

INTERLOCAL MEMORANDUM OF UNDERSTANDING

This Interlocal Memorandum of Understanding ("MOU") is entered into this ²⁵ day of February, 2016, by and between **WASHINGTON COUNTY**, a political subdivision of the State of Florida, **HOLMES COUNTY**, a political subdivision of the State of Florida, and the **CITY OF BONIFAY**, a municipal corporation of the State of Florida, (collectively the "**Parties**").

RECITALS

WHEREAS, the Highway 79 Corridor Authority Planning Committee (the "Committee"), composed of representatives from the Holmes County Board of County Commissioners, the Washington County Board of County Commissioners, the City Council for Bonifay, the Holmes County Chamber of Commerce, the Washington County Chamber of Commerce, the Holmes County Economic Development Commission, the Washington County Economic Development Council, Opportunity Florida, and other citizens of all three jurisdictions with expertise in economic development, has been meeting for the purpose of determining the best method to provide water and sewer, and related advantageous planning and zoning strategies, south of Interstate 10, along Highway 79, to the vicinity of Douglas Ferry Road in Washington County; and

WHEREAS, the Committee is requesting that all three jurisdictions formally commit to moving forward with a plan to provide water and sewer, and related advantageous planning and zoning strategies, south of Interstate 10, along Highway 79, to the vicinity of Douglas Ferry Road in Washington County; and

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, the Department of Economic Opportunity and other related State of Florida entities have continually stressed the importance of multiple governing agencies working cooperatively to provide economic opportunities and to jointly apply for funding sources and grants related to economic development and growth; and

WHEREAS, the Parties desire to set forth their general commitment to the project and the general roles and responsibilities of each Party with respect to moving forward with the project; and

WHEREAS, the Parties believe that entering into this MOU will benefit the citizens of Holmes County, Washington County, and the City of Bonifay.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party to the other, the Parties agree as follows:

TERMS

I. Recitals.

The foregoing recitals are true and correct and are incorporated into and made a part of this MOU the same as if fully set forth herein.

II. Purpose.

The purpose of this MOU is:

a. For each jurisdiction to confirm their support for the continued pursuit of bringing water and sewer south of Interstate 10 along Highway 79, beginning in Holmes County, to the vicinity of Douglas Ferry Road, in Washington County, and to authorize, direct and empower the Committee to continue meeting and working towards a "DRAFT PLAN" for the creation of a "Highway 79 Corridor Authority" and which "DRAFT PLAN" will create appropriate inter-local agreements related to the creation thereof, and the related planning and funding thereto; and

b. To recognize the significant amount of progress that has been already accomplished by the Committee, by working together jointly, to define the concepts, potential funding sources and land use planning needed to create the economic improvements and jobs that may result from regional development.

III. Responsibilities of the Parties.

The Parties mutually agree that each Party will perform the following responsibilities and obligations in furtherance of this MOU:

a. The Parties will perform a good faith review the DRAFT PLAN, which shall be brought forward to the Parties by the Committee. The DRAFT PLAN shall include an incidental expense budget, which shall allocate responsibility for implementation of the initial phases of the DRAFT PLAN. Said incidental expense allocation shall include a loan to be collected from each County to the Highway 79 Corridor Authority, when operational, and shall be advanced to and administered by a third party (to be determined) for disbursement upon an appropriate request by the Committee and in accordance with normal disbursement administrative processes;

b. Upon completion of the DRAFT PLAN, following the vetting process by the Parties as set forth in "a" above, said DRAFT PLAN may then be formally approved by the Parties as the "Final Highway 79 Corridor Authority Plan";

c. To work in good faith to implement the terms of this MOU;
and

d. In order to support development and submission of the DRAFT PLAN, the Parties hereto undertake to perform the specified and appropriate implied and/or related actions and to provide such information and documentation to the Committee:

(1) Responsibility of Holmes County:

(i) Coordinate with the City of Bonifay, Washington County and the West Florida Regional Planning Council, to develop a land use map indicating mutually agreed governmental jurisdictional boundaries and current land uses. Using the existing land use map as a basis, identify the parcels that need land use changes to best apply modern planning techniques for future land uses, and planning compatibility with adjacent future land uses in contiguous jurisdictions. The objective for overlay adoption and land use changes shall be prior to submission of the DRAFT PLAN for review and initial funding so that they can be included in the adopted plan.

(ii) Develop the necessary changes to its Land Development Code and Comprehensive Plan to accommodate use of commercial/industry intent overlays, and then develop a "DRAFT" overlay for the proposed Highway 79 Corridor Authority land(s) falling within Holmes County, in

conjunction with the City of Bonifay, that will be the basis for notice(s) to land owners, neighborhood information meetings, public hearings and the adoption of a future land use map amendment(s) consistent with the Highway 79 Corridor concepts.

(iii) Establish the mechanism for the interim loan for incidental costs to complete the DRAFT PLAN when such DRAFT PLAN has been approved, subject to the completion of certain actions having a cost to complete as part of the PLAN to be adopted. Such funds loaned by the jurisdictions to the Highway 79 Corridor Authority, after approval of the DRAFT PLAN, shall be held and disbursed by a to-be-determined third party, which entity shall be approved by each loaning jurisdiction and such monies shall be held and disbursed as reasonably requested by the Committee.

(iv) Appoint a representative from the County staff to officially perform as a jurisdictional liaison with the Committee so that the Committee receives inputs from the County on a timely basis, and which liaison will assist in the Committee advising the County periodically about Committee progress.

2. Responsibility of the City of Bonifay:

(i) Coordinate with Holmes County, Washington County and the West Florida Regional Planning Council, to develop a land use map indicating mutually agreed governmental jurisdictional boundaries and current land uses. Using the existing land use map as a basis, identify the parcels that need land use changes to best apply modern planning techniques for future land uses, and planning compatibility with adjacent future land uses in contiguous jurisdictions. The objective for overlay adoption and land use changes shall be prior to submission of the DRAFT PLAN for review and initial funding so that they can be included in the adopted plan.

(ii) Develop the necessary changes to its Land Development Code and Comprehensive Plan to accommodate use of commercial/industry intent overlays, and then

develop a "DRAFT" overlay for the proposed Highway 79 Corridor Authority land(s) falling within the City of Bonifay, in conjunction with Holmes County, that will be the basis for notice(s) to land owners, neighborhood information meetings, public hearings and the adoption of a future land use map amendment(s) consistent with the Highway 79 Corridor concepts.

(iii) Research and advise the Committee about sewer and water capacities of existing services and any needed upgrades to provide sewer and water services to the proposed Highway 79 Corridor Authority end user(s) that may develop facilities within the Corridor. Consider and make recommendations about any special rates that might be applied to the Corridor sewer and water customers such as initial impact fees, line tap fees, monthly service fees and surcharges unique to Corridor customers.

(iv) Appoint a representative from the City staff to officially perform as a jurisdictional liaison with the Committee so that the Committee receives inputs from the City on a timely basis, and which liaison will assist in the Committee advising the City periodically about Committee progress.

3. Responsibility of Washington County:

(i) Coordinate with the City of Bonifay, Holmes County and the West Florida Regional Planning Council, to develop a land use map indicating mutually agreed governmental jurisdictional boundaries and current land uses. Using the existing land use map as a basis, identify the parcels that need land use changes to best apply modern planning techniques for future land uses, and planning compatibility with adjacent future land uses in contiguous jurisdictions. The objective for overlay adoption and land use changes shall be prior to submission of the DRAFT PLAN for review and initial funding so that they can be included in the adopted plan.

(ii) Continue its overlay adoption process, which is currently before the Washington County Board of County Commissioners, and which is expected to be completed in

May, 2016 and which such process includes significant increases in the available commercial acreage along Highway 79 and Highway 77 South.

(iii) Establish the mechanism for the interim loan for incidental costs to complete the DRAFT PLAN when such DRAFT PLAN has been approved, subject to the completion of certain actions having a cost to complete as part of the PLAN to be adopted. Such funds loaned by the jurisdictions to the Highway 79 Corridor Authority, after approval of the DRAFT PLAN, shall be held and disbursed by a to-be-determined third party, which entity shall be approved by each loaning jurisdiction and such monies shall be held and disbursed as reasonably requested by the Committee.

(iv) Appoint a representative from the County staff to officially perform as a jurisdictional liaison with the Committee so that the Committee receives inputs from the County on a timely basis, and which liaison will assist in the Committee advising the County periodically about Committee progress.

IV. Responsibility of the Committee

During the preparation phase of the DRAFT PLAN and the Final Highway 79 Corridor Authority Plan, the Committee shall periodically, or upon specific request by any Party, provide progress reports to the Parties. Further, the Committee will work in good faith to apply, in good faith, the input of all Parties in the creation of a Final Highway 79 Corridor Authority Plan. Said Final Plan shall equitably weight the interest of all Parties involved and allocate resources and potential revenues in a manner that is equitable and fairly apportioned between the Parties on both a short and long term basis.

V. Term.

This MOU will remain in effect continuously until terminated as set forth herein: Each Party may provide the other Parties ninety (90) days written notice of its intent to terminate this MOU. Said termination may occur with or without cause at the sole discretion of the terminating Party.

VI. Entire Agreement and Prior Understandings. This Agreement contains the entire memorialization of mutual assent between the Parties and

is intended as a final expression of the Parties' agreement with respect to all terms included in this MOU. This MOU supersedes any and all prior agreements, negotiations, stipulations, understandings or representations.

VII. Construction and Application. The section headings or titles in this Agreement are for convenience only and not a part hereof and shall no effect upon the construction or interpretation of the Agreement. This Agreement shall not be construed against either party as the "drafter" of this Agreement, as the intent of the parties and resulting Agreement is a collaborative effort of all Parties.

VIII. Severability. Each provision of this MOU is intended to be severable. If any court of competent jurisdiction determines that any provision of this MOU is invalid, illegal or unenforceable in any respect, the rest of the MOU will remain in full force and effect.

IX. Amendment. Any alternations, amendments, deletions or waiver of any provisions of this MOU shall be done in writing and signed by all Parties. No alternation, amendment, deletion, or waiver of any provision shall become valid or effective until executed in conformity with this paragraph.

X. Notice. Unless and until changed by a Party giving written notice to the other, the addresses below shall be the addresses to which all notice required or allowed by this MOU shall be sent certified, return receipt requested:

If to Washington County:

Attn: County Manager
1331 South Blvd.
Chipley, FL 32428

If to Holmes County:

Attn: County Manager
107 E. Virginia Ave
Bonifay, FL 32425

If to the City of Bonifay:

Attn: Mayor
301 J. Harvey Ethridge St.
Bonifay, FL 32425

XI. Governing Law and Forum. This MOU shall be interpreted and construed in accordance with the laws of the State of Florida. Notwithstanding any other terms and conditions of this MOU, any Party may bring an action for the sole and limited purpose of enforcing the terms and conditions of this MOU

in court of competent jurisdiction. Venue for any Court action stemming herefrom shall be in Holmes County, Florida.

XII. Understanding of the Agreement. All Parties represent that they have thoroughly read this MOU, that they understand each provision, term, and condition of this MOU as well as its legal effect, and that they have signed the MOU voluntarily and of their own free will with the intention to comply with its terms. All Parties have participated in the preparation of this MOU. Therefore, the MOU shall not be construed against or in favor of any Party based upon which Party was responsible for the drafting of the MOU.

XIII. Public Disclosure of the Agreement. All Parties agree and acknowledge that this MOU may be subject to the Florida public records law, Chapter 119, or other provisions, and may, therefore, be subject to disclosure by and in the manner provided by law.

XIV. Waiver. No delay or failure to enforce any provision of this MOU shall constitute a waiver or limitation of rights enforceable under this MOU.

XV. Assignment. This MOU is not assignable, but shall be binding upon the heirs, administrators, personal representatives, successors, and assigns of all Parties.

XVI. Execution and Counterparts. This MOU may be executed in counterparts and by the Parties on separate counterparts each of which, when so executed, shall constitute but one and the same instrument.

XVII. Drafting. No Party shall be considered the author of this MOU since the Parties have participated in negotiations in the making of this MOU. Thus, the terms of this MOU shall not be strictly construed against one Party as opposed to the other Party based upon who drafted it.

XVIII. Compliance with Laws. All Parties shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to, laws relating to nondiscrimination, equal opportunity, displacement, privacy rights of participants, and maintenance of records and/or other confidential information, Title VII of the Civil Rights Act, and the Americans with Disabilities Act.

XIX. Sovereign Immunity.

Notwithstanding anything set forth in any section of this MOU to the contrary, nothing in this MOU shall be deemed as a waiver of immunity or limits of liability of any Party beyond any statutory limited waiver of immunity or limits of liability and any liability of any Party for damages flowing herefrom shall not exceed the statutory limits of liability, should said limits apply, regardless of the number or nature of any claim which may arise including but not limited to a claim sounding in tort, equity or contract. Nothing in this MOU shall inure to the benefit of any third party for the purpose of allowing any claim against any Party, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

XX. Joint Administration

No separate legal or administrative entity is created by this MOU.

IN WITNESS WHEREOF, this MOU has been executed by the parties hereto the day and year written above.

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WASHINGTON COUNTY:

Alan Bush
BOCC Chairman: Alan Bush
2/25/16 : DATE

ATTEST:

Rora C. Borda
Clerk of Circuit Court, Washington County

HOLMES COUNTY:

Danny Powell
BOCC Chairman: Danny Powell
February 9, 2016 : DATE

ATTEST:

Thyle Anderson
Clerk of Circuit Court, Holmes County

CITY OF BONIFAY:

Paul & Carol
Mayor: _____
03-14-2016 : DATE

ATTEST:

Joni Gibson
Clerk of City of Bonifay, Florida