

**INTERLOCAL AGREEMENT BETWEEN ESCAMBIA COUNTY, FLORIDA  
AND THE CITY OF PENSACOLA RELATING TO THE WEST CERVANTES  
STREET CORRIDOR TRAFFIC FEASIBILITY STUDY**

**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 "City") with administrative offices at 222 West Main Street, Pensacola, Florida 32502 (each being at times referred to as "Party" or "Parties").

**WITNESSETH:**

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

**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 Florida-Alabama Transportation Planning Organization (TPO) is primarily responsible for carrying out the cooperative and comprehensive transportation planning process for the Florida-Alabama TPO Planning Area; and

**WHEREAS**, the TPO previously selected State Road 10A (US 90 / West Cervantes St), from North "A" Street to Dominguez Street as the subject for a Corridor Management Plan (CMP); and

**WHEREAS**, on December 14, 2016, the TPO formally adopted the West Cervantes CMP; and

**WHEREAS**, the West Cervantes CMP identified both short-term and long-term strategies and projects to improve traffic flow and safety for all modes of travel along the West Cervantes corridor based upon a process that included the analysis of existing and future safety and travel capacity needs along with local stakeholder review and recommendations; and

**WHEREAS**, the West Cervantes CMP also detailed significant traffic and crash data collected from 2010-2015; and

**WHEREAS**, in 2015, the average annual daily traffic count was 17,250 vehicles, and 457 traffic accidents occurred on the corridor, with four accidents resulting in a fatality, 147 accidents resulting in bodily injury, and 306 accidents resulting in property damage; and

**WHEREAS**, since the CMP was completed, many other accidents have occurred on the West Cervantes corridor, and as recently as January 5, 2018, another accident resulted in a fatality; and

**WHEREAS**, the County and City have adopted Resolutions in support of the TPO's West Cervantes CMP and directed staff to cooperatively implement the short-term and long-term corridor improvements; and

**WHEREAS**, the West Cervantes corridor lies within the jurisdictional boundaries of both the City of Pensacola and Escambia County, with 4,250 feet or 36% of the corridor located within the unincorporated area of Escambia County and 7,600 feet or 64% of the corridor located within the City's jurisdiction; and

**WHEREAS**, the Florida Department of Transportation has estimated a traffic feasibility study for the West Cervantes corridor will cost a total of approximately \$600,000.00; and

**WHEREAS**, the County and City have determined it is in the best interest of the citizens to enter into this Agreement whereby the parties shall contribute funding for the completion of a traffic feasibility study for the West Cervantes corridor with each party bearing a proportionate share of the cost based upon the percentage of linear footage located within each jurisdiction.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payment 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 Recitals. 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 Purpose. Pursuant to §163.01, Florida Statutes, this Agreement establishes the conditions, extent, and mechanism whereby the parties shall contribute funding for the completion of a traffic feasibility study for the West Cervantes corridor with each party bearing a proportionate share of the cost based upon the percentage of linear footage located within each jurisdiction.

**Section 2. Responsibilities of Parties.**

2.1 Subject to the terms and conditions set forth herein, the County agrees to contribute funding in the amount of \$234,000.00, and the City agrees to contribute funding in the amount of \$416,000.00 for the purpose of completing a traffic feasibility study for the West Cervantes/Mobile Highway corridor from "A" Street to Dominguez Street (hereinafter referred to as the "Project"). Said County and City contributions include an 8.3% contingency amount to allow for the payment for the study in the event that the actual cost exceeds the estimate.

2.2 It is expressly understood that this Agreement is subject to, and conditioned upon, the approval and execution of a Locally Funded Agreement (LFA) relating to the Project between the County and the Florida Department of Transportation (FDOT).

2.3 Within thirty (30) days of the execution of the LFA between the County and the FDOT, the City shall remit to the County the sum of \$416,000.00. Within 15 days thereafter, the County shall remit the total sum of \$650,000.00 to the FDOT for the funding of the Project.

2.4 Upon completion of the Project, any remaining residual funds shall be distributed between the County and City on a pro rata basis with 36% of the funds returned to the County and 64% of the funds returned to the City.

2.5 By separate agreement, the FDOT shall be responsible for initiating, administering, and concluding the public procurement process to retain said services, and the FDOT will serve as the contract administrator with the third-party provider.

2.6 This Agreement, after being properly executed by the parties named herein, shall become effective upon filing with the Clerk of the Circuit Court of Escambia County. Escambia County shall be responsible for such filing.

### **Section 3. Miscellaneous Provisions.**

3.1 Termination: This Agreement may be terminated by either party for cause or convenience upon providing thirty (30) days' written notice to the non-terminating party.

3.2 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 County and City, 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.

3.3 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 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.

3.4 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.

#### 3.5 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.

3.6 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.

3.7 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.

3.8 Interpretation:

(a) 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.

(b) 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. 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.

3.9 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.

3.10 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.

3.11 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.

3.12 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:

<u>COUNTY</u>	<u>CITY</u>
County Administrator	City Administrator
221 Palafox Place, Suite 420	City of Pensacola
Post Office Box 1591	Post Office Box 12910
Pensacola, FL 32597	Pensacola, FL 32521

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

3.13 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.

**[SIGNATURE PAGE TO FOLLOW]**

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

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

By: \_\_\_\_\_  
Jeff Bergosh, Chairman

Date: \_\_\_\_\_

BCC APPROVED: \_\_\_\_\_

ATTEST: Pam Childers  
Clerk of the Circuit Court

By: \_\_\_\_\_  
Deputy Clerk

(SEAL)

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

By: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Clerk