

Board of County Commissioners Agenda Request

Date of Meeting: April 5, 2016

Date Submitted: February 15, 2016

To: Honorable Chairperson and Members of the Board

From: Robert M. Presnell, County Administrator
Curtis Young, Public Works Director

Subject: Interlocal Agreement for Road Resurfacing Projects

Statement of Issue:

This agenda item seeks Board direction on the Interlocal Agreement for Road Resurfacing Projects between the City of Quincy and Gadsden County Board of County Commissioners for the resurfacing of Joe Adams Road and Walsh Road and authorization for the Chairperson to sign.

Background:

Joe Adams Road and Walsh Road are roads located partially in the unincorporated limits of Gadsden County and partially within the City limits of the City of Quincy and such roads are currently in need of resurfacing. The County wishes to undertake resurfacing of these above identified roads and otherwise take responsibility for the projects and the City will share a portion of the costs associated with the project. All of which is described in the attached agreement.

Analysis:

If the Board wishes to resurface the identified roads, then an agreement with the City must be reached.

Fiscal Impact:

The County will bear all costs associated with this project other than, as stated in the agreement, twenty thousand dollars (\$20,000.00) for the Joe Adams Road project and five thousand dollars (\$5,000.00) for the Walsh Road project. The exact cost of each project is unknown at this time. The projects are currently out for bid.

Options:

1. Approve the Interlocal Agreement for Road Resurfacing Projects with the City of Quincy and authorize the Chairperson to sign.
2. Do not approve.
3. Provide other direction.

County Administrator's Recommendation:

Option 1

Attachment:

Interlocal Agreement for Road Resurfacing Projects

INTERLOCAL AGREEMENT FOR ROAD RESURFACING PROJECTS

THIS AGREEMENT is made and entered into on the effective date below, by and between **THE CITY OF QUINCY**, a municipality of the State of Florida (hereinafter referred to as "City") and **GADSDEN COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County").

WHEREAS, Joe Adams Road and Walsh Road are roads located partially in the unincorporated limits of Gadsden County and partially within the City limits of the City of Quincy and such roads are currently in need of resurfacing; and

WHEREAS, the County wishes to undertake resurfacing of these above identified roads and otherwise take responsibility for the projects as described in "Exhibit A" attached hereto (hereinafter "Project(s)"); and

WHEREAS, the City wishes to share a portion of the cost of the Projects; and

WHEREAS, the City and County have agreed to enter into this Interlocal Agreement authorized pursuant to Section 163.01(4), Florida Statutes, to provide for (1) the effective completion of the Projects, and (2) to establish the shared funding of the Projects including design, permitting, construction, and management; and

NOW, THEREFORE, acting pursuant to their statutory authority and in consideration of the mutual covenants and agreements of the parties, the City and County agree as follows:

SECTION I. AUTHORITY

1.1 This Interlocal Agreement is entered into pursuant to the provisions of Chapter 163.01, Florida Statutes, (hereinafter referred to as the "Act") and other applicable provisions of law.

SECTION II. PARTIES

2.1 The parties to this Interlocal Agreement are the City and the County.

SECTION III.
FINDINGS

3.1 The recitals set forth above are hereby approved and incorporated herein.

SECTION IV.
COUNTY TO ASSUME PROJECT RESPONSIBILITY

4.1 The parties agree that the County will have the responsibility to obtain all State and Federal permits required by law for the Project, if any such permits are required, and will serve as the sole permit applicant. Subject to the funding provisions in Section V herein below, the City will be responsible for all fees associated with obtaining any required permits.

4.2 In performing its primary role, the parties agree that the City will identify a City Representative and County will notify and provide an opportunity for City Representative to participate in all project management meetings, as well as in all substantive project management decisions. Substantive management decisions include, but are not limited to; project design and regulatory decisions, initiating and conducting Project related bid or RFP processes; negotiating, executing and managing professional service contracts, construction contracts, insurance contracts and supply contracts; preparation and approval of requests for payment to the County and payment of Project contractors and professionals.

4.3 The parties agree that, upon issuance of any required permit approval, the County will, subject to the participation requirements provided above, have full authority and responsibility to undertake the Projects and accomplish all activities relating thereto including contracting for necessary Project services for such things as design, permitting, construction, monitoring and management, and any other related and necessary services for the Projects.

4.4 Nothing herein shall require that the County acquire or obtain any additional easements, property interests and/or titles for the completion of the Project.

4.5 Other than this Interlocal Agreement, the City will not be a party to any agreements relating to the Projects including those agreements to design, permit, construct, monitor, or manage the Projects nor in any way be considered to be in privity with Project contractors and consultants.

SECTION V.
FUNDING FOR PROJECT

5.1 The City agrees to the following funding commitments in order to enable the County to enter into, without limitation, agreements for design, permitting, construction, monitoring, and management of the Project between the County and the contractor or service providers of the County's choice:

- A. The City will contribute funds in the amount of twenty thousand dollars (\$20,000.00) for the Joe Adams Road Project and Five Thousand (\$5,000) for the Walsh Road Project. The County will contribute the remainder of the funds required to complete the Projects.
- B. The City will, upon presentation by the County of requests for payment and the provision of substantiation for the request, meeting the form and procedures required under this agreement, disburse those funds to the County for the payment of Project costs for permitting, design and construction, and any and all additional reasonable and incidental costs relating thereto.

SECTION VI.

TERM OF AGREEMENT

6.1 This Interlocal Agreement shall take effect upon adoption by the governing bodies of the City of Quincy and Gadsden County and, absent an extension approved in writing between the parties, shall expire on September 30, 2016, unless at such time construction of one or both of the Project(s) is under way, in which event this agreement shall automatically extend until completion of such construction and related activity.

SECTION VII.

RECORDS AND REPORTING

7.1 For the Project, the County shall:

- A. Maintain books, records, documents, and other evidence according to generally accepted governmental accounting principles, procedures, and practices which sufficiently and properly reflect all costs and expenditures of any nature, incurred by the County in connection with the Projects, and said books, records, documents and other instruments shall be retained by the County for a period of three full years after termination of this Agreement. However, notwithstanding the above, no books, records, documents or other evidence reflecting all costs and expenditures incurred in the Projects shall be destroyed until proper authorization for the disposal has been received pursuant to Florida Law.
- B. The County agrees to provide the City, upon presentation of a request for payment of Project construction costs pursuant to this Agreement, a formal Request for Payment in a form acceptable to the City. This Request shall provide the required documentation of costs which are to be paid and a certification from a professional engineer licensed to practice in the State of Florida, that the percentage of the improvements presented for payment has been completed according to the plans and specifications approved for such Project under the Project contracts.

SECTION VIII.
AUDIT

8.1 The City shall have the right from time to time at its sole expense to audit the compliance by the County with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement and such right shall extend for a period of three (3) years after termination of this Agreement.

8.2 The City shall have full access, for inspection, review, and audit purposes, to all items referred to in Section VII above.

SECTION IX.
REPRESENTATIONS AND WARRANTIES

9.1 The County does hereby represent and warrant to the City that it has all requisite power, authority, and authorization to enter into this Agreement, has taken all necessary actions required to enter into this Agreement, and to fulfill any and all of its obligations, duties, and responsibilities provided for or required of it by this Agreement, whether exercised individually or collectively.

9.2 The City does hereby represent and warrant to the County that it has all requisite power, authority, and authorization to enter into this Agreement, has taken all necessary actions required to enter into this Agreement, make any payment contemplated hereby, and to fulfill any and all of its obligations, duties, and responsibilities provided for or required of it by this Agreement, whether exercised individually or collectively.

SECTION X.
AMENDMENTS

10.1 Neither this Agreement nor any portion of it may be modified or waived orally. The provisions hereof may be amended or waived only pursuant to an instrument in writing, approved by the City Commission, and the Board of County Commissioners, and jointly executed by the parties hereto. This Agreement shall be enforced and be binding upon, and inure to the benefits of, the parties hereto and their respective successors and assigns, if any. Any party to this Agreement shall have the right, but not obligation, to waive any right or rights, limitation or limitations, or condition or conditions herein reserved or intended for the benefit of such party without being deemed to have waived other rights, limitations, or conditions. However, any such waiver shall be valid only if expressly granted in writing as described above.

SECTION XI.
DISPUTE RESOLUTION

11.1 The parties shall attempt to resolve any disputes that arise under this Agreement in good faith and in accordance with the provisions of the "Florida Governmental Conflict Resolution Act" Sections 164.101-164.1061, Florida Statutes.

11.2 To the extent that the parties are unable to resolve this dispute through the provisions of the "Florida Governmental Conflict Resolution Act," then within thirty (30) days, the parties shall be required to participate in mediation. The cost of the mediation shall be borne equally between the parties.

11.3 In the event that the matter is not resolved through the mediation process, each party shall be free to pursue any of its available remedies.

SECTION XII. **SEVERABILITY**

12.1 If any one or more of the covenants, agreements or provisions of this Agreement shall be held contrary to any express provision of law or contrary to any policy of express law, then the remainder of this agreement shall remain in full force and effect.

SECTION XIII. **CONTROLLING LAW**

13.1 All covenants, stipulations, obligations and agreements of the City and the County contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of each of the City and the County to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. The laws of the State of Florida shall govern any and all provisions of this Agreement and any proceeding seeking to enforce or challenge any provision of this Agreement. Venue for any proceeding pertaining to this Agreement shall be exclusively in Gadsden County.

SECTION XIV. **NOTICE**

14.1 If written notice to a party is required under this Agreement, such notice shall be given by hand delivery, recognized overnight delivery service, or by first class mail, registered and return receipt requested, to the County as follows:

County Administrator
Gadsden County
Edward J. Butler Governmental Complex
9 – B East Jefferson Street
Quincy, FL 32353

As to the City as follows:

City Manager
City of Quincy
404 West Jefferson Street
Quincy, FL 32351

SECTION XV.
NO MEMBER LIABILITY

15.1 Neither the members of the governing body of the County, the City, nor any official executing this Agreement, shall be liable personally or shall be subject to any accountability for reason of the execution by the County, the City or any executing authority of the County or the City for any act pertaining thereto.

SECTION XVI.
FORCE MAJEURE

16.1 A party's timely performance of its obligations under this Agreement, only to the extent it is specifically affected thereby, shall be suspended, without forfeiture of any performance bond or the incurring of any financial liability, when and only for as long as performance of such obligation is prevented by reasons of any of the following cases: (i) acts of God, including without limitation severe weather events, (ii) operation of law, and (iii) any other event beyond the reasonable control of the party whose performance is affected, to the extent not caused by such party's willful or negligent acts or omissions, except in those cases where the party could not have reasonably foreseen and reasonably avoided the occurrence. The party affected by any such event shall give written notice thereof to the other party as soon as practicable after it becomes aware of such an event and, to the extent practicable, shall specify the anticipated length of the delay. The affected party shall use reasonable efforts to minimize the impact of that delay on that party's performance. Neither party shall be liable to the other for damages caused by such events. This provision shall not apply to obligations to make payments under Section IV of this Agreement.

SECTION XVII.
FILING

17.1 The City and the County are hereby authorized and directed after approval of this Agreement by the City and the County and the execution thereof by the duly qualified and authorized officers of each of the parties hereto, to file this Agreement with the Clerk of the Circuit Court of Gadsden County, Florida as provided in Section 163.01(11), Florida Statutes.

SECTION XVIII.
SOVEREIGN IMMUNITY

18.1 The parties further agree that nothing contained herein is intended to nor shall be construed a waiver of the City or County's rights and immunities under the common law or Section 768.28, Florida Statutes, as amended from time to time.

SECTION XIX.
INSURANCE, LIABILITY AND INDEMNIFICATION

19.1 During the term of this Agreement, the County and City shall be properly insured in accordance with Florida law.

19.2 The County and City each agree to be fully responsible for all claims, liabilities, damages, costs, actions, suits or proceedings at law or in equity which may occur as a result of the wrongful or negligent acts of their respective officers, employees, representatives, and agents.

19.3 Any contractor or consultant engaged by the County for work on the Project shall be required to protect, defend, indemnify and hold the City and County harmless from all claims, demands, causes of action or liability resulting from injury to or death of persons or damage to or loss of property sustained as a consequence of the Project and arising from the said contractor's or vendor's operations or as a proximate result of the acts or omissions of the contractor, consultant or their employees. Such agreement by the contractor or consultant shall include their indemnification as to any assessment of an administrative fine or penalty by a governmental entity for a violation of conditions of any required permit related to their actions or failure to act in carrying out their contractual duties. The County shall require the provisions of this section to be included in all contracts between the County and its contractors and consultants for work or services to occur on the Project.

SECTION XX.
NO CHANGE IN ROAD STATUS

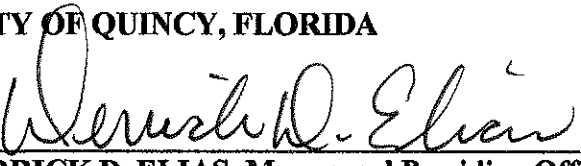
20.1 Nothing herein shall be construed to constitute an agreement affecting the jurisdiction over public roads and/or the responsibility for operation and maintenance of roadway facilities, and related drainage and pedestrian features, within the right-of-way of any road within the state, county, and municipal road system, nor shall any work performed pursuant to this Agreement be construed as changing or otherwise affecting such road jurisdiction and/or responsibility.

**SECTION XXI.
CONSTRUCTION**

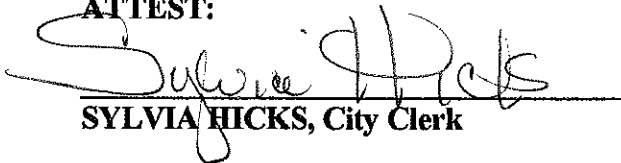
21.1 The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement on this _____ day of _____, 2016.

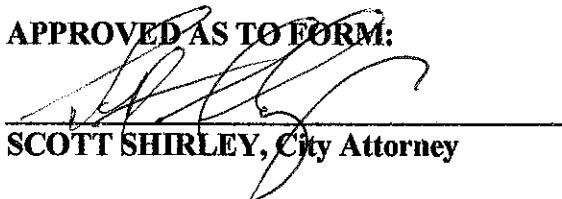
CITY OF QUINCY, FLORIDA

By: 
DERRICK D. ELIAS, Mayor and Presiding Officer
Of the City Commission of the
City of Quincy, Florida

ATTEST:


SYLVIA HICKS, City Clerk

APPROVED AS TO FORM:


SCOTT SHIRLEY, City Attorney

[Additional signature page follows]

ATTEST:

GADSDEN COUNTY, FLORIDA

By: _____

NICHOLAS THOMAS, CLERK

By: _____

BRENDA HOLT

Chairperson, Gadsden County Board of County
Commissioners

APPROVED AS TO FORM:

By: _____

DAVID J. WEISS

County Attorney