

ECUA GENERAL RESOLUTION NO. GR21-49

A GENERAL RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN INTERLOCAL COST-SHARING AGREEMENT WITH ESCAMBIA COUNTY FOR THE COST OF WATER MAIN REPLACEMENT ON CHEMSTRAND ROAD; AUTHORIZING THE TRANSFER AND USE OF PROJECT FUNDS.

BE IT RESOLVED BY THE EMERALD COAST UTILITIES AUTHORITY:

- WHEREAS, the Board of County Commissioners of Escambia County (hereinafter "County") is currently engaging in a project that involves constructing, reconstructing, or otherwise changing the public road, storm water drainage, and other improvements located on the public road identified as County Road 749 (Chemstrand Road) from Johnson Avenue to Nine Mile Road, as well as the side streets along this corridor (hereinafter "Project"); and
- WHEREAS, the Emerald Coast Utilities Authority (hereinafter "ECUA") owns water facilities that are located within the aforementioned public road right-of-way, which require modifications in the form of water main utility relocation, replacement, and upgrades; and
- WHEREAS, the County and ECUA are authorized by Section 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 ECUA has requested, and County has agreed, to include replacing the existing transite water mains within the Project boundaries with PVC water mains; and
- WHEREAS, the County's policy and previous ECUA/County agreements have allowed the practice to cost share 50-percent of water main replacement construction costs on County projects in such instances where the water main material is transite; and
- WHEREAS, the County and ECUA staff have coordinated and agreed that the construction cost estimate to replace the existing water mains within the Project will total approximately \$750,000 which includes a 10% budget for contingencies; and
- WHEREAS, the ECUA staff recommend that ECUA authorize the Executive Director to execute the attached Interlocal Cost-Sharing Agreement with the County; and

WHEREAS, the ECUA staff also recommend that ECUA authorize a transfer of \$400,000 from CIP Project CR123 – Manhole/Valve Box Adjustments to a newly created CIP project number to track project costs.

NOW THEREFORE, be it resolved by the Emerald Coast Utilities Authority:

SECTION 1. ECUA hereby authorizes the Executive Director to execute the Interlocal Cost-Sharing Agreement attached as Exhibit B with the County for the water main utility relocation, replacement, and upgrades associated with the project on Chemstrand Road; and

SECTION 2. ECUA authorizes the Executive Director to approve the transfer of funds in the amount of \$400,000 from CIP Project CR123 – Manhole/Valve Box Adjustments to a newly created CIP number that may be used to fund the work; and

SECTION 3. This General Resolution shall take effect upon adoption.

Approved as to form:

Adopted on:

ECUA General Counsel

ATTEST:

Amanda Miller, Administrative Coordinator

Lois Benson, Board Chairman

Date: July 20, 2021

Account Number: CR123 – Manhole/Valve Box Adjustments
Amount: \$400,000
Type of Resolution: General Resolution

EXPLANATION TO ECUA BOARD


Originating Department: Engineering

PURPOSE: Our purpose is to acquire authorization from the Board to the Executive Director to execute an Interlocal Cost-Sharing Agreement with the Board of County Commissioners of Escambia County (County). In addition, the ECUA staff are requesting authorization to transfer funds in the amount of \$400,000.00 from CIP Project CR123 – Manhole/Valve Box Adjustments to a newly created CIP project number to fund the work and track costs specifically for this project.

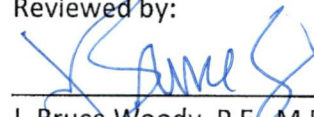
REMARKS: The project is within the Chemstrand Road (County Road 749) right-of-way from Johnson Avenue to Nine Mile Road as well as side streets along this corridor. The project location is shown in the attached Exhibit A.

The Emerald Coast Utilities Authority (ECUA) has the option of entering into an Interlocal Cost-Sharing Agreement with the County to have their contractor perform the required modifications in the form of water main utility relocation, replacement, and upgrades under the County contract. Per the County's policy and previous ECUA/County agreements, the County provides for relocation of public water system mains at no cost to ECUA. However, ECUA has a practice to cost share 50-percent of the water main replacement construction costs on County projects in such instances where the water main material is transite. The Project area contains approximately 12,200 linear feet of existing transite water mains ranging from 4-inches to 8-inches in diameter, which serve the residences. The overall impact of the project will be reduced and the associated costs kept to a minimum by allowing the County's contractor to perform the water main relocation work, resulting in a lower cost to ECUA and its ratepayers, and minimizes disruptions to the local residents and customers. The County will take the lead role in the management of the project and the Interlocal Cost-Sharing Agreement will formalize the process for ECUA to reimburse the County for the work noted hereinabove. If ECUA were to perform the required modifications in the form of water main utility relocation, replacement, and upgrades outside the County contract, then ECUA would be responsible for all costs related to the water main replacement, traffic control, delay claim allegations, and potentially additional ECUA operational costs.

Submitted by:


Stacy Hayden, PE
Director of Engineering

Reviewed by:


J. Bruce Woody, P.E., M.P.A.
Executive Director

Brandon Knight, PE
Manager of Utility Coordination

Attachment: Exhibit A: General Location Map
Exhibit B: County/ECUA Interlocal Cost-Sharing Agreement

STATE OF FLORIDA
COUNTY OF ESCAMBIA

INTERLOCAL COST-SHARING AGREEMENT
(Water Main Replacement for the Chemstrand Road (Johnson – Nine Mile)
Pedestrian and Drainage Improvements Project)

THIS AGREEMENT, made and entered into as of the _____ day of _____, 2021, by and between ESCAMBIA COUNTY, a political subdivision of the State of Florida (hereinafter "County"), and the EMERALD COAST UTILITIES AUTHORITY, a local governmental body, corporate and politic, of the State of Florida (hereinafter "ECUA") (collectively the "Parties"), is as follows:

W I T N E S S E T H:

WHEREAS the Board of County Commissioners of Escambia County and ECUA are authorized by Section 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 ECUA provides potable water service in certain defined areas in Escambia County, Florida; and

WHEREAS the County is responsible for storm water drainage and roadway facilities in the unincorporated portions of Escambia County, Florida; and

WHEREAS the County is planning to address storm water drainage and roadway facility needs along Chemstrand Road, between Johnson Avenue and Nine Mile Road, in Escambia County, Florida; and

WHEREAS ECUA has an existing eight-inch cement-asbestos (CA) water main along Chemstrand Road, between Johnson Avenue and Nine Mile Road, in Escambia County, Florida; and

WHEREAS ECUA has identified a need to replace its existing eight-inch water main along Chemstrand Road in Escambia County, Florida with an eight-inch PVC water main; and

WHEREAS ECUA and the County have both budgeted funds to conduct the needed work along Chemstrand Road; and

WHEREAS the Parties recognize that two construction projects being performed in the same geographical area at different times would be more disruptive than a single combined project in which potable water supply, drainage, and roadway improvements were addressed simultaneously; and

WHEREAS the Parties further recognize that certain economies of scale can be achieved by combining the projects rather than designing and constructing them separately; and

WHEREAS ECUA requested the County include replacing the water main within the project scope for its drainage and roadway improvements along Chemstrand Road; and

WHEREAS the County agreed to this request; and

WHEREAS the County's contracts for the completion of the projects will include design and construction services for water main replacement for ECUA and drainage/roadway improvements for the County; and

WHEREAS the Parties have agreed to share the costs of replacing the water main with ECUA's reimbursing the County 50% of the costs attributed to the water main; and

NOW THEREFORE, in consideration of mutual terms, covenants, and conditions contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed as follows:

1. Recitals. The above recitals are true and correct, and are incorporated in this Agreement as fully as if set forth herein.

2. Entry into Contract(s). The County will enter into contract(s) to construct drainage/roadway improvements as well as water main replacement along Chemstrand Road, between Johnson Avenue and Nine Mile Road, which will serve both Parties. ECUA shall be identified as a third-party beneficiary with respect to any contracts related to the water main improvements and all warranties related to those contracts shall inure to the benefit of the ECUA. The County will also administer the contract(s), with input and guidance from ECUA regarding the water main improvement components.

3. Cost Sharing. The County will pay all of the costs associated with designing and constructing the referenced drainage, roadway, and water main improvement project and shall copy ECUA with evidence of payment. However, starting with the issuance of the notice to proceed to the awarded contractor(s), ECUA shall reimburse the County fifty percent (50%) of the associated costs incurred as part of the water main improvement aspects of the project, within thirty (30) days of ECUA's receipt of such invoice from the County. The Parties presently estimate that the total costs associated with the water main improvement aspects of the project will be \$750,000, making ECUA's estimated reimbursement responsibility to be \$375,000 for the project ("Contribution Amount."). In no event shall the ECUA's reimbursement obligation exceed the Contribution Amount absent further approval by the ECUA Board.

4. Change Orders. The Parties, however, acknowledge that there may be change orders requiring cost adjustments in the event certain unforeseen conditions or charges arise.

The County Engineer, or designee, shall have the right to approve any requested change orders submitted by the engineering-design firm or contractor(s) regarding the drainage, roadway, and pedestrian improvements, subject to the concurrence of ECUA in the event the change impacts the water main aspects of the project. However, the maximum amount of change order(s) from ECUA for water main improvements under this Agreement shall be \$50,000, absent further action by the ECUA Board.

5. Notice and Contact:

a. All notices provided under or pursuant to this Agreement shall be in writing, either by hand, or mail, to the representatives named below, at the address below:

b. Name and contact information of the
Escambia County Engineering, Construction
Management Division
3363 W. Park Place
Pensacola, FL 32505
Telephone: (850) 595-3452

c. Name and contact information of ECUA's project manager:
Jacob Kearley, P.E., Senior Project Engineer
9255 Sturdevant Street
Pensacola, FL 32514
Telephone: (850) 969-3310

d. In the event that different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title, address, and telephone number of the new representative will be provided as outlined in paragraph 5a, above.

6. Plan Review and Inspection of Work. Both Parties shall have the right to review all plan drawings, schedules and physical improvements contemplated under this Agreement at any time during the construction process. ECUA shall provide an inspector and validate to acceptance or reject of said work within two weeks of installation and satisfactory completion of any desired acceptance testing. The Contractor shall not be notified that the work, or any portion thereof, is accepted until representatives from both parties shall be in agreement prior to acceptance and sign-off as accepted of any work associated with the project. ECUA reserves the right to hold or stay the progress of work to allow the receipt of desired testing information without penalty. Both Parties shall be in agreement prior to acceptance and sign-off of any work associated with the project.

7. Documentation of Work. The County agrees to fully document completion of all

said work associated with this project, in writing, by ensuring copies are provided to ECUA of all meeting notes, plans, design documentation, and such other documentation as reasonably required by either Party.

8. Ownership and Maintenance. The County agrees that all design documentation concerning drainage and roadway system improvements resulting from the work under this Agreement shall remain the property of the County after the satisfactory completion of said design. ECUA agrees that all design documentation concerning water main improvements resulting from the work under this Agreement shall be shared with ECUA after the satisfactory completion of said project.

9. Liability. Subject to any claim of sovereign immunity, each Party to this Agreement shall be fully liable for the acts and omissions of its respective employees and agents in the performance of this Agreement to the extent permitted by law. Furthermore, nothing in this Agreement nor any act of the Parties shall be deemed or construed by the Parties hereto or by any third party to create a relationship of principal and agent, joint venture, business affiliation, or any association whatsoever between ECUA and the County.

10. Term of Agreement. The obligations under this Agreement shall terminate upon the completion of the work contemplated under this Agreement and ECUA's having reimbursed the County for all costs for which it is responsible under paragraphs 3 and 4 of this Agreement, above, barring any warranty issues.

11. Termination. This Agreement may be terminated by either Party for cause, and only after the Party seeking termination has notified the other Party of the alleged default and has provided the defaulting Party a reasonable opportunity to cure, which shall be no less than thirty (30) days' time.

12. Records. The Parties acknowledge that this Agreement and any related financial records, audits, reports, plans, contracts, 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 of Chapter 119 and seven (7) calendar days to cure the alleged violation. If the alleged violation has not been cured at the end of that time period, then the other Party may terminate this Agreement for cause.

13. Effective Date. This Agreement 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.

14. Choice of Law; Venue. This Agreement and the interpretation and performance thereof shall be governed by the laws of the State of Florida, and any action arising out of or related to this Agreement shall be brought only in a court of appropriate jurisdiction in Escambia County, Florida.

15. Interpretation. Headings used throughout this Agreement are for the purpose of convenience only and no heading shall modify or be used to interpret the text of any paragraph. This Agreement shall not be more strictly construed against either Party by reason of the fact that one Party may have drafted or prepared any or all of the terms and provisions of this Agreement.

16. 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 of this Agreement shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

17. No Waiver. The failure of a Party to insist upon the strict performance of the terms and conditions of this Agreement shall not constitute or be construed as a waiver or relinquishment of any other provision or of either Party's right thereafter to enforce the same provision in accordance with this Agreement.

18. Amendment. This Agreement may be amended only by a written agreement signed by an authorized representative of each Party.

19. Authority to Contract. Each individual executing this Agreement on behalf of a Party represents and warrants that he is duly authorized to execute and deliver this Agreement on behalf of said entity, in accordance with applicable law, and that this Agreement is binding upon said entities in accordance with its terms.

20. Annual Appropriation: Nothing contained in this Agreement shall be deemed to create a debt, liability, or other obligation of either Party or any other political subdivision of the State of Florida within the meaning of any constitutional, statutory, charter, or other provision or limitation, and nothing contained herein shall be deemed to authorize or compel, directly or indirectly, the exercise of the ad valorem taxing power of the County or any other political subdivision of the State of Florida or taxation in any form on any real or personal property for the payment of any amounts contemplated by or as provided in this Agreement; moreover, the Parties acknowledge that ECUA has no taxing power. Furthermore, pursuant to the requirements of Florida law and Article II of Chapter 46, Escambia County Code of Ordinances, the Parties' performance and obligations to fund this Agreement shall be contingent upon annual appropriations by the Parties' respective governing boards.

IN WITNESS WHEREOF, the Parties have executed this Agreement, by and through their duly undersigned representatives, as of the date and year first written above.

EMERALD COAST UTILITIES

AUTHORITY, a local governmental body, corporate and politic

By: J. Bruce Woody, P.E., Executive Director

ECUA Legal approval: _____

Date: _____

ATTEST:

By: _____
Secretary

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, Chairman

Escambia County Legal approval: _____

Date: _____

ATTEST: PAM CHILDERS
Clerk of the Circuit Court

By: _____
Deputy Clerk

BCC Approved: _____

Exhibit A - Project Location Map

