



AGENDA

CITY COUNCIL MEETING - SPECIAL SESSION

MONDAY, NOVEMBER 06, 2023 at 9:00 AM

Conference Room Midtown Plaza 401 McLaughlin, Bonifay, Florida

I. CALL TO ORDER

A. Invocation

B. Pledge of Allegiance

II. APPROVE AGENDA

III. VISITORS – PUBLIC ADDRESSING THE COUNCIL

NON- AGENDA AUDIENCE

Effective October 1, 2013, Florida Statute 286.0114 mandates that “members of the public shall be given a reasonable opportunity to be heard on a proposition before a Board or Commission.” Each individual shall have three (3) minutes to speak on the proposition before the Board. This is time set aside for the Citizens of Bonifay to address the City Council. **THIS IS NOT A QUESTION AND ANSWER SESSION. It is NOT a political forum, nor is it a time for personal accusations and derogatory remarks to/or about City personnel. Those who wish to speak are reminded to observe proper decorum, and to avoid the use of profane or vulgar language.** If you would like to address the City Council please come to the podium, state your name and address for the record,

IV. PLANNING & ENGINEERING

V. OLD BUSINESS

VI. NEW BUSINESS

A. Action to approve LOGT Interlocal Agreement with Holmes County, Florida

B. Approval of Lease Agreement - Old Sheriff's Office for City of Bonifay Police Department subject to review and any necessary revisions by City Attorney.

C. Resolution-State Revolving Fund Program

VII. COUNCIL / DEPARTMENT SUPERVISORS / CITY ATTORNEY DISCUSSION

Items not listed on Formal Agenda.

A. Department Updates

B. ANNOUNCEMENTS

VIII. ADJOURN

Persons with disabilities needing special accommodations to participate in this proceeding should contact City Hall at (850) 547-4238, at least five days prior to the proceedings.

INTERLOCAL AGREEMENT

LOCAL OPTION FUEL TAX (HOLMES COUNTY, FLORIDA)

THIS AGREEMENT BEING ENTERED INTO THIS ____ DAY OF _____, 2023, BY AND BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA (HEREINAFTER “COUNTY”); THE CITY COUNCIL OF THE CITY OF BONIFAY, FLORIDA (HEREINAFTER “BONIFAY”); THE TOWN COUNCIL OF THE TOWN OF ESTO, FLORIDA (HEREINAFTER “ESTO”); THE TOWN COUNCIL OF THE TOWN OF NOMA, FLORIDA (HEREINAFTER “NOMA”); THE TOWN COUNCIL OF THE TOWN OF PONCE DE LEON, FLORIDA (HEREINAFTER “PONCE DE LEON”); AND THE TOWN COUNCIL OF THE TOWN OF WESTVILLE, FLORIDA (HEREINAFTER “WESTVILLE”).

WHEREAS, BONIFAY, ESTO, NOMA, PONCE DE LEON, and WESTVILLE, comprise all of the incorporated municipalities within the geographical boundaries of the COUNTY; and

WHEREAS, the COUNTY is empowered to implement a six (6) cent Local Option Fuel Tax, pursuant to Sections 206.41(1)(e), 206.87(1)(c) and 336.025, Florida Statutes; and

WHEREAS, the COUNTY has previously implement said six (6) cent Local Option Fuel Tax in Holmes County Ordinances Nos. 99-04, 99-05, 05-05, 07-03 and 14-02; and

WHEREAS, the COUNTY, BONIFAY, ESTO, NOMA, PONCE DE LEON and WESTVILLE, do, pursuant to Florida law, agree on a distribution schedule for the COUNTY’S allocation of the six (6) cent Local Option Fuel Tax, as to be distributed by the State of Florida, Department of Revenue; and

WHEREAS, the COUNTY, BONIFAY, ESTO, NOMA, PONCE DE LEON and WESTVILLE, agree that such distribution schedule as set forth herein shall become effective on January 1, 2024, and remain in effect until December 31, 2028, or until such time as Florida law mandates that the distribution schedule be changed, updated or otherwise modified; and

WHEREAS, the COUNTY, BONIFAY, ESTO, NOMA, PONCE DE LEON and WESTVILLE, agree that upon passage of this interlocal agreement, if no new or updated interlocal agreement is entered into by the parties hereto, prior to June 1, 2028, for distribution of the Local Option Fuel Tax for year 2024 and beyond, the distribution for year 2029 and beyond shall then be based on the transportation expenditures of each local government for the immediately preceding five (5) years, as a proportion of the total expenditures for the COUNTY and all incorporated municipalities within the COUNTY, until such time as a new or updated interlocal agreement has been reached between the parties hereto.

NOW THEREFORE, the COUNTY, BONIFAY, ESTO, NOMA, PONCE DE LEON and WESTVILLE, agree to the following distribution schedule for the six (6) cent Local Option Fuel Tax for years 2024, 2025, 2026, 2027 and 2028:

COUNTY:	85%
BONIFAY:	10%
ESTO:	1%
NOMA:	1%
PONCE DE LEON	2%
WESTVILLE	1%

IN WITNESS HEREOF, the parties have set their hands and seals the day and year as set forth, above.

COMMISSIONERS,

BOARD OF COUNTY
HOLMES COUNTY, FLORIDA

ATTEST: _____ (SEAL) BY: _____
Clerk Chairman

CITY COUNCIL,
BONIFAY, FLORIDA

ATTEST: _____ (SEAL) BY: _____
Clerk Mayor/Chairman

TOWN COUNCIL,
ESTO, FLORIDA

ATTEST: _____ (SEAL) BY: _____
Clerk Mayor/Chairman

TOWN COUNCIL,
NOMA, FLORIDA

ATTEST: _____ (SEAL)
Clerk

BY: _____
Mayor/Chairman

TOWN COUNCIL,
PONCE DE LEON, FLORIDA

ATTEST: _____ (SEAL)
Clerk

BY: _____
Mayor/Chairman

TOWN COUNCIL,
WESTVILLE, FLORIDA

ATTEST: _____ (SEAL)
Clerk

BY: _____
Mayor/Chairman

STATE OF FLORIDA }
 }
HOLMES COUNTY }

LEASE AGREEMENT
(Triple Net)

This Lease made and entered into this ____ day of _____, 2023, to be effective November 1, 2023, by and between **HOLMES COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as “Lessor”, and **CITY OF BONIFAY**, whose mailing address is 301 J. Harvey Etheridge Street, Bonifay, FL 32425, hereinafter referred to as “Lessee”.

WITNESSETH

In consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, those certain Premises known as the “Old Sheriff’s Office”, and further defined below in paragraph 2.

1. Term. The term of this Lease shall commence as of November 1, 2023, (the “Commencement Date”), and shall continue for a period of two (2) years until October 31, 2025 (the “Termination Date”). Lessee shall be given a right to renew for an additional two (2) year period at the option of the Lessor. Lessee must send written notice 120 days prior to the proposed Termination Date to renew.

2. Definitions. “Premises” shall refer to the “Old Sheriff’s Office”, which is located at 201 N Oklahoma Street, Bonifay, Florida 32425 on Parcel 0531.03-003-015-002.000 (See attached Exhibit “A”).

3. “As Is”. Lessee agrees to accept the Premises in its “as is” condition on the Commencement Date and Lessee agrees that it will be responsible for any and all leasehold improvements which Lessee desires thereafter. Lessee also agrees to share the any common areas with Lessor, or any subtenant the Lessor chooses.

4. Rent. Lessee covenants and agrees to pay to Lessor all Rents as set forth below. Rent shall commence on the Commencement Date and is due and payable on the first calendar day of each month during the term of the Lease and is delinquent on the 6th calendar day of each month. Rent payments are considered received for payment purposes on the day that the check is received at the designated place of payment. Checks are to be made payable to Lessor and delivered to 107 E. Virginia Ave, Bonifay, FL 32425, or at such other place as Lessor may from time to time designate in writing. The Base Rent for each month shall be Zero and 00/Dollars (\$0.00). Lessee agrees to provide an office space for administrative purposes for the veteran affairs division for Holmes County during the duration of this Lease.

5. Utilities Reimbursement. In addition to the Base Rent payable hereunder, Lessee agrees to pay all utility and water usage cost, including the cost to convert the utility and water setup in Lessee's name.

6. Taxes. Lessee shall pay all personal property taxes assessed by reason of its personal property and trade fixtures on the Premises, and Lessee shall also pay any other fees and taxes incidental to the operation of its business, specifically including, but not limited to State of Florida sales tax and any County Sales Tax on the monthly Base Rent, if any. Lessee shall pay all real property taxes, if applicable.

7. Use of Premises. The Premises shall be used only for the purpose of operating the business of Lessee, and for no other purpose or purposes without the written consent of Lessor. Lessee shall promptly comply with all laws, ordinances and regulations promulgated by any duly constituted governmental authority, the codes and ordinances of Holmes County, Florida, and the Lessor. Lessee shall not use the Premises for any purpose which increases the rate of premium cost or invalidates any policy of insurance covering or carried on the Premises. Lessee will not use or permit upon the Premises anything that may be dangerous to life or limb or create or permit any nuisance or do anything to disturb any other Lessee.

8. Cleaning. Lessee shall keep its Premises clean at its own expense, and shall within a reasonable time remove all of its trash, garbage, and other refuse from the Premises. The Lessor shall provide for the nonexclusive use Lessee an appropriate receptacle for trash and refuse to be available at the rear of the parking lot serving the Premises. In the event Lessee's trash and refuse should ever exceed a reasonable quantity requiring service in addition to the regularly scheduled service, or contains hazardous materials requiring special disposal, Lessee shall notify Lessor of the condition and Lessor shall cause the addition service to be performed at the sole expense of Lessee. If Lessee produces hazardous material on a regular basis, Lessee shall make arrangements for disposing of hazardous material from the Premises at Lessee's sole cost. Provided that if Lessee fails to do so in either of the above situations, then Lessor may (but shall be under no obligation to) cause it to be removed for the benefit of Lessee and Lessee agrees to pay all the expense thereof, on demand, as additional Rent. Lessee shall not burn any materials or rubbish of any description upon the Premises or upon any other properties or common areas of the Center. In the event Lessee fails to keep the Premises and other areas heretofore described in proper and safe condition, Lessor may cause the same to be done for the benefit of Lessee and Lessee agrees to pay the expenses thereof on demand as additional rent.

9. Repairs.

a) Lessor shall not be liable to Lessee for any damage to Lessee's property whatsoever unless the damage is the result of Lessor's gross negligence. Notwithstanding the foregoing, Lessee shall make repairs, at Lessee's sole expense, which become necessary or desirable by reason of any willful or negligent act of Lessee, its agents, servants, employees licensees or invitees. All such repairs shall be made with materials and workmanship equivalent to that of the original.

b) Except as may otherwise be provided herein, Lessee shall, at Lessee's sole expense, make all repairs needed to the Premises during the term of this Lease. It is expressly agreed

and understood that Lessee shall, at Lessee's sole expense, at all times maintain the following but not limited to all exterior and interior doors and locks that are a part of the Premises; the equipment, lighting fixtures and bulbs within the Premises, in good condition and repair, and in a clean, sanitary and safe condition, and in accordance with all applicable laws, ordinances and regulations of any governmental authority having jurisdiction. Lessee shall not permit any waste, damage or injury to the Premises. If Lessee refuses or neglects to commence repairs required of Lessee hereunder within 10 days after written demand, or to adequately complete such repairs within a reasonable time thereafter, Lessor may make the repairs without liability to Lessee for any loss or damage that may occur to Lessee's business or property by reason thereof, and if Lessor makes such repairs, Lessee shall pay to Lessor the cost thereof on demand as additional Rent.

c) Unless damaged or broken by Lessor, its agents or employees, Lessee shall promptly, at its own expense, replace any cracked or broken glass with glass of the same quality; including plate glass, interior or exterior windows and doors in the Premises. If Lessee fails to replace such glass or other breakable materials as provided herein, the Lessor, at Lessor's option, may cause the same to be done for the benefit of Lessee, and Lessee hereby agrees to pay the expense thereof on demand as additional Rent.

10. Signs. Lessee shall not erect or install any signs, lettering, or placards on the exterior of the buildings or Premises (including the roof) nor on or in any window or door without Lessor's prior written consent and approval of the placement and design. Lessee shall be responsible for all costs associated with the design, installation, and, at the termination of the lease, the removal of its graphics.

11. Alterations, Improvements and Fixtures. It is mutually agreed as follows:
a) Lessee shall not make any alterations, additions or improvements to the Premises without Lessor's prior written consent. This includes structural and non-structural alterations, additions and improvements. Lessee shall not install any fixtures to the Premises without Lessor's prior written consent.

b) Lessee shall ensure that all alterations, additions, improvements and fixtures made on its behalf will be done in a good and workmanlike manner, in compliance with all Laws.

c) All alterations, additions, improvements and fixtures, which may be made or installed by Lessee, with the Lessor's prior written consent, upon the Premises, and to which in any manner are attached to the floors, walls or ceilings, shall, at the termination of this Lease, become the property of Lessor (unless Lessor requests their removal in which case Lessee shall, at Lessee's sole expense, remove the same without damaging the Premises), and shall remain upon and be surrendered with the Premises as a party thereof without damage or injury. Lessee's movable equipment, computers, furniture and trade fixtures shall remain solely the property of Lessee.

12. Insurance. Lessee shall procure and maintain a policy of insurance, at its own cost and expense, insuring Lessor, Lessee, and Lessor's management agent (if one is employed by Lessor), from all claims, demands of actions for injury to or deaths of any one person in an amount of not less than \$1,000,000.00 and for damage to property in the amount of not less than \$500,000.00, made by or on behalf of any person or persons, firm or corporation arising from, related to, or connected with the conduct or operation of Lessee's business on the Premises; provided, however, that if experience during the term of this shows that the above coverage is insufficient,

Lessee shall procure additional coverage upon written request by Lessor. Said insurance shall not be subject to cancellation except after ten (10) days prior written notice to Lessor. In the case of said cancellation, Lessee shall place the required coverage with another insurer so that there is no period of time that the above required coverage is not in place. Lessee shall deposit duly executed certificates of the insurance with the Lessor at the commencement of the term of this Lease. If Lessee fails to comply with such requirements, Lessor may obtain such insurance and keep the same in effect, and Lessee shall pay the Lessor the premium cost thereof upon demand as additional rent.

13. Indemnity. Lessee agrees to indemnify and save Lessor, its officers, principals, directors, employees, agents, heirs and assigns against any and all claims, demands, damages, costs and expenses, including court costs and reasonable attorney's fees for the defense thereof, arising from the conduct or management of the business conducted by Lessee on the Premises or in the performance of any covenant or agreement on the part of Lessee to be performed pursuant to the terms of this Lease, or from any act of negligence of Lessee, its agents, contractors, servants, employees, or licenses, in or about the Premises. Lessee agrees to pay and discharge within thirty (30) days after notice thereof of any mechanic's, material man's or other liens against the Premises or Lessor's interest therein claimed in respect to any labor, services, materials, supplies or equipment furnished or alleged to have been furnished or alleged to have been furnished to or upon request of Lessee, provided that Lessee may contest such lien claim if Lessee shall first discharge the lien from the Premises.

14. Damages by Fire or Other Casualty. Should the Premises be destroyed, Lessor assumes no responsibility to rebuild or prepare a new location for Lessee.

15. Condemnation. In the event of any eminent domain proceedings affecting the Premises, Lessor shall have the sole right to apply any award, with Lessor being entitled to receive all the amount awarded for taking in full or in part of the Premises.

16. Default by Lessee. If it is mutually agreed that in the event:

- a) Lessee shall default in the payment when due of any sums required herein to be paid and fails to cure such default within fifteen (15) calendar days (including Saturday, Sunday and any legal holidays) after written notice thereof from Lessor; or
- b) If Lessee abandons or vacates the Premises; or
- c) If Lessee shall be in default in performing any of the terms or provisions not requiring the payment of any sum of money, and fails to cure such default within fifteen (15) calendar days (including Saturday, Sunday and legal holidays) after the date of receipt of written notice of default from Lessor; or
- d) If Lessee files a petition in bankruptcy, insolvency, dissolution or for reorganization or arrangement under the laws of the United States or of any state, or voluntarily takes advantage of any such law or act or is dissolved or makes an assignment for the benefit of creditors; or
- e) If involuntary proceedings under any bankruptcy law or insolvency act or for the dissolution of a corporation are instituted against Lessee or if a receiver or trustee is appointed of all or substantially all of the property of Lessee and such proceedings are not dismissed or such receivership or trusteeship vacated within ninety (90) days after such institution or appointment;

allowed to be occupied by anyone other than Lessee, or if there is any change in ownership or control of Lessee without the knowledge and written consent of Lessor; or

f) Whether voluntarily or involuntarily, Lessee takes advantage of any debtor relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred; or

g) If Lessee makes an assignment for benefit of creditors; or

h) Violation by Lessee of the same covenant herein more than two times in any twelve (12) month period hereunder, irrespective of whether such violations are subsequently cured by Lessee within any applicable grace period; or

i) If Lessee's effects should be levied upon or attached under process against

Lessee and not satisfied or dissolved within thirty (30) days after written notice from Lessor to Lessee to obtain satisfaction thereof.

j) Then in any such event, Lessor shall have the following options:

(i) Lessor may terminate this Lease upon written notice to Lessee, whereupon this Lease shall end, and upon such termination by Lessor, Lessee agrees to immediately and peacefully surrender the Premises to Lessor, and if Lessee refuses to do so, Lessor may, among other things, reenter and repossess the Premises, using such force for that purpose as may be necessary without being guilty of trespass, forcible entry or other tort, and Lessee shall nevertheless remain and continue to be liable to Lessor in a sum equal to all rent, additional rent and other charges payable under this Lease through the Term expiration date; and

(ii) Lessor, as Lessee's agent, may enter upon and offer the Premises for rent at the best price obtainable by reasonable effort, without advertisement and by private negotiation, for any term Lessor deems proper and Lessee shall be liable to Lessor in damages for deficiency between Lessee's rent hereunder and the rent obtained by Lessor for re-letting. Any suit brought to collect the amount of such deficiency may be brought for all the remaining months of the term thereof in one suit prospectively. Lessor's remedies as set forth herein shall in no event be construed to limit those otherwise available in law or equity.

17. Late Charge. Anything herein to the contrary notwithstanding, Lessor and Lessee hereby expressly covenant and agree that, in the event the monthly Rent payment is not received at Lessor's designated depository by the sixth (6th) calendar day of the month, there shall be due and payable to Lessor by Lessee a late charge in the amount equal to ten percent (10%) of all sums which are then due and payable hereunder but have not, as of such date, been received, plus interest at the rate of eighteen percent (18%) per annum from the due date (the first day of the month) of such sums until the date received. The payment of said Late Charge and interest by Lessee, and/or acceptance thereof by Lessor, shall not be construed as waiver of any other right or remedy of Lessor, exercisable by reason of Lessee's failure to make payment by Lessor and when due hereunder. Lessee's obligation to pay Rent hereunder and Late Charge and interest hereunder shall be treated with the same dignity, as Lessee's obligation to pay Rent hereunder and Lessor shall have all rights and remedies provided for in this Lease in the event Lessee fails to pay the Late Charge and interest.

18. Security. Notwithstanding anything contained herein to the contrary, in providing keys to both front and rear entrances, Lessor does in no way assume any responsibility or liability for the security of Lessee's Premises or person.

19. Access by Lessor. Lessor may enter the Premises for the purpose of inspection, showing the Premises to prospective tenants, and to make such repairs as the Lessor may reasonably desire at all reasonable times including non business hours; provided, however, the time is convenient with the Lessee and does not hinder the operation of Lessee's business or Lessor shall have given Lessee at least 24 hours advance notice of any entry. Verbal notice is acceptable for access rights under this paragraph. Notwithstanding anything to the contrary contained herein, Lessor, its employees, agents and contractors shall have the right in the event of an emergency that involves danger to the Premises or the lives or health of a person or persons to enter the Premises without notice. Where upon the Premises shall be immediately secured by Lessor upon the passage of danger.

20. Door Locks. Lessee herein acknowledges and agrees that in no event, shall Lessee, its employees, contractors, or agents change the keying of any door lock(s) without complying with the requirements set forth herein and modified by Lessor from time to time by written notice to Lessee. Failure to comply with the requirements set forth herein shall constitute a default under the terms of the Lease. In the event Lessee desires a change in keys for access to the Premises or lock(s) within the Premises, Lessee shall, at Lessee's sole expense, engage a vendor designated in writing by Lessor, to re-key the desired lock(s) retaining the master key access capability to said lock(s). Upon termination of this Lease, the cost of re-keying all the keys directly associated with the Premises shall be at the sole expense of the Lessee. In the event Lessee shall have any lock(s) re-keyed in a manner that renders Lessor's master key ineffective for entry, Lessor shall have the right to have, at Lessee's sole expense, the lock returned to a condition which allows access using the Lessor's master key. Based upon changing conditions and experience over time, Lessor reserves the right to have, at Lessee's sole expense, the lock returned to a condition which allows access using the Lessor's master key. Based upon changing conditions and experience over time, Lessor reserves the right to change this procedure from time to time provided Lessor notifies Lessee in writing of said changes and that the new procedures do not subject the Lessee to unreasonable additional costs, time or effort.

21. Assignments and Subletting. Lessee shall not assign or in any manner transfer this Lease or any interest therein (including but not limited to the sale or transfer of all or any portion of the ownership of the leasing entity herein), nor sublet said Premises or any parts thereof, nor permit occupancy by anyone with, through or under Lessee, without the prior written consent of Lessor. Such consent may be withheld in Lessor's sole and absolute discretion. Consent by Lessor to one or more assignments of this Lease or to one or more subletting of the Premises shall not operate as a waiver of Lessor's rights under this section with respect to any subsequent assignments or sublettings. No assignment shall release Lessee of any of its obligations under this Lease or be construed or taken as a waiver of any of Lessor's rights or remedies hereunder. Lessor may assign this Lease at any time without the consent of Lessee and in that event, said assignee shall be substituted for Lessor and be bound by the terms of this Lease and thereafter the Lessor herein shall have no further obligations under this Lease.

22. Deposits. There is no deposit requirement associated with this Lease.

23. Holding Over Option. In the event Lessee has not entered into a new lease for the Premises prior to the Termination Date and Lessor has not entered into a lease with another party, Lessee may elect to hold over on a month-to-month basis. In the event Lessee elects to hold over, Lessee shall notify Lessor in writing of its election to exercise the Holding Over Option at least thirty (30) days prior to the Termination Date. Provided Lessor shall, at its sole discretion, approve said election by Lessee to exercise the Holding Over Option, Lessee shall have the right to continue to Hold Over on a month to month basis until 1) Lessee provides a minimum of thirty (30) days written notice to Lessor that Lessee shall be terminating the Holding Over Option and is vacating the Premises, or 2) Lessor provides Lessee a minimum of thirty (30) days written notice that Lessor is terminating the Holding Over Option and that Lessee is to vacate the Premises within thirty (30) days. The termination of the Holding Over Option period by Lessee shall end on the last calendar day of a month. During the Holding Over Period, the Base Rent shall, at Lessor's sole discretion, equal 200% of the Base Rent that is in effect on the Termination Date or the Base Rent that would have been in effect as the result of any Base Rent increase that would have occurred had the Lease not terminated. During the Holding Over period, all terms and conditions of this Lease shall remain in effect, including any Base Rent increases that would have become effective on January 1 of the next calendar year or on the anniversary date of the Commencement Date of the Lease.

24. Hurricane Security. In the event Holmes County, Florida, shall be under a "Hurricane Warning" for a Category 1 or greater hurricane, Lessor (or Lessor's agent) shall, at Lessor's sole discretion, determine if there is a need to secure the Premises beyond the normal daily procedures. In the event that the determination is made by Lessor that the area will likely experience damaging winds or flooding and that additional precautions for securing the Premises are appropriate, Lessor will cause Lessee or its appointed agent to be notified by telephone and by the latest provided email address of the "emergency procedures" being implemented. In the event it is determined that closing and securing all shutters is in the best interest of protecting the Premises, Lessee will be notified by the latest provided email address and telephone number and Lessee herein agrees to close and secure the shutters on all windows on the Premises having shutters. Lessor or its agent shall have the right to enter upon the Premises in order to secure any shutters not secured by Lessee. Additionally, Lessor shall have the right within the above referenced notice to order the Premises vacated by all parties and further has the right to lock the Building preventing any access to the Premises until the hurricane has passed and electrical power is restored to the Premises and Lessor or its agent has safe access to the Premises and insure that the normal electrically operated locking system is functioning properly. Once the Premises are reopened, normal access methods are established, and telephone service is available, email notices shall be sent and telephone calls shall be made to Lessee's provided emergency contact number to advise the Lessee that the Premises are returning to normal operations.

25. Heading/Parties. Words "Lessor" and "Lessee" as used herein shall include the respective contracting party, whether singular or plural, and whether masculine or feminine, or a partnership, joint venture, business trust, corporation, or other entity, as well as the heirs, personal representative, and permitted successors and assigns of such party. Headings are used for the convenience and reference only, and shall not be deemed to vary the content of this Lease.

26. Severability. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the Lease, then, and in the event, it is the intention of the parties hereto that the remainder of the Lease shall not be affected thereby and the same remain in full force and effect.

27. Entire Agreement. This Lease contains the entire agreement of the parties, and no representation, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Further, this Lease is the jointly negotiated product of the parties and shall not be construed against the drafting party as Lessee has had the opportunity to have this Lease reviewed by an attorney.

28. Attorney's Fees/Venue. If either party seeks to enforce the terms hereof through an attorney at law, the prevailing party shall be entitled to reasonable attorney's fees and costs. In any action arising from this Lease either in law or equity, venue shall lie in Holmes County, Florida.

29. Waiver of Rights. No failure of Lessor to exercise any power given Lessor hereunder, or to insist upon strict compliance by Lessee with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

30. Notices. Unless otherwise provided in this Lease, any notice which Lessor may desire or be required to give to Lessee, including any notice of expiration, shall be deemed sufficiently given in writing, delivered to Lessee personally, or sent by Certified U.S. Mail addressed to City of Bonifay. Any notice by Lessee to Lessor shall be delivered personally or by Certified U.S. Mail addressed to Holmes County, or the last previous address as provided to Lessee in writing. The time of the giving of such notice shall be deemed to be the time when the same is delivered, if delivered in person, or two (2) business days after mailed as aforesaid.

31. No Rent Abatement. Unless specifically provided in this Lease, no abatement, diminution, or reduction of rent, additional rent, charges or other compensation shall be claimed by or allowed to Lessee, or any persons claiming under Lessee, under any circumstances, whether for inconvenience, discomfort, interruption of business, or otherwise.

32. Successors. This Lease shall bind Lessor and Lessee and their successors, heirs, assigns, administrators, and legal representatives, as the case may be.

33. Recording. Lessee shall upon request of Lessor execute a short form of this Lease on a written document witnessed and acknowledged in a form capable of being recorded in the public records of Holmes County, Florida. Lessee shall not record this Lease without prior written consent of Lessor.

34. Confidentiality. Neither Lessee nor any of Lessee's officers, agents, directors, managers, contractors, affiliates, accountants, licensees, employees, relatives or attorneys, shall disclose any terms of the Lease to any party whatsoever except as expressly allowed in this Paragraph 35. Lessee shall limit the disclosure of the terms of the Lease only to those employees

of Lessee who have a reasonable business need to be aware of such terms. Such confidentiality is a material consideration to Lessor to enter into this Agreement, and in the event of disclosure, Lessor shall incur injury and damages to such an extent that such injury and damages are not capable of a precise computation. Therefore, upon breach or threatened breach of this Paragraph 343 by Lessee, Lessor shall be entitled to seek injunctive or other equitable relief. Lessee shall, and does hereby, indemnify Lessor from and with respect to any breach of this Paragraph 34 by Lessee, and in such event Lessee shall pay all costs incurred by Lessor, including attorney's fees and costs, and costs of investigation, at both the trial and appellate levels. The terms of this Paragraph 34 shall not be breached should Lessee be compelled by subpoena or other court order to disclose the terms of the Lease; in such event, however, Lessee shall give immediate notice to Lessor of such subpoena or other possible requirement of disclosure in order to afford Lessor an opportunity to seek an appropriate protective order from the court or other tribunal having jurisdiction of the Premises to limit the public disclosure further as to the contents of the Lease.

35. Termination of Existing Lease. Upon termination of this Lease by both parties, the Lease between the undersigned shall become null and void and neither party shall have any further obligations or responsibilities under that Lease thereafter.

{Signatures on following pages}

IN WITNESS WHEREOF, this Lease Agreement has been duly executed as of the date hereinabove indicated.

**LESSOR:
HOLMES COUNTY**

By: _____
DAVID CORBIN, as Project Director

WITNESS
Print Name: _____

WITNESS
Print Name: _____

**STATE OF FLORIDA
COUNTY OF HOLMES**

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this ____ day of _____, 2023, by **DAVID CORBIN**, as Project Director of Holmes County, a political subdivision of the State of Florida, who is () personally known to me or () has produced _____ as identification.

[seal]

NOTARY PUBLIC

Print Name
My Commission Expires: _____

LESSOR

WITNESS
Print Name: _____

By: _____
EARL STAFFORD, Chairman

WITNESS
Print Name: _____

STATE OF FLORIDA
COUNTY OF HOLMES

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this _____ day of _____, 2023, by **EARL STAFFORD**, as Chairman of the Holmes County Board of County Commissioners for Holmes County, a political subdivision of the State of Florida, who is () personally known to me or () has produced _____ as identification.

[seal]

NOTARY PUBLIC

Print Name
My Commission Expires: _____

LESSEE:
CITY OF BONIFAY

By: _____
LARRY COOK, Mayor

WITNESS
Print Name: _____

WITNESS
Print Name: _____

STATE OF FLORIDA
COUNTY OF HOLMES

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this ____ day of _____, 2023, by **LARRY COOK**, as Mayor of the City of Bonifay, who is () personally known to me or () has produced _____ as identification.

[seal]

NOTARY PUBLIC

Print Name
My Commission Expires: _____

Exhibit "A"
(Property Description)

201 N Oklahoma St, Bonifay, FL 32425



Tax Map is used for illustrative purposes only, and is not an accurate depiction of property line

RESOLUTION NO. 2023-85

A RESOLUTION OF THE CITY OF BONIFAY, FLORIDA, RELATING TO THE STATE REVOLVING FUND PROGRAM; AUTHORIZING THE APPLICATION; AUTHORIZING THE AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES.

WHEREAS, Florida Statutes provide for financial assistance to local government agencies to finance the lead abatement of water distribution systems; and

WHEREAS, Florida Administrative Code rules require authorization to apply for financial assistance, to establish pledged revenues, to designate an authorized representative; to provide assurances of compliance with program requirements; and to enter into an agreement; and

WHEREAS, the State Revolving Fund priority list designates Project Number LS-30017, as eligible for available funding; and

WHEREAS, the City of Bonifay, Florida, intends to enter into an agreement with the Department of Environmental Protection under the State Revolving fund for project financing, for the purposes of expenditures for the Bonifay Water System Lead Abatement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BONIFAY, FLORIDA, as follows:

SECTION I. The City of Bonifay Florida is authorized to apply for financial assistance to finance the project.

SECTION II. The revenues pledged for the repayment of the loan are net water and sewer utility system and sanitation services revenues, after payment of debt service on the following obligations:

- (a) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1985A issued in the amount of \$520,300.00, pursuant to Resolution No. 83-50 (passed October 24, 1983), under which the lienholder is the United States Department of Agriculture, being USDA Loan Number 92-01;
- (b) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1985B issued in the amount of \$100,000.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, being USDA Loan Number 92-03;
- (c) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1989A issued in the amount of \$1,498,100.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-06;

- (d) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1989B issued in the amount of \$427,600.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-08;
- (e) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2005A issued in the amount of \$1,436,300.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 91-12; and
- (f) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2005B issued in the amount of \$246,700.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 91-13;
- (g) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2010A issued in the amount of \$51,081.32, pursuant to ordinance, under which the lienholder is the State of Florida Dept. of Environmental Protection State Revolving Loan Fund (Funding Number 300110), and the actual revenues pledged are water and sewer revenues;
- (h) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2010B issued in the amount of \$60,023.20, pursuant to ordinance, under which the lienholder is the State of Florida Dept. of Environmental Protection State Revolving Loan Fund (Funding Number 300111), and the actual revenues pledged are water and sewer revenues; and
- (i) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2012A dated October 26, 2012, issued in the amount of \$2,244,000.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-15; and
- (j) The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2012B dated October 26, 2012, issued in the amount of \$145,000.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-18.

The revenues are hereby pledged, subject to the foregoing.

SECTION III. The City Manager is hereby designated as the authorized representative to provide the assurances and commitments required by the loan application.

SECTION IV. The Mayor is hereby designated as the authorized representative to execute the loan agreement which will become a binding obligation in accordance with its terms when signed by both parties. The Mayor is authorized to represent the City in carrying out the City's responsibilities under the loan agreement. The Mayor is authorized to delegate responsibility to appropriate City staff to carry out technical, financial, and administrative activities associated with the loan agreement.

SECTION V. The legal authority for borrowing moneys to construct this Project is Section 166.111, Fla. Stat. (2023).

SECTION VI. All resolutions or part of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION VII. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION VIII. This Resolution shall become effective immediately upon its passage and adoption.

RESOLVED after due motion, second and discussion in open session this 6th day of November, 2023.

CITY OF BONIFAY, FLORIDA

ATTEST:

By its Interim Mayor, Larry Cook

By Rickey Callahan, City Clerk

APPROVED AS TO FORM:

Michelle Blankenship Jordan
City Attorney

BLANKENSHIP JORDAN P.A.

Michelle Blankenship Jordan, Esq.
michelle@blankenshipjordanpa.com

Matt Goldhagen, Of Counsel
matt@blankenshipjordanpa.com

Telephone: 850-638-9689
Toll Free Fax: 877-208-3898

City of Bonifay
FDEP-SRF Loan Request # LS-30017
Drinking Water Revolving Fund
LEGAL OPINION

November 3, 2023

Ms. Angela Knecht, Program Administrator
State Revolving Fund Management
3900 Commonwealth Blvd., Mail Station 3505
Tallahassee, Florida 32399-3000

Re: LS-30017 - City of Bonifay
Water System Lead Abatement

Dear Ms. Knecht:

I am the duly appointed City Attorney for the City of Bonifay. The City proposes to borrow up to \$600,000 from the State Revolving Fund for lead abatement of the City’s water distribution system. The loan will be secured by the net revenues of the City’s water and sewer system and sanitation services revenues, and the pledged revenues are legally available to pledge. The City of Bonifay has the legal authority to increase rates to ensure repayment of the loan.

The pledge on revenues is subject to prior liens for the following issues:

- a. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1985A issued in the amount of \$520,300.00, pursuant to Resolution No. 83-50 (passed October 24, 1983), under which the lienholder is the United States Department of Agriculture, being USDA Loan Number 92-01;
- b. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1985B issued in the amount of \$100,000.00, pursuant to ordinance or resolution, under which the lienholder is the United States Department of Agriculture, being USDA Loan Number 92-03;
- c. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1989A issued in the amount of \$1,498,100.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-06;

- d. City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 1989B issued in the amount of \$427,600.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-08;
- e. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2005A issued in the amount of \$1,436,300.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 91-12; and
- f. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2005B issued in the amount of \$246,700.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 91-13;
- g. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2010A issued in the amount of \$51,081.32, pursuant to ordinance, under which the lienholder is the State of Florida Dept. of Environmental Protection State Revolving Loan Fund (Funding Number 300110), and the actual revenues pledged are water and sewer revenues;
- h. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2010B issued in the amount of \$60,023.20, pursuant to ordinance, under which the lienholder is the State of Florida Dept. of Environmental Protection State Revolving Loan Fund (Funding Number 300111), and the actual revenues pledged are water and sewer revenues;
- i. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2012A dated October 26, 2012, issued in the amount of \$2,244,000.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-15; and
- j. The City of Bonifay, Florida, Water and Sewer System Revenue Bonds, Series 2012B dated October 26, 2012, issued in the amount of \$145,000.00, pursuant to ordinance, under which the lienholder is the United States Department of Agriculture, and being USDA Loan Number 92-18.

Sincerely,



Michelle Blankenship Jordan
City Attorney