

11/4/2021 CAR II-40

INTERLOCAL AGREEMENT BETWEEN
ESCAMBIA COUNTY, FLORIDA AND THE CITY OF PENSACOLA
RELATING TO THE ROGER SCOTT TENNIS IMPROVEMENTS PROJECT

THIS AGREEMENT is made by and between Escambia County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the "County"), with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502 and the City of Pensacola, a municipal corporation created and existing under the laws of the State of Florida (hereinafter referred to as the "City"), with administrative offices at 222 West Main Street, Pensacola, Florida 32502 (each being at times referred to as a "party" or collectively as "parties").

WITNESSETH:

WHEREAS, the County and the City are 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, the City is the owner of the Roger Scott Tennis Center (RSTC) within the City limits addressed at 2200A Summit Boulevard, Pensacola, FL 32503, as further described in Exhibit A, attached hereto and incorporated herein (hereinafter referred to as the "Property"); and

WHEREAS, the County and the City have determined that it is in the best interest of the citizens to provide for the renovations of existing facilities at the RSTC; and

WHEREAS, the estimated total project cost is \$2,605,091.00 (engineering design phase total \$272,394.00 and construction phase cost estimate, including contingency, is \$2,332,697.00); and

WHEREAS, the County and the City now jointly find it advantageous and appropriate to contribute their fiscal resources to the RSTC renovations as further provided herein.

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, the County and the City agree as follows:

Section 1. Purpose of Agreement.

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 responsibilities of the parties with respect to the funding of the *RSTC improvement project*, which will include resurfacing the existing 18 tennis courts (12 on south and central rows to be post-tension concrete and 6 on north row to be clay based), the addition of one clay court on the eastern edge of the Property, and the construction of a new 60 stall parking lot (hereinafter referred to as the "Project").

Section 2. Responsibilities of the Parties.

2.1 Subject to the contingencies described in detail below, the County shall allocate and contribute funds in an amount not to exceed \$1,302,545.50 (hereinafter, "County Project Funds")

Date: 11/5/2021 Verified By: [Signature]

for 50% of the Project costs. County Project Funds will be paid to the City on a reimbursement basis as further provided in Section 3.

2.2 For the term of the Project, the City shall allocate and contribute an amount of \$1,302,545.50 (hereinafter, "City Project Funds") for the Project.

2.3 The City agrees to contract with a third party to fully perform and complete the Project in a good workmanlike manner. The City will be fully responsible for payment of all monies due under any such contract with a third party. It is anticipated by the parties that the time for completion of the Project shall be twenty-four (24) months from commencement of construction. The City will provide the County with a copy of the schedule for completion and any subsequent updates or revisions thereto.

2.4 The Parties agree that 50% of any Project Funds remaining unspent and unencumbered upon completion of the Project will transferred back the County.

2.5 In the event the total Project cost is projected to exceed \$2,605,091.00, the City, solely at its discretion, may modify the scope of the Project to reduce the Project cost to an amount not to exceed \$2,605,091.00.

2.6 The City and the County agree that fees for County residents for use of the facilities constructed, in whole or in part, with County Project Funds will not exceed user fees established for City residents for use of the same facilities.

2.7 This Agreement, after being properly executed by the parties named herein, shall become binding on the parties and effective when filed in the Office of the Clerk of the Circuit Court of Escambia County, Florida. The County shall be responsible for such filing.

Section 3. Payments.

3.1 The City may submit invoices to the County for payment of 50% of the Project costs incurred on a reimbursement basis. Requests for payment may be submitted at the completion of the Project or at the partial completion of the Project on a pro-rata basis; provided, however, requests shall not be made more frequently than once a month.

3.2 Upon request, the City shall provide to County copies of any payment documentation and such other financial documents as County may reasonably require to verify any and all Project costs.

3.3 Invoices to the County shall be submitted to:

Escambia Office of Management and Budget
Attn: Rebecca McMullin, Interim Budget Manager
P.O. Box 1591
Pensacola, FL 32597

3.4 Payments to the City shall be submitted to:

City of Pensacola

Attn: Finance Department
222 West Main Street
Pensacola, FL 32502

Section 4. General Provisions.

4.1 Term and Termination: This Agreement will remain in effect for twenty-four (24) months or until the completion of the Project, whichever occurs first. The term may be extended by written amendment to the Agreement for force majeure events affecting the completion of the Project such as Acts of God, natural or public health emergencies, labor disputes, freight embargoes, and severe weather conditions. This Agreement may be terminated by either party for cause or due to a lack of sufficient funding upon providing not less than thirty (30) days written notice to the non-terminating party.

4.2 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. The City and County, as local government bodies of the State of Florida, agree to be fully responsible their individual negligent acts or omissions or tortious acts which result in claims or suits against their respective jurisdictions and agree to be fully liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or County and nothing herein shall be construed as consent by the City or County to be sued by third parties in any matter arising out of this Agreement.

4.3 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 shall give the first party written notice of the alleged violation and seven calendar days to cure the alleged violation. If the alleged violation has not been cured at the end of that time-period then the first party may terminate this Agreement for cause.

4.4 All Prior Agreements Superseded:

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.

(b) It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

4.5 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.

4.6 Survival. All provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

4.7 Interpretation. 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.

4.8 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 and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

4.9 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.

4.10 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 United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

<u>COUNTY:</u>	<u>CITY:</u>	
County Administrator	City Administrator	and Brian Cooper
221 Palafox Place, Suite 420	City of Pensacola	Director, Parks and
Post Office Box 1591	222 West Main Street	Recreation Department
Pensacola, Florida 32502	Pensacola, FL 32502	222 West Main Street
		Pensacola, FL 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.

4.11 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.

4.12 Governing Law. This Agreement shall be governed by the laws of the State of Florida and the parties stipulate that venue for any matter that is subject to this Agreement shall be in Escambia County, Florida.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates, under each signature:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners

BY: *Robert Bender*
Robert Bender, Chairman

DATE: 11/5/2021

BCC Approved: 11/4/2021
Approved as to form and legal sufficiency:

By/Title: *Kristin D. Hual, DCA*

Date: 10-21-2021

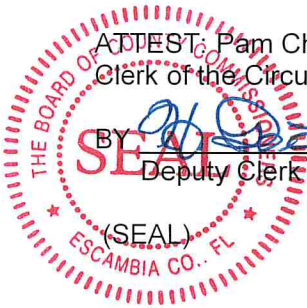
CITY OF PENSACOLA, a Florida Municipal Corporation acting by and through its duly authorized City Council

BY: _____
Mayor, Grover C. Robinson, IV

DATE: _____

ATTEST: Pam Childers,
Clerk of the Circuit Court and Comptroller

BY: *[Signature]*
Deputy Clerk



ATTEST: _____
City Clerk

(SEAL)

Legal in form and valid as drawn:

City Attorney