

INTERLOCAL AGREEMENT

City/County Project: Peters Avenue, Collee Court, Gordon Street and US 41 Interconnect water distribution system upgrades and fire hydrant installation

THIS Agreement, made and entered into this 7th day of December, 2016 by and between Collier County, a political subdivision of the State of Florida, hereinafter called the COUNTY, and the CITY OF NAPLES, Florida, a Florida municipal corporation, hereinafter called the CITY.

WITNESSETH

WHEREAS, the Bayshore Gateway Triangle Community Redevelopment Agency area is located at the periphery of the City of Naples water system; and

WHEREAS, the Bayshore CRA has historically experienced low water flow and pressure conditions and confirmed by the Greater Naples Fire Control District; and

WHEREAS, the COUNTY and CITY plan to construct, reconstruct and/or otherwise modify a portion of CITY owned water utility distribution system located in the unincorporated boundary of Collier County within the Bayshore Gateway Community Redevelopment Agency, more particularly described as Peters Avenue, Collee Court, Gordon Street and US 41 Interconnection, hereinafter referred to as the "Project"; and

WHEREAS, the COUNTY has been awarded a \$330,000 FY2016-2017 US Housing and Urban Development (HUD) Community Development Block Grant (CDBG) to partially fund the Project and desires to provide grant management/oversight for the Project; and

WHEREAS, the CITY desires to provide design services to upgrade the water utility systems within the Project area and pay the balance of construction cost; and

WHEREAS, the COUNTY and CITY have determined that it is economically advantageous and in the best interest of the public to enter into this Agreement.

NOW, THEREFORE, in consideration of the above premises, and the mutual covenants, terms, and provisions contained herein, the COUNTY and CITY agree as follows:

SECTION I: COUNTY'S RESPONSIBILITY

- 1.01 The COUNTY will serve as project manager for the permitting and construction phase of the PROJECT.
- 1.02 The COUNTY shall provide and perform comprehensive HUD CDBG construction administration services, as rendered jointly and concurrently with the CITY's design of the water main and fire hydrant installation.
- 1.03 The COUNTY will be responsible for conducting the public bid and awarding the construction contract. Preparation of the scope of work for the Invitation to Bid (ITB)

will be a joint effort between COUNTY and CITY. Upon review of all proposals received from interested contractors, the COUNTY shall present the recommendations of the RFP Selection Committee to the Board of County Commissioners (BCC) for ranking approval and authorization to enter into negotiations with the lowest responsible responsive bidder.

1.04 The following specific services, duties and responsibilities will be the obligation of the COUNTY regarding design coordination, construction and contract administration of the utility work on behalf of the CITY.

- A. At the time of contract bid, those bid items identified for which the CITY is responsible shall be subject to CITY's review and approval by the CITY's representative.
- B. COUNTY shall conduct a formal preconstruction conference prior to commencing with the utility construction work. The COUNTY will provide the CITY notice of the preconstruction conference at least five (5) working days prior to the conference. The CITY's assigned project manager will attend this conference, and other CITY representatives may attend at the CITY's discretion. A copy of the minutes of said conference shall be submitted to all those in attendance including the CITY.
- C. COUNTY shall coordinate the utility work with third parties such as property owners, land developers, environmental agencies, contractors, and the like to the extent that such parties have a direct interest in or are directly affected by said utility and fire hydrant.
- D. The utility work shall be coordinated with the CITY's utility representative with respect to keeping the CITY advised of technical, cost, and schedule impacts up the utility work.
- E. COUNTY shall confer with public officials of the CITY as deemed necessary by the COUNTY in order to coordinate work stages between the utility improvements and fire hydrant improvements from a public interest view point.
- F. Periodic utility field measurements and quantity calculations shall be made by the COUNTY of utility work accomplished on an as needed basis for processing of monthly progress payments. The utility-related field measurements, quantity calculations and other performance data will be verified with the CITY's contract agent/representative as requested by CITY in writing prior to the COUNTY's issuance of monthly progress payments to the contractor.
- G. The COUNTY shall confer with COUNTY public officials as deemed necessary, while the CITY confers with CITY public officials as deemed necessary to coordinate work stages for the Project from a public interest view point.
- H. Upon completion of all utility work, including all work authorized under change orders and supplemental agreements, the COUNTY and CITY shall conduct a final inspection of the utility work with the CITY's contract agent/representative and/or its record engineer prior to COUNTY's issuing final payment to the contractor.
- I. All contracts entered into by the COUNTY for the construction of the utility facilities shall require the party contracting with the CITY to hold harmless, indemnify and defend the CITY and COUNTY and its consultants, agents, officers and employees from any and all claims, losses, penalties, demands,

judgments and cost of suit, including attorney's fees and paralegal's fees or any expense, damage, or liability incurred by any of them, whether for personal injury, property damage, direct or consequential damages, or economic loss, arising directly or indirectly on account of or in connection with the work done by the COUNTY's consultant or contractor pertaining to the design and construction of the utility improvements or any person, firm or corporation to whom any portion of the utility work is subcontracted by the COUNTY's consultant or contractor.

- J. Payments to contracted firms for completed and accepted work, will follow the procedures identified in the COUNTY's contract documents until HUD CDBG funding has been expended. Once all HUD CDBG funds have been expended, the COUNTY will invoice the City as needed to make progress payments to the Contractor until the project is completed.
- K. The COUNTY shall administer design changes, clarifications, supplements and other contract amendments that may be necessary during the construction of the improvements. These contract directives to the consultant and contractor may be in the form of plans, memoranda, reports, change orders, and supplemental agreements and shall be subject to written approval by the CITY's project manager and/or contract authority.

The above notwithstanding, upon notification to CITY, the CITY herein authorizes the COUNTY to prepare, execute, and implement minor change orders for contract amendments necessitated by actual field conditions at the Project site so as not to delay the contractor's performance and so as to meet the intent of the approved design for the Utility improvements. Said change orders shall be issued by the COUNTY in compliance with current County Purchasing Policy and Administrative procedures, either using existing contract unit prices or negotiated unit prices for work adjustments within the physical limit of the Utility work as shown in the construction plans. In no event shall the value of the total change orders exceed the allowance to be included in the BID approved by both the COUNTY and CITY. Additional or extra work which exceeds the above change order authority by COUNTY shall be submitted for prior review, approval and execution by the CITY.

- L. Upon completion of all Utility work, including work authorized under change orders and supplemental agreements, the CITY and COUNTY shall conduct a joint final inspection of the work with the CITY's and COUNTY's project managers and/or inspectors and/or record engineer prior to COUNTY's issuing final payment to the contractor.
- M. COUNTY shall submit a final Certificate of Completion letter to the CITY along with an appropriate number of plans detailing the Utility as constructed by the COUNTY's contractor ("As-built record drawings"); and, one-year warranty for utility work completed. The final Certification of Completion shall be submitted by the COUNTY's engineer of record to the FDEP and other local and state agencies that govern the Utility improvements.

SECTION II. CITY'S RESPONSIBILITIES

- 2.01 The CITY shall provide and perform project support duties as defined below to ensure that COUNTY is able to furnish contract administration services to the mutual satisfaction of the CITY and COUNTY and other governing agencies that have jurisdictional control over the utility improvements.
- 2.02 The specific project support duties and responsibilities enumerated below shall be the obligation of the CITY.
- A. The CITY shall provide design for the improvements. The COUNTY shall review and approve the utility design, inspect the work as necessary and review and approve the as-built record drawings which will represent and depict the utility as constructed.
 - B. The CITY herein agrees to assign a contract agent/representative to the utility project for the entire design and construction period and notify the COUNTY in writing so that the COUNTY may effectively coordinate its services with the CITY. The CITY's contract agent/representative shall also act as the CITY's contract authority under the provisions of this Interlocal Agreement. The COUNTY shall provide written notice of all meetings pertaining to this project at least five (5) working days prior to the meeting.
 - C. The CITY shall assign a utility project coordinator for the purpose of coordinating, resolving and communicating construction issues at the field level with COUNTY's resident construction engineer. The CITY shall appoint/designate the project coordinator in writing to the COUNTY prior to CITY's commencement of design coordination, construction and contract administration services herein. The CITY's contract agent/representative and/or the CITY's project coordinator shall attend periodic construction progress meetings with and between the COUNTY and the contractor, subcontractors and utility companies with direct or indirect interest in the provisions of this Interlocal Agreement.
 - D. Periodic on-site inspections and construction reviews will be conducted by the CITY and COUNTY or its designee to assess the contractor's compliance with the construction plans and contract documents.
 - E. The CITY shall coordinate with the COUNTY's representative with respect to keeping the COUNTY advised of technical, cost and schedule impacts for the improvements.
 - F. The CITY shall confer with CITY public officials as deemed necessary, while the COUNTY confers with COUNTY public officials as deemed necessary to coordinate work stages for the Project from a public interest view point.
 - G. Periodic utility field measurements and quantity calculations shall be made by the CITY of utility work accomplished on an as needed basis for processing of monthly progress payments to the COUNTY's contractor. The utility related field measurements, quantity calculations and other performance data will be verified with the CITY's contract agent/representative as requested by CITY in writing prior to the issuance of monthly progress payments to the COUNTY.
 - H. The CITY shall administer design changes, clarifications, supplements and other contract amendments that may be necessary during the design and construction of

the utility improvements. These contract directives to the consultant and contractor may be in the form of plans, memoranda, reports, change orders and supplemental agreements and shall be subject to written approval by the COUNTY's contract agent/representative.

- I. Upon completion of all utility work, including all work authorized under change orders and supplemental agreements, the CITY shall conduct a final inspection of the utility work, in conjunction with the COUNTY, with the CITY's contract agent/representative and/or its record engineer prior to COUNTY's issuing final payment to the contractor.
- J. CITY shall submit a final Certificate of Completion letter to the COUNTY with an appropriate number of plans detailing the utility improvements as constructed by the CITY's contractor ("as-built record drawings"); bacteriological test results as required by State of Florida Department of Environmental Protection (FDEP). The final Certificate of Completion shall be submitted by the CITY's engineer to the State of FDEP and other local and state agencies that govern the utility improvements.
- K. All contracts entered into by the CITY for the construction of the utility facilities shall require the party contracting with the COUNTY to hold harmless, indemnify and defend the CITY and COUNTY and its consultants, agents, officers and employees from any and all claims, losses, penalties, demands, judgments and cost of suit, including attorney's fees and paralegal's fees or any expense, damage, or liability incurred by any of them, whether for personal injury, property damage, direct or consequential damages, or economic loss, arising directly or indirectly on account of or in connection with the work done by the CITY's consultant or contractor pertaining to the design of the utility improvements or any person, firm or corporation to whom any portion of the utility work is subcontracted by the CITY.

SECTION III. MUTUAL COVENANTS

- 3.01 The CITY shall not be responsible to the County should the COUNTY fail to comply with OSHA Safety and Health Standards (29 CFR 1926) as authorized by the U.S. Department of Labor, Occupational Safety and Health Administration, said responsibilities to be that of the COUNTY's contractor and/or the contractor's subcontractor.
- 3.02 The CITY shall provide the COUNTY with eight (8) sets of the approved construction plans and contract documents for the utility work prior to commencement of construction activities.

SECTION IV. AGREEMENT TERMS

- 4.01 This Interlocal Agreement shall remain in full force and effect from the date first above written and shall terminate upon the completion of all services and responsibilities mutually performed by the CITY and by the COUNTY to the written satisfaction each to the other. It is understood that the actual termination date herein may occur on or about the date of final approval and acceptance of all improvements by the CITY and COUNTY and subject to construction contract warranty provisions. This date is contemplated to be subsequent to the actual date of final approval and acceptance of the utility improvements by the CITY and following payment by the CITY to the COUNTY.
- 4.02 The utilities shall be maintained by the CITY or its assigns within the COUNTY public easements and/or rights-of-way.
- 4.03 The COUNTY or the CITY may terminate this Interlocal Agreement prior to the completion of the utility work upon thirty (30) days prior written notice each to the other. In the event of such termination by either party, the CITY shall be entitled to receive due compensation for the value of services rendered, construction performed and termination costs as actually incurred.

SECTION V. INSURANCE

- 5.01 The COUNTY and the CITY shall maintain insurance coverage in the minimum amounts and types as required by Florida State Statutes or as outlined in the HUD CDBG Subrecipient agreement whichever is more stringent.
- 5.02 The COUNTY and the CITY agree that both parties are partially self-insured. Each shall provide to the other evidence of insurance in excess of the self-insured retention.
- 5.03 Nothing in this Agreement shall operate as a waiver of the sovereign immunity afforded to the parties as provided in Section 768.28, Florida Statutes.

SECTION VI. MISCELLANEOUS

- 6.01 This Interlocal Agreement shall be governed by and construed under the laws of the State of Florida. In the event any litigation is instituted by way of construction or enforcement of this Interlocal Agreement, the party prevailing in said litigation shall be entitled to collect and recover from the opposite party all court costs and other expenses excluding attorney's fees. The Venue is in Collier County, Florida.
- 6.02 It is understood that this Interlocal Agreement must be executed by both parties prior to the CITY and the COUNTY commencing with the work, services, duties and responsibilities described heretofore.
- 6.03 This Agreement contains the entire understanding between the parties and any modifications to this Agreement shall be mutually agreed upon in writing by the CITY and the COUNTY, in compliance Purchasing Policy and Administrative Procedures in effect at the time such services are authorized.

SECTION VII. DISPUTE RESOLUTION

- 7.01 The parties recognize they are entities subject to dispute resolution procedures set out in Chapter 164, Florida Statutes.
- 7.02 In the event of a dispute between the parties concerning this Interlocal Agreement, the COUNTY and CITY agree to attempt to resolve the dispute as expeditiously and inexpensively as feasible. Specifically, respective staffs will meet within ten (10) days of provision of notice of the dispute and attempt in good faith to resolve the dispute. They may jointly agree to a mediator to expedite and effectuate a resolution. If both parties are unable to agree upon a mediator, within ten (10) days thereafter, they shall jointly request Chief Judge of the 20th Judicial Circuit to appoint a mediator qualified in construction law to mediate the dispute in accordance with the court's pre-suit mediation procedures. The mediation shall occur within ten (10) days after the mediator is appointed. If the dispute cannot be resolved at this level, the Chapter 164, Florida Statutes remedies shall be available. Each party shall pay equally in the cost of the mediation.

IN WITNESS WHEREOF, the parties hereto have caused this Interlocal Agreement to be executed by their appropriate officials, as of the date first above written.

AS TO COUNTY:

COLLIER COUNTY, FLORIDA

ATTEST:

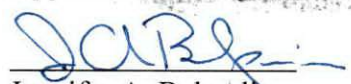
DWIGHT E. BROCK, CLERK



~~DONNA FIALA~~, CHAIRMAN 2/14/17
PENNY TAYLOR

By 
Attest as to Chairman's signature only. Deputy Clerk

Approved as to form and legal sufficiency:

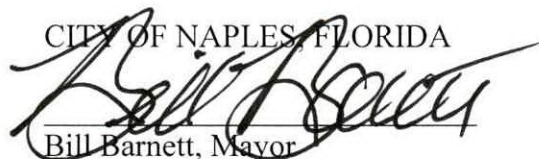

Jennifer A. Belpedio
Assistant County Attorney

AS TO THE CITY OF NAPLES:

ATTEST:


Patricia L. Rambosk, City Clerk

CITY OF NAPLES, FLORIDA



Bill Barnett, Mayor

Approved as to form and legal sufficiency:


Robert Pritt, City Attorney