maintain, contract for management and operational services, and dispose of water utility facilities.

SECTION 2. INCORPORATION BY REFERENCE. The Executive Summary, including a description of the Okaloosa County (the "County") Foxwood Addition water utility system and facilities within Crestview (the “System”), the most recent income and expense statement, the most recent available balance sheet, a description of the system’s physical condition, a statement on the reasonableness of the price, a statement on customer impacts, a statement on additional investments required by the City and the City’s ability and willingness to make these investments, a description of any alternatives to acquisition by the City, and a statement regarding the ability of the City to operate acquired systems, presented at this public hearing and filed with the Clerk of Courts are hereby incorporated herein by reference and made a part hereof (hereafter referred to as the “Report”). The Report is attached hereto as **Appendix A**. The Report is intended to be a statement demonstrating that the acquisition of the System is in the public interest.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared:

(A) Pursuant to Article VII, Florida Constitution and chapter 125, Florida Statutes, the County has the power to acquire, own, operate, maintain, improve, contract for operational services, and dispose of water and wastewater utility facilities.

47
48 (B) The County owns and operates certain water production, treatment storage,
49 transmission and distribution systems; wastewater collection, treatment and disposal systems;
50 and reuse systems within the State of Florida.

51
52 (C) The Board is required to hold a public hearing on the acquisition of the County
53 System to the City of Crestview, in accordance with s. 125.3401, Florida Statutes, to ensure that
54 such acquisition serves the public interest. A public hearing was held on _____, 2022. The
55 public hearing was advertised in the Northwest Daily News which is a newspaper of general
56 circulation within the County including within the City of Crestview. All interested persons had
57 an opportunity to attend and participate and to file written comments.

58
59 (E) City of Crestview ownership of the System will provide an opportunity for the
60 City to:

61
62 (1) further develop a regional approach to the comprehensive supply,
63 distribution, and treatment of water;

64
65 (2) achieve economies of scale relative to utility operations, maintenance,
66 customer service and management;

67
68 (3) provide current and future users of the System with cost efficient services
69 at rates lower than can be achieved by the County if it continues to own and operate the
70 system;

71
72 (4) ensure that the operation and maintenance of the System is done in a
73 proactive and environmentally responsible manner;

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75 (5) stabilize rates over the long term, reduce inefficient expansion and
76 optimize public infrastructure capacity investments;

77
78 (6) focus on the appropriate expansion and interconnection of existing
79 facilities and the construction of future facilities in a coordinated and uniform manner
80 which ensures full regulatory compliance and improvements of environmental conditions
81 in a fragile springshed area; and

82
83 (7) coordinate the expansion and extension of facilities in a manner consistent
84 with local government comprehensive planning.

85
86 **SECTION 4. DETERMINATION OF PUBLIC USE AND BENEFIT.**

87
88 (A) Contingent upon the approval by the City of Crestview of water and wastewater
89 rates to be effective on the closing date that meet the requirements set forth in the Interlocal
90 Agreement for Purchase and Sale; and based upon its legislative findings incorporated in Section

91 3, the Board expressly determines that the acquisition of the System to the City, pursuant to the
92 terms of the Interlocal Agreement for the Purchase and Sale of Utility Assets, by and between
93 Okaloosa County, Florida, and the City of Crestview, attached hereto as **Appendix C**; and the
94 provision of water services through facilities owned by the City constitutes a paramount public
95 purpose and is in the best interests of the health, safety, and welfare of affected ratepayers and
96 the inhabitants of Okaloosa County that are within the Foxwood Addition subdivision service
97 area of the System.

98
99 **SECTION 5. PUBLIC INTEREST DETERMINATION OF PURCHASE.** In
100 making the public interest determination concerning the transactions contemplated by the County
101 relating to the acquisition of the System, the Board has considered numerous factors, including
102 but not limited to the following matters:

103
104 (A) The County’s most recently available income and expense statement(s) relating to
105 the County System;

106
107 (B) The County’s most recently available balance sheet(s) relating to the County
108 System;

109
110 (C) The general physical condition of the County System;

111
112 (D) The reasonableness of the purchase price;

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114 (E) The impacts of the contemplated transition on utility customers served by the
115 County System, both positive and negative;

116
117 (F) Any additional investment required and the ability and willingness of the City to
118 make that investment;

119
120 (G) The alternatives to the contemplated transition and the potential impact on utility
121 customers if the County System is not acquired by the City;

122
123 (H) The ability of the City to provide and maintain high quality and cost effective
124 utility service; and

125
126
127 **SECTION 7. APPROVAL OF THE INTERLOCAL AGREEMENT FOR THE**
128 **PURCHASE AND SALE OF UTILTIY ASSETS BY AND BETWEEN OKALOOSA**
129 **COUNTY, FLORIDA, AND THE CITY OF CRESTVIEW.** The Interlocal Agreement for the
130 Purchase and Sale of Utility Assets by and between Okaloosa County, Florida, and the City of
131 Crestview (“Purchase Agreement”), submitted to this public meeting is hereby approved in
132 substantially the form attached hereto as **Appendix B**. The Chair or Vice Chair are hereby
133 authorized to execute said Purchase Agreement.

134
135 **SECTION 8. AUTHORITY TO CLOSE; APPROVAL OF ACQUISITION**
136 **DOCUMENTS.** The Chair or Vice Chair, staff and legal counsel are hereby authorized and

137 directed to execute and deliver all documents, papers, and instruments (collectively, the
138 “Acquisition Documents”) and take all actions necessary and proper to effect the acquisition of
139 the System. Execution of the Acquisition Documents by the Chair or Vice Chair shall be
140 deemed to be conclusive evidence of approval of such Acquisition Documents.

141
142 **SECTION 9. APPLICABILITY AND EFFECTIVE DATE.** This Resolution shall
143 be liberally construed to affect the purposes hereof and shall take effect immediately upon its
144 adoption.

145
146 **PASSED AND DULY ADOPTED** at the meeting of the Board of County
147 Commissioners of Okaloosa County, Florida on the ____ day of _____, 2022.

148 **OKALOOSA COUNTY, FLORIDA**

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153 **ATTEST:** BY: _____
154 Mel Ponder, Chairman
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158 _____
159 J.D. Peacock II, Clerk of Courts

160 **APPROVED AS TO FORM:**
161
162
163 _____
164 Lynn Hoshihara, County Attorney

LOCALiQ

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News Chief | Herald-Tribune | News Herald
Northwest Florida Daily News

PROOF OF PUBLICATION

Ok Co Water & Sewer
1804 LEWIS TURNER BLVD
SUITE 300
Ft Walton Beach FL 32547

STATE OF FLORIDA, COUNTY OF OKALOOSA


The Northwest Florida Daily News, a newspaper printed and published in the city of Fort Walton, and of general circulation in the Counties of Okaloosa, Santa Rosa and Walton, State of Florida, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue dated or by publication on the newspaper's website, if authorized, on:

05/23/2022

and that the fees charged are legal.
Sworn to and subscribed before on 05/23/2022



Legal Clerk



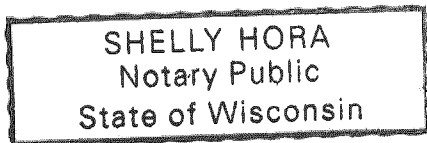
Notary, State of WI, County of Brown
8-95-23

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NOTICE OF PUBLIC HEARING

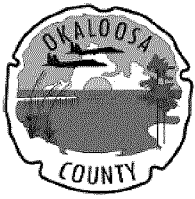
TO DETERMINE WHETHER THE SALE OF THE FOXWOOD ADDITION SUBDIVISION WATER UTILITY ASSETS OF OKALOOSA COUNTY, FLORIDA TO THE CITY OF CRESTVIEW, FLORIDA IS IN THE PUBLIC INTEREST.

Okaloosa County, Florida (the "County") announces a public hearing to which all interested persons are invited. The County is a political subdivision of the state of Florida and the City of Crestview is a public municipality of the state of Florida. Such public hearing will be held to determine whether the acquisition to the City of Crestview, Florida of the water utility assets owned by Okaloosa County, Florida within the Foxwood Addition subdivision in Crestview is in the public interest. The public hearing shall be held as part of the Board of County Commissioners regular meeting.

The public hearing will be held at 9:30 a.m. on June 7, 2022. The hearing will be held in Commission Chambers at 101 East James Lee Blvd. Crestview, FL 32536. Any members of the public who wish to participate in the public hearing is welcome.

All customers of Okaloosa County's water utilities within the Foxwood Addition, the City of Crestview, affected property owners, tenants or occupants, and all other interested persons, shall have an opportunity to be heard concerning the proposed acquisition, and to comment on the economic and environmental impacts, service area, alternatives to the City's acquisition of the system from the County and any other matters of concern. All such persons shall also be entitled to file written comments with the County.

If a person decides to appeal any decision made by Okaloosa County Board of County Commissioners with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. Okaloosa County adheres to the American Disabilities Act and will make reasonable modifications for access to these meetings upon request. Requests may be made to the County Commission office (850-689-5030 or 850-651-7105) and must be made at least 48 hours in advance of the meeting in order to provide an accommodation.
11- 5/23/22 (7263571)



BOARD OF COUNTY COMMISSIONERS AGENDA REQUEST

DATE: May 3, 2022
TO: Honorable Chairman and Distinguished Members of the Board
FROM: Jeff Littrell
SUBJECT: Public Hearing Request: Okaloosa County & City of Crestview Interlocal Agreement - Foxwood
DEPARTMENT: Water and Sewer
BCC DISTRICT: 3

STATEMENT OF ISSUE: Okaloosa County Water & Sewer (OCWS) staff requests the Board of County Commissioners (BCC) to authorize the scheduling and advertising of a public hearing regarding an Interlocal Agreement with the City of Crestview for the purchase and sale of utility assets associated with Foxwood Addition, in which the City will pay the County \$327,500, which is based on 5 years of gross revenue.

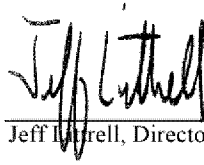
BACKGROUND: Okaloosa County has not historically been in the water business within the City of Crestview Foxwood Addition Subdivision area. It initially ventured into the public utility business in that area in the late 1990's per engineering as-built drawings. Most of the surrounding area, including the Foxwood Estates subdivision, is serviced for water by the City of Crestview. The total current customers served by the Foxwood Addition system is 88 customers.

Foxwood Addition is contained in the same subdivision as the recently annexed Foxwood, which was acquired by the City of Crestview in March 2021. These two phases share the same infrastructure, specifically the water main on Eagle Drive. Additionally, the City of Crestview has the ability to provide sanitary sewer service where the County does not have the ability to do so.

For your review and consideration, attached is the Executive Summary required by Florida Statutes, as well as the proposed Purchase and Sale Interlocal Agreement with the City of Crestview, Florida. This agreement was jointly worked on with the City and contains the terms of the purchase and sale of the County's water utility facilities located within the Foxwood Addition subdivision in Crestview, Florida. If the Board desires to proceed with this sale to City of Crestview under the presented terms, the Board must conduct a public hearing and adopt a resolution, which is attached, directing and authorizing the acquisition of the real and personal property described in the Purchase and Sale Interlocal Agreement comprising certain water assets of the County.

OPTIONS: Approve/Deny/Postpone/Modify.

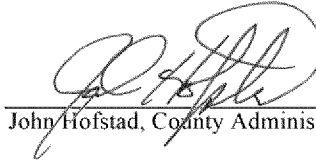
RECOMMENDATIONS: Approval to advertise and hold a public hearing at the June 7, 2022 BCC meeting at or shortly after 8:30am, to discuss and to vote on approval regarding the Interlocal Agreement with the City of Crestview related to the sale of County utility system assets associated with Foxwood Addition.



Jeff Luttrell, Director

4/25/2022

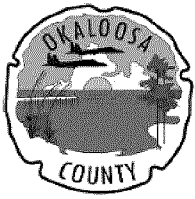
RECOMMENDED BY:



John Hofstad, County Administrator

4/27/2022

APPROVED BY:



BOARD OF COUNTY COMMISSIONERS AGENDA REQUEST

DATE: June 7, 2022
TO: Honorable Chairman and Distinguished Members of the Board
FROM: Jeff Littrell
SUBJECT: Public Hearing - Approval of Interlocal Agreement with the City of Crestview on Foxwood Addition
DEPARTMENT: Water and Sewer
BCC DISTRICT: 3

STATEMENT OF ISSUE: Okaloosa County Water & Sewer (OCWS) staff requests Board of County Commissioners (BCC) approval to authorize the Chairman to execute an Interlocal Agreement with the City of Crestview (City) for the purchase and sale of utility assets associated with Foxwood Addition.

BACKGROUND: OCWS has historically provided water service to Foxwood Estates and Foxwood Addition, both located off of Antioch Road in Crestview. OCWS does not have sewer available in the area, while the City does provide water and sewer service to areas surrounding Foxwood Estates and Foxwood Addition. Foxwood Estates was annexed into the City in March 2021. Foxwood Addition was not part of the annexation; it contains 88 OCWS customers and adjoins Foxwood Estates, as the second phase of the development. Both Foxwood Estates and Foxwood Addition share some infrastructure, specifically the water main along Eagle Drive. Due to the connectivity of the phases and the shared water main, after Foxwood Estates was annexed, the City approached OCWS about purchasing the potable water infrastructure and customers of Foxwood Addition. With the City having both water and sewer in the surrounding area, and with the annexation, it appears to make most sense for the water & sewer service area of both Foxwood Estates and Foxwood Addition to be the City of Crestview, instead of Okaloosa County. This scenario should be the best in the long-term for both the public and the environment, with possible elimination of septic tanks.

After analysis and then negotiations with the City, OCWS is now presenting the BCC with a proposed Purchase and Sale Interlocal Agreement with the City of Crestview, which contains the terms of the purchase and sale of the County's water utility facilities located within the Foxwood Addition subdivision. If the Board desires to proceed with this transfer to the City under the presented terms, the Board must adopt a resolution, which is attached, directing and authorizing the acquisition of the real and personal property described in the Purchase and Sale Interlocal Agreement comprising certain water assets of the County.

For your review and consideration, attached is an Executive Summary and the Interlocal Agreement itself, along with other supporting documents. These documents address the County/City partnership on this specific project and include further details. The Agreement establishes clear responsibilities for each the County and the City. The City commits to a cash payment of \$327,500 in exchange for what is commonly known as the Foxwood Addition plat, consisting of potable water mains, services, meters, and associated parts (collectively, the "Utility System"), serving customers within the unincorporated area of the County pursuant to its

home rule authority and authority provided pursuant to Florida law. This lump sum revenue to OCWS serves to recoup an estimated five years of revenue OCWS would have generated from these 88 customers in Foxwood Addition. This Agreement has been highly coordinated between OCWS staff, City staff, County Legal, and City Legal.

On May 23, 2022, the City of Crestview held their public hearing regarding the purchase of these utility assets in Foxwood Addition. After brief discussions with the public, Council approved the purchase of assets and the Interlocal Agreement unanimously 5-0.

For this Okaloosa County Public Hearing, the Notice of Public Hearing appeared in the Northwest Florida Daily News on 5/23/2022 (see attached affidavit) and was also distributed to customers via door hangers in mid-May.

Upon approval and execution of the Resolution and Interlocal Agreement by the BCC, County staff will work with Legal and City staff to setup up a closing as soon as possible. Therefore, staff is also requesting that the BCC authorize the Chairman and/or County Administrator to execute any documents related to the closing. After the closing, City and County staff will work together to physically connect the water mains and other potable water infrastructure of both Foxwood Addition and Foxwood Estates to the City's water system. When that occurs, all customers of Foxwood Addition and Foxwood Estates will be City utility customers for the long term future (though Foxwood Estates is annexed and Foxwood Estates is not annexed). To clarify, the customers and potable water infrastructure of Foxwood Estates is also transferring to the City via annexation and a past Interlocal Agreement.

FUNDING SOURCE: The Interlocal Agreement itself does not require any funding, as the purpose is revenue from the City of Crestview.

OPTIONS: Approve/Deny/Modify/Postpone.

RECOMMENDATIONS: Approval of Resolution and Interlocal Agreement with the City of Crestview for the purchase and sale of utility assets associated with Foxwood Addition. Additionally, authorizing Chairman to execute both documents and the Chairman and/or County Administrator to execute any future documents related to the closing, in coordination with County Legal.

RECOMMENDED BY:



John Hofstad, County Administrator

6/1/2022

APPROVED BY:

EXECUTIVE SUMMARY

TO: Board of County Commissioners

FROM: Jeff Littrell, Director of Okaloosa County Department of Water and Sewer

DATE: May 3, 2022

RE: Public Hearing and Resolution Considering the Sale of the Foxwood Addition water utility assets to the City of Crestview, Florida

RECOMMENDATION:

The Department of Water and Sewer for Okaloosa County (the "County") is presenting the Board of County Commissioners with a proposed Purchase and Sale Interlocal Agreement with the City of Crestview, Florida (the "City") containing the terms of the purchase and sale of the County's water utility facilities located within the Foxwood Addition subdivision in Crestview, Florida. If the Board desires to proceed with this acquisition under the presented terms, the Board must adopt a resolution, attached, directing and authorizing the acquisition of the real and personal property described in the Purchase and Sale Interlocal Agreement comprising certain water assets of the County (the "Utility Facilities").

BRIEF HISTORY OF UTILITY AND RECENT EVENTS:

Okaloosa County is located in northwest Florida panhandle on the Gulf of Mexico between Escambia County to the west and Walton County to the east. Okaloosa County has not historically been in the water business within the City of Crestview Foxwood Addition Subdivision area. It initially ventured into the public utility business in that area in the late 1990's per engineering as-built drawings. Most of the surrounding area, including the Foxwood subdivision, is services for water by the City of Crestview. The current customers served by the Foxwood Addition systems is 88 customers. For reference purposes, the Foxwood Addition subdivision to be acquired by the City of Crestview is included in Appendix A.

Foxwood Addition is contained in the same subdivision as the recently annexed Foxwood, which was acquired by the City of Crestview in March 2021. These two phases share the same infrastructure, specifically the water main on Eagle Drive. Additionally, the City of Crestview has the ability to provide sewer where the County does not have the ability to do so.

In May 2021, the County received an inquiry from the City of Crestview requesting to perform a preliminary due diligence assessment of the County's Foxwood Addition water utility system to determine the feasibility of an acquisition/transfer of the systems to the City. The County agreed to perform such an assessment and initiated its effort shortly after receiving the inquiry from the City.

Observations about the system include:

The City in its due diligence analysis made the findings summarized below:

- 1) The provision of water and wastewater services and facilities in an uncoordinated fashion and the provision of wastewater services and facilities through septic tanks or small privately-owned on-site disposal systems constitute impediments to the implementation of financially feasible local comprehensive water and wastewater plans. The proposed acquisition by the City effectively begins implementation of a unified plan to provide water and wastewater services through a single

government-owned utility system responsive to the public demand for utility service now and in the future, and for consistent protection of the environment, each of which represents a benefit to the public now and in the future.

- 2) The proposed acquisition will allow the City and the County to control and coordinate existing financial and physical resources to avoid inefficient effort in the provision of water and wastewater services in the region.
- 3) The anticipated debt per customer in the transition area would substantially increase in order for the County to plan, construct and operate a water system with appropriate future capacity to serve projected customers over the next ten years when compared to the City's relatively robust water capacity in the transition area currently. In addition, the County cannot currently serve sewer to customers in the transition areas. The costs of planning and building a system are not being planned and would likely be prohibitive given the geographic distance from the County sewer system reach. The proposed acquisition would best permit current and future economies of scale resulting from the unified and coordinated provision of water and wastewater services by both parties.
- 4) As a result of the foregoing, the transition area is best served by one public water system and one public wastewater system, and the City is the only provider able to serve both systems in the foreseeable future at a cost that could justifiably be borne by rate-paying customers. Consequently, the County also benefits by focusing its resources on expanding and enhancing its water and wastewater systems where it has a higher concentration of customers and anticipates a higher amount of growth in the foreseeable future.
- 5) The proposed acquisition provides a real and positive opportunity for the County and the City to focus its and their rate structures on more concentrated areas of service and best implement processes and procedures to conserve valuable water resources within, and as part of, the respective systems.

As a result of the City's analysis, County staff reached the conclusion it would be more feasible and economical for the City to service the Foxwood Addition water utility system. For that reason, the County asked that the City develop a plan for transition that would ensure that the utility system would maintain regulatory compliance, minimize the rate impact on the existing customers, and transfer ownership of the utility system to the City, which has now resulted in a proposed Interlocal Agreement before the Board.

The City has developed a plan for moving forward with an acquisition with the County. City and County staff will work together in the field on the water main connections/disconnections, final/initial meter reads, and customer transition. There will be 3 main disconnections: Golf Course Drive, Eagle Drive, and Arena Road.

REPORT:

General Description

Pursuant to Home Rule Authority provided by the Constitution of Florida and Chapter 125, Florida Statutes, the County has the power to acquire, operate, construct, own, and manage water and/or wastewater utility facilities within the State of Florida. In accordance with these and similar powers, the County staff has negotiated the terms of a purchase and sale with the City of Crestview of the County's water utility assets located within the Foxwood Addition subdivision.

As outlined earlier, the City and County's acquisition teams have spent substantial time and effort investigating this potential purchase, conducting due diligence activities, and negotiating terms of a potential purchase.

The service area boundaries of the Foxwood Addition water utilities, as well as the components of the County's utility system at the Foxwood Addition are outlined in Appendix A. The number of customers served within Foxwood Addition is 88 customers.

Public Hearing Requirement

To provide for the public interest and welfare, the Board must address and balance numerous factors in considering this potential acquisition. This memo focuses on addressing the factors listed in section 125.37401, Florida Statutes, which relate to the purchase and sale of water, wastewater, or wastewater reuse facilities by a County. In determining if the acquisition is in the public interest, the following factors should be considered:

- (1) **Revenue analysis regarding the acquisition of the aforementioned County utility system assets.** Three years of annual revenue data were compiled (fiscal years 2018, 2019, and 2020) regarding the 88 customers in Foxwood Addition, in which the average of annual customer revenue totaled \$65,465.53, rounded to \$65,500 annually. It was agreed upon between the City and the County that five years of revenue was a fair payment; therefore, $5 \text{ years} \times \$65,500/\text{year} = \$327,500$.
- (2) **A statement of the existing rate base of the utility for regulatory purposes.** The Okaloosa County utility system is a publicly owned system, and, as such, is not regulated by the Public Service Commission and does not have an identified rate base.
- (3) **The physical condition of the utility facilities being purchased, sold or subject to a wastewater facility privatization contract.** The Okaloosa County utility system at the Foxwood Addition subdivision has recently been evaluated by the County and the City. The utility facilities are considered to be physically sound and in good condition. The construction of the Foxwood Addition water system was completed in 1999 and is modern piping, with no major problems that the County is aware of.
- (4) **The reasonableness of the purchase, sale or wastewater facility privatization contract price and terms.** The negotiated purchase price of \$327,500 is based upon five years of estimated revenue generated by the 88 customers in Foxwood Addition and is entirely reasonable, and is the exact concept that is used by the County when it transfers a system to another governmental entity.
- (5) **The impacts of the purchase and sale on utility customers, both positive and negative.** The impacts of implementing the plan to transfer the system to the City include:
 - a. Continued ownership by a public entity, with additional water and sewer infrastructure and capacity for growth, including planned transition of septic to sewer.
 - b. Foxwood and Foxwood Addition, which are in the same area and followed a general development pattern, share the same infrastructure and will both be maintained and served by the City, ensuring a streamlined process for customers and the utility.
 - c. The City will provide Foxwood Addition, and eventually Foxwood, with sewer which the County cannot currently serve.
 - d. Without available grant funding, current septic customers may incur a cost to transition to sewer when aging septic systems fail.

- (6) **Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment.** The City and County have conducted extensive due diligence..
- (7) **The alternatives to the purchase price, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made.** The alternatives to the proposed City acquisition include continued ownership and operation by the County. It is in the public interest that the City assume the long-range planning, management, financing, maintenance, and operations of utility facilities due to the reasons outlined above.
- (8) **The ability of the City to provide and maintain high-quality and cost-effective utility service.** As a governmental authority delivering water services to the surrounding area, the City is in a position to assume these important responsibilities from the County and to provide high quality, cost-effective service to the utility customers. The City as an ownership entity, has the advantage afforded to governmental owners, such as access to low-cost public financing and grants, but also some of the creativity and nimbleness of private sector management and operations.

Upon acquisition by the County to the City, the 88 customers in Foxwood Addition would see a water (not sewer) rate decrease of approximately 39% , based on a monthly residential single family use of 4,500 gallons.

PUBLIC INTEREST:

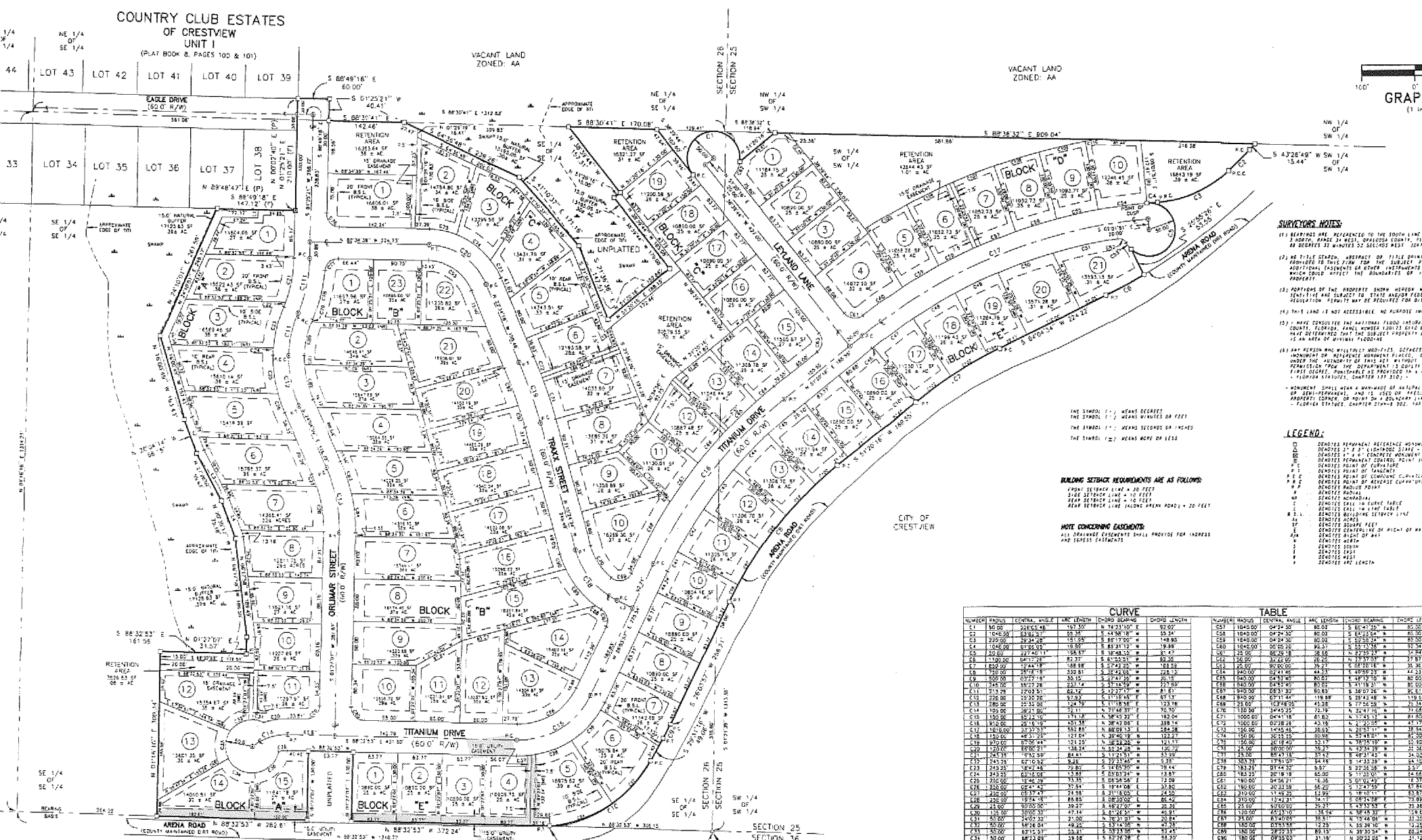
Upon consideration of the above factors, it is recommended that the acquisition of the County's Utility assets at Foxwood Addition to the City be found to be in the public interest.



Water Main L
3"
6"
10"
Water Service
Water Meter
Fire Hydrant

FOX BUSH ADDITION

A SUBDIVISION SITUATED IN THE SOUTHEAST QUARTER OF SECTION 26
AND THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 3
NORTH, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA



- SURVEYOR'S NOTES:**
- BEARINGS ARE REFERENCED TO THE SOUTH LINE OF SECTION 26, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA.
 - NO TITLE SEARCH, ABSTRACT OR TITLE DIVISION REQUIRED TO THIS PLAN FOR THE SUBJECT PROPERTY. ADDITIONAL EASEMENTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OF THIS PROPERTY.
 - PORTIONS OF THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO STATE AND/OR FEDERAL REGULATION, FEDERAL WATER POLLUTION ACT OR NEAR OR ADJACENT TO THE SUBJECT PROPERTY. THIS IS AN AREA OF POTENTIAL FLOODING.
 - THESE LOTS ARE NOT ACCESSIBLE UNLESS THE NEIGHBORING LOTS ARE ACCESSIBLE.
 - HAVE CONSULTED THE NATIONAL FLOOD INSURANCE PROGRAM, FEDERAL FLOOD INSURANCE ACT, AND THE DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CHAPTER 173 (FLOOD INSURANCE) AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CHAPTER 173 (FLOOD INSURANCE).
 - NO RECORDS WERE RECORDED IN THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, THAT WOULD AFFECT THE BOUNDARIES OF THIS PROPERTY. HOWEVER, THE DEPARTMENT OF COMMERCE, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CHAPTER 173 (FLOOD INSURANCE) AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CHAPTER 173 (FLOOD INSURANCE) MAY BE APPLICABLE TO THIS PROPERTY.

- LEGEND:**
- 1.0: CENTERLINE OF HIGHWAY
 - 2.0: CENTERLINE OF ROADWAY
 - 3.0: CENTERLINE OF DRIVEWAY
 - 4.0: CENTERLINE OF ALLEYWAY
 - 5.0: CENTERLINE OF SIDEWALK
 - 6.0: CENTERLINE OF BIWAY
 - 7.0: CENTERLINE OF TRAIL
 - 8.0: CENTERLINE OF FENCE
 - 9.0: CENTERLINE OF RAILROAD
 - 10.0: CENTERLINE OF CANAL
 - 11.0: CENTERLINE OF DRAINAGE
 - 12.0: CENTERLINE OF UTILITY
 - 13.0: CENTERLINE OF AIRWAY
 - 14.0: CENTERLINE OF POWERLINE
 - 15.0: CENTERLINE OF TELEPHONE
 - 16.0: CENTERLINE OF GAS
 - 17.0: CENTERLINE OF WATER
 - 18.0: CENTERLINE OF SEWER
 - 19.0: CENTERLINE OF CABLE
 - 20.0: CENTERLINE OF FIBER
 - 21.0: CENTERLINE OF RAILROAD
 - 22.0: CENTERLINE OF AIRWAY
 - 23.0: CENTERLINE OF POWERLINE
 - 24.0: CENTERLINE OF TELEPHONE
 - 25.0: CENTERLINE OF GAS
 - 26.0: CENTERLINE OF WATER
 - 27.0: CENTERLINE OF SEWER
 - 28.0: CENTERLINE OF CABLE
 - 29.0: CENTERLINE OF FIBER

THE SYMBOL "1" MEANS EASEMENT
THE SYMBOL "2" MEANS EASEMENT OR FEES
THE SYMBOL "3" MEANS EASEMENT OR FEES
THE SYMBOL "4" MEANS EASEMENT OR FEES

BUILDING SETBACK REQUIREMENTS ARE AS FOLLOWS:
FRONT SETBACK LINE = 30 FEET
SIDE SETBACK LINE = 10 FEET
REAR SETBACK LINE = 10 FEET

NOTE CONCERNING EASEMENTS:
ALL DRAINAGE EASEMENTS SHALL PROVIDE FOR INCREASED AND EXCESS FLOWAGE.

CURVE						TABLE					
NUMBER	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH	NUMBER	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	1000.00	45.00	157.08	S 45.00° E	157.08	T1	1000.00	45.00	157.08	S 45.00° E	157.08
C2	1000.00	45.00	157.08	S 45.00° E	157.08	T2	1000.00	45.00	157.08	S 45.00° E	157.08
C3	1000.00	45.00	157.08	S 45.00° E	157.08	T3	1000.00	45.00	157.08	S 45.00° E	157.08
C4	1000.00	45.00	157.08	S 45.00° E	157.08	T4	1000.00	45.00	157.08	S 45.00° E	157.08
C5	1000.00	45.00	157.08	S 45.00° E	157.08	T5	1000.00	45.00	157.08	S 45.00° E	157.08
C6	1000.00	45.00	157.08	S 45.00° E	157.08	T6	1000.00	45.00	157.08	S 45.00° E	157.08
C7	1000.00	45.00	157.08	S 45.00° E	157.08	T7	1000.00	45.00	157.08	S 45.00° E	157.08
C8	1000.00	45.00	157.08	S 45.00° E	157.08	T8	1000.00	45.00	157.08	S 45.00° E	157.08
C9	1000.00	45.00	157.08	S 45.00° E	157.08	T9	1000.00	45.00	157.08	S 45.00° E	157.08
C10	1000.00	45.00	157.08	S 45.00° E	157.08	T10	1000.00	45.00	157.08	S 45.00° E	157.08
C11	1000.00	45.00	157.08	S 45.00° E	157.08	T11	1000.00	45.00	157.08	S 45.00° E	157.08
C12	1000.00	45.00	157.08	S 45.00° E	157.08	T12	1000.00	45.00	157.08	S 45.00° E	157.08
C13	1000.00	45.00	157.08	S 45.00° E	157.08	T13	1000.00	45.00	157.08	S 45.00° E	157.08
C14	1000.00	45.00	157.08	S 45.00° E	157.08	T14	1000.00	45.00	157.08	S 45.00° E	157.08
C15	1000.00	45.00	157.08	S 45.00° E	157.08	T15	1000.00	45.00	157.08	S 45.00° E	157.08
C16	1000.00	45.00	157.08	S 45.00° E	157.08	T16	1000.00	45.00	157.08	S 45.00° E	157.08
C17	1000.00	45.00	157.08	S 45.00° E	157.08	T17	1000.00	45.00	157.08	S 45.00° E	157.08
C18	1000.00	45.00	157.08	S 45.00° E	157.08	T18	1000.00	45.00	157.08	S 45.00° E	157.08
C19	1000.00	45.00	157.08	S 45.00° E	157.08	T19	1000.00	45.00	157.08	S 45.00° E	157.08
C20	1000.00	45.00	157.08	S 45.00° E	157.08	T20	1000.00	45.00	157.08	S 45.00° E	157.08
C21	1000.00	45.00	157.08	S 45.00° E	157.08	T21	1000.00	45.00	157.08	S 45.00° E	157.08
C22	1000.00	45.00	157.08	S 45.00° E	157.08	T22	1000.00	45.00	157.08	S 45.00° E	157.08
C23	1000.00	45.00	157.08	S 45.00° E	157.08	T23	1000.00	45.00	157.08	S 45.00° E	157.08
C24	1000.00	45.00	157.08	S 45.00° E	157.08	T24	1000.00	45.00	157.08	S 45.00° E	157.08
C25	1000.00	45.00	157.08	S 45.00° E	157.08	T25	1000.00	45.00	157.08	S 45.00° E	157.08
C26	1000.00	45.00	157.08	S 45.00° E	157.08	T26	1000.00	45.00	157.08	S 45.00° E	157.08
C27	1000.00	45.00	157.08	S 45.00° E	157.08	T27	1000.00	45.00	157.08	S 45.00° E	157.08
C28	1000.00	45.00	157.08	S 45.00° E	157.08	T28	1000.00	45.00	157.08	S 45.00° E	157.08
C29	1000.00	45.00	157.08	S 45.00° E	157.08	T29	1000.00	45.00	157.08	S 45.00° E	157.08
C30	1000.00	45.00	157.08	S 45.00° E	157.08	T30	1000.00	45.00	157.08	S 45.00° E	157.08
C31	1000.00	45.00	157.08	S 45.00° E	157.08	T31	1000.00	45.00	157.08	S 45.00° E	157.08
C32	1000.00	45.00	157.08	S 45.00° E	157.08	T32	1000.00	45.00	157.08	S 45.00° E	157.08
C33	1000.00	45.00	157.08	S 45.00° E	157.08	T33	1000.00	45.00	157.08	S 45.00° E	157.08
C34	1000.00	45.00	157.08	S 45.00° E	157.08	T34	1000.00	45.00	157.08	S 45.00° E	157.08
C35	1000.00	45.00	157.08	S 45.00° E	157.08	T35	1000.00	45.00	157.08	S 45.00° E	157.08
C36	1000.00	45.00	157.08	S 45.00° E	157.08	T36	1000.00	45.00	157.08	S 45.00° E	157.08
C37	1000.00	45.00	157.08	S 45.00° E	157.08	T37	1000.00	45.00	157.08	S 45.00° E	157.08
C38	1000.00	45.00	157.08	S 45.00° E	157.08	T38	1000.00	45.00	157.08	S 45.00° E	157.08
C39	1000.00	45.00	157.08	S 45.00° E	157.08	T39	1000.00	45.00	157.08	S 45.00° E	157.08
C40	1000.00	45.00	157.08	S 45.00° E	157.08	T40	1000.00	45.00	157.08	S 45.00° E	157.08

southern
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