

**AMENDED AND RESTATED**  
**INTERLOCAL AGREEMENT BETWEEN THE EMERALD COAST REGIONAL  
COUNCIL AND THE CITY OF PENSACOLA RELATING TO PROJECT  
MANAGEMENT FOR THE DEPARTMENT OF COMMERCE ECONOMIC  
DEVELOPMENT ADMINISTRATION INVESTMENT  
NUMBER 04-79-07378 GRANT**

**THIS AMENDED AND RESTATED AGREEMENT** is made and entered into by and between EMERALD COAST REGIONAL COUNCIL, a multi-purpose special district of the State of Florida (hereinafter referred to as "ECRC"), and the CITY OF PENSACOLA, a municipal corporation created and existing under the laws of the State of Florida (hereinafter referred to as "City").

**WITNESSETH:**

**WHEREAS**, the parties have legal authority to perform general governmental services within their respective jurisdictions; and

**WHEREAS**, the parties are public agencies authorized by §163.01, Florida Statutes, to enter into Interlocal Agreements and thereby cooperatively utilize their powers and resources in the most efficient manner possible; and

**WHEREAS**, ECRC assisted the City in developing the FY 2018 Public Works and Economic Adjustment Assistance Disaster Supplemental Grant Application to the U.S. Economic Development Administration ("EDA") to provide funding for the design and construction of Hangar 2 at the Pensacola International Airport; and

**WHEREAS**, the City was notified on July 18, 2019, that it had been awarded a grant from EDA of twelve million two hundred fifty thousand dollars and 00/100 (\$12,250,000.00) bearing Investment Number 04-79-07378 (hereinafter referred to as "the Investment"); and

**WHEREAS**, on August 8, 2019, City Council voted to accept the Investment related to the expansion of the Maintenance, Repair, and Overhaul facility at Pensacola International Airport and authorized the Mayor or his designee to take all actions necessary related to the finalization of the grant; and

**WHEREAS**, the City has determined that the Investment can efficiently and effectively be managed through an interlocal agreement.

**NOW THEREFORE**, for and in consideration of the mutual covenants herein and the mutual benefits each unto the other, and for other good and valuable consideration, the parties to this Agreement hereby agree as follows:

## **ARTICLE 1 – PURPOSE AND SCOPE OF SERVICES**

- 1.1 The recitals contained in the Preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.
- 1.2 Pursuant to §163.01, Florida Statutes, this Agreement establishes the conditions, extent, and mechanism whereby the parties will establish a framework for management of the Investment and for payment of certain costs for grant management.
- 1.3 The Scope of Services are as described in *Exhibit 1–Scope of Services* and is hereby incorporated herein by reference.

## **ARTICLE 2 – RESPONSIBILITIES OF PARTIES**

- 2.1 ECRC agrees that it will manage compliance and award conditions for the Investment.
- 2.2 ECRC agrees to provide the City with quarterly reports on the status of the EDA award and shall notify the City in writing immediately of any compliance issues.
- 2.3 ECRC agrees to meet reporting requirements, including frequency and special conditions, as set forth by the Investment and pertinent sections of the Code of Federal Regulations.
- 2.4 ECRC agrees to participate in the Investment's project closeout phase through completion, ensuring that all reporting requirements are met for the City to receive disbursement of all funds under this award.
- 2.5 ECRC agrees to participate in required compliance training to meet standard terms and conditions at no additional cost to the City.
- 2.6 ECRC agrees to report waste, fraud and abuse consistent with 2 C.F.R. §200.113.
- 2.7 ECRC agrees to provide grant management services for this award at no cost to the City and to seek reimbursement for administrative costs incurred not to exceed the maximum allowed by EDA.
- 2.8 The City agrees to reimburse ECRC for grant administration services provided for completion of the scope of work up to the amount of \$35,000 based upon milestones depicting percentage completion of the scope of work. Payments to ECRC will be made from funds provided by EDA and in accordance with milestones established in *Exhibit 2-Payment Schedule*.
- 2.9 The City agrees that all information, data, reports and records and/or other information as is existing, available, and necessary for carrying out the work

outlined above shall be furnished to ECRC by the City and its agents. No charge will be made to ECRC for such information and the City and its agents will cooperate with ECRC to facilitate the performance of the work described in the contract.

- 2.10 The City agrees to comply with the Scope of Services as provided in Exhibit 1.

### **ARTICLE 3 – GENERAL PROVISIONS**

- 3.1 **Term**: This Agreement shall commence on July 18, 2019. The services required and performed shall be completed no later than April 15, 2022 unless otherwise terminated as provided herein. No less than (90) days before the expiration of this Agreement, the Parties shall review the progress and analyze the success of the Agreement for consideration to extend the term by written amendment to the Agreement.
- 3.2 **Termination**: This Agreement may be terminated by either party for cause or for convenience. Either party may exercise its right of termination for convenience by furnishing to the other party written notice of its election to do so. The termination of convenience shall be effective (30) days following the date of the receipt of such notice.
- 3.3 **Liability**: The parties hereto, their respective elected officials, officers, and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party.
- 3.4 **Insurance**: Each party shall insure its own interests through appropriate insurance policies or through a self-insurance program. This provision shall not be construed to prevent any claim or action that either party may have against the other.
- 3.5 **Records**: The parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may, without prejudice to any right or remedy and after giving that party seven (7) days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.
- 3.6 **Assignment**: This Agreement or any interest herein shall not be assigned, transferred, or otherwise encumbered under any circumstances by the parties without the prior written consent of the other party.

- 3.7 Headings: Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.
- 3.8 Survival: All other provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.
- 3.9 Interpretation: For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.
- a. If either party discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, it shall immediately notify the other party and request clarification of the interpretation of this Agreement.
  - b. This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.
- 3.10 Severability: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed to be enforced as if this Agreement did not contain such invalid or unenforceable portion of provision.
- 3.11 Further Documents: The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.
- 3.12 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue, for any matter, which is the subject of this Agreement shall be in the County of Escambia.
- 3.13 Notices: All notices required or made pursuant to this Agreement by either party to the other shall be in writing and delivered by hand or by United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

TO THE ECRC:

Emerald Coast Regional Council  
Attention: Mr. Austin Mount, Executive Director  
36474A Emerald Coast Parkway, Suite 1201  
Destin, Florida 32541

TO THE CITY:

City of Pensacola Attention: Airport Director  
Pensacola International Airport  
2430 Airport Blvd. Ste 225  
Pensacola, Florida 32504

City of Pensacola  
Attention: City Administrator  
222 W. Main Street  
Pensacola, Florida 32502

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this section.

- 3.14 No Waiver: The failure of a party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.
- 3.15. Terms and Conditions: This Agreement is subject to the provisions titled, "Exhibit 3 - Terms & Conditions" and attached hereto and incorporated by reference herein.
- 3.16. Effective Date: This Agreement shall become effective, after being properly executed by the parties, when filed in the Office of the Clerk of the Circuit Court of Escambia County, Florida. ECRC shall be responsible for such filing.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates under each signature: Emerald Coast Regional Council through its Board of Directors, signing by and through its duly authorized Chairman, and the City of Pensacola, signing by and through its Mayor in accordance with City Council approved action on August 8, 2019.

**EMERALD COAST REGIONAL COUNCIL,**  
a multi-purpose special district of the State of  
Florida

By: [Signature]  
Austin Mount, Executive Director

Date: 5-5-20

ATTEST:

Dawn Schwartz, Chief Financial Officer  
Emerald Coast Regional Council

K. Dawn Schwartz  
Dawn Schwartz, Chief Financial Officer

**CITY OF PENSACOLA,**  
a municipal corporation chartered in the State  
of Florida

By: [Signature]  
Grover C. Robinson, IV, Mayor

Date: June 9, 2020



ATTEST:

Robyn M. Tice  
~~Enckia L. Burnett, City Clerk~~  
Robyn M. Tice, Assistant City Clerk  
(SEAL)

APPROVED AS TO CONTENT:

[Signature]  
Airport Director

LEGAL IN FORM AND VALID AS

D [Signature] William D Wells  
Deputy City Attorney  
2020-06-08 14:36:13  
City Attorney

EXHIBIT I  
SCOPE OF SERVICES

Introduction

The Emerald Coast Regional Council ("Council") will administer this Public Works and Economic Development Facilities Disaster Supplemental grant on behalf of the City of Pensacola ("City"). The roles of the project partners are documented below:

- 1- Emerald Coast Regional Council - Project and grant administration.
- 2- City of Pensacola - Construction administration; Administrative record/ Government Performance and Results Act (GPRA) reporting.

Kick-Off Meeting

Council and City representatives will convene a project kick-off meeting to discuss the roles and responsibilities of the project partners and to meet with EDA's Civil Engineer/Project Manager to review EDA's post-approval process. This meeting will serve to orient all the partners to project expectations, respective roles and responsibilities, and project schedules.

Council shall provide the following scope of services:

**I. Project Management**

1. Develop and maintain a recordkeeping system consistent with program guidelines, including the establishment of a filing system.
2. Provide general advice and technical assistance to City personnel on implementation of the EDA project and regulatory matters pertaining thereto.
3. Davis-Bacon Act requirements/Procurement.
4. Furnish the City with necessary completed forms and reporting required for implementation of the EDA project.
5. Assist the City in meeting all special conditions requirements that may be stipulated in the contract between the City and U. S. Department of Commerce, Economic Development Administration, Atlanta Regional Office.
6. Prepare and submit all required project reporting required by EDA Project Number 04-79-07378 including, but not limited to progress reports, quarterly reports, and other reports included in the EDA Project Agreement between the City and the EDA Atlanta Regional Office.



## **Quarterly Reporting**

Quarterly progress reports will be submitted for each calendar quarter to the EDA Project Officer on the following yearly schedule:

<u>Performance Period</u>	<u>Reports Due</u>
January-March	April 15
April- June	July 15
July- September	October 15
October - December	January 15

7. Establish internal procedures to document expenditures associated with local administration of the project.
8. Provide technical assistance to the City on meeting all necessary requirements of the Davis- Bacon Act during the construction process.
9. Serve as liaison for the City during the implementation and completion of the EDA project with any monitoring visit by EDA staff representatives.

## **II. Financial Management**

1. Assist the City in managing and reporting progress and use of funds from federal sources.
2. Assist the City in compliance with all EDA rules, regulations, specifications; or other directives pertinent to the identified project, including, Davis Bacon interviews and administration.
3. Prepare and submit all reporting forms for funded and scheduled drawdowns of project funds on behalf of the City, to ensure orderly, timely allocation and disbursement of funds within the period of this Agreement.
4. Review invoices received for payment and file backup documentation.
5. Assist the City in interpreting and complying with established procedures for the EDA project and reporting to the Atlanta Regional Office.
6. Provide general advice and technical assistance to the City and its agents on implementation of the EDA project and associated regulatory matters.



## **Financial Status Report**

Council will assist the City in completing semi-annual Financial Status Reports, Standard Form 425 for the periods ending March 31 and September 30. Council will assist the City in completing a final Financial Status Report no later than 90-days after the project or grant period end date.

**EXHIBIT 2 PAYMENT  
SCHEDULE**

The City shall reimburse Council for grant administration services provided for completion of the scope of work in the amount of Thirty-Five Thousand and 00/100 Dollars (U.S. \$35,000.00), based upon milestones depicting percentage completion of the scope of work. The payments to Council will be made from funds provided by the EDA. Milestones established for payment and the amounts paid are as follows:

**PaymentSchedule**

<b>Payment</b>	<b>Amount</b>	<b>Basis of Payment</b>
I.	\$8,750.00	Completion of twenty-five percent (25%) of the Project's Scope of Work.
II.	\$8,750.00	Completion of fifty percent (50%) of the Project's Scope of Work.
III.	\$8,750.00	Completion of seventy-five percent (75%) of the Project's Scope of Work.
IV.	\$8,750.00	Completion of one-hundred percent (100%) of the Project's Scope of Work and coincident with 100% completion of the Council's Scope of Work.

All payments shall be determined by the City from its estimates of completion of the entire EDA project. Payment to Council shall be made from those estimates and in the amounts prescribed above.

EXHIBIT 3  
TERMS AND CONDITIONS

1. Termination of Contract. If, through any cause, the Council shall fail to fulfill in a timely and proper manner its obligation under this Contract, or if the Council shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Council of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Contract is terminated by the City as provided herein, the Council will be paid for the time provided and expenses incurred up to the termination date.

If the contract is terminated by the City as provided herein, all finished or unfinished documents, information or reports prepared by the Council under this Contract shall, at the option of the City become its property and the Council shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

2. Termination for Convenience of the Interlocal Agreement. The City may terminate this Contract at any time by giving at least a ten (10) day notice in writing to the Council. If the Contract is terminated by the City as provided herein, the Council will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Council, Paragraph 1 hereof relative to termination shall apply.

3. Personnel. The Council represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.

The services required hereunder will be performed by the Council or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

4. Assignment of Contract. The Council shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: Provided, however, that claims for money by the Council from the City under this Contract may be assigned to a bank, trust company or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

5. Reports and Information. The Council, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

6. Compliance with Local Laws. The Council shall comply with applicable laws, ordinances and codes of the State of Florida and its local governments.

7. Equal Employment Opportunity. During the performance of this Contract, the Council agrees as follows:

The Council will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap, or national origin. The Council will take affirmative action to ensure that applicants and that employees are treated during employment, without regard to their race, creed, sex, color, handicap, or national origin.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Council agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

The Council will, in all solicitation or advertisements for employees placed by or on behalf of the Council, state that a qualified applicant will receive consideration for employment without regard to race, creed, sex, color, handicap, or national origin.

The Council will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

8. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

9. Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole; in part with funds made available under this chapter.

10. Public Works and Economic Development Act of 1965 as amended: The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the U. S. Department of Commerce, Economic Development Administration for Public Works and Development Facilities under the Public Works and Economic Development Act of 1965, as amended, the award to the City, Award Number 04-79-07378, supports the project and effort described herein, which is incorporated into this agreement by reference. Where terms of this agreement differ, the terms of the award shall prevail.

11. Interest of Members of the Council. No member of the governing body of the Council and no other officer, employee, or agent of the Council who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct, or indirect, in this Contract and the shall take appropriate steps to assure compliance.

12. Interest of Other Local Public Officials. No member of the governing body of the Council and no other public official of the Council, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect; in this Contract; and the shall take appropriate steps to assure compliance.

13. Interest of Firm and Employees. The Council covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the project area, study area, site, or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Council further covenants that in the performance of this Contract, no person having any such interest shall be employed.