

Clay County Agreement/Contract No. 2021/2022-_____

**INTERLOCAL AGREEMENT BETWEEN CLAY COUNTY, FLORIDA AND THE
CITY OF GREEN COVE SPRINGS, FLORIDA**

[Augusta Savage Arts and Community Center Park – Pickleball Courts]

THIS INTERLOCAL AGREEMENT BETWEEN CLAY COUNTY, FLORIDA AND THE CITY OF GREEN COVE SPRINGS, FLORIDA (“Agreement”), is made and entered into as of the _____ day of August, 2022 (“Effective Date”), by and between Clay County, a political subdivision of the State of Florida (the “County”), and the City of Green Cove Springs, Florida, a municipal corporation (the “City”).

RECITALS

WHEREAS, Chapter 163, Florida Statutes, permits local governmental units to make the most efficient use of their powers, resources, and capabilities by enabling them to cooperate with other localities on a basis of mutual advantage; and

WHEREAS, the sport of pickleball has gained tremendous popularity over the years and the State of Florida has become a top spot for the sport, which has extended its reach from retirees down to kids of all ages; and

WHEREAS, citizens of Clay County have expressed a need for additional pickleball courts to hold practices, games, and tournaments; and

WHEREAS, the County and the City desire to provide pickleball courts for use by the general public in Green Cove Springs, Florida; and

WHEREAS, the City owns, maintains, and manages property located at 415 Lemon Street, Green Cove Springs, FL 32043 known as the Augusta Savage Arts and Community Center Park (“Augusta Savage Park”); and

WHEREAS, the City is willing to provide certain property at Augusta Savage Park located on the southwest side of the Thomas Hogans Memorial Gymnasium on Belle Avenue and Forbes Street, west of the baseball field (the “Property”) for six outdoor pickleball courts, a map of which is attached hereto as **Exhibit A**; and

WHEREAS, the County has agreed to fund the design and construction of six outdoor pickleball courts at the Property, has retained GAI Consultants, Inc. to perform the design and permitting efforts related thereto, and will retain a contractor to perform the construction thereof; and

WHEREAS, upon completion of the construction, the City, as owner of the Property, has agreed to operate and maintain the constructed outdoor pickleball courts; and

WHEREAS, making pickleball courts available for use to the general public will complement the goals of the County and the City and is in the best interest of the public; and

WHEREAS, the County and the City, in recognition of their mutual vision for growth and enhancement to infrastructure, safety, health, and prosperity of the County and its citizens, desire to enter into this Agreement to address the design, construction, ownership, operation and maintenance of the pickleball courts at the Property.

NOW THEREFORE in consideration of the premises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and the adequacy of which are mutually acknowledged, with each party accordingly waiving any challenge to the sufficiency of such consideration, it is mutually covenanted, promised and agreed by the parties hereto as follows:

1. Florida Interlocal Cooperation Act. This Agreement is entered into pursuant to the provisions of Section 163.01, Florida Statutes, commonly known as the "Florida Interlocal Cooperation Act of 1969", and all applicable portions of the Act are made a part hereof and incorporated herein as if set forth in full, including, but not limited to the following specific provisions:

- a. All of the privileges and immunities and limitations from liability, exemptions from laws, ordinances and rules, and all pensions and relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents, or employees of the parties hereto when performing their respective functions within their respective territorial limits for their respective agencies, shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents or employees extra-territorially under the provisions of this Agreement.
- b. This Agreement does not and shall not be deemed to relieve any of the parties hereto of any of their respective obligations or responsibilities imposed upon them by law except to the extent of the actual and timely performance of those obligations or responsibilities by one or more of the parties to this Agreement, in which case performance provided hereunder may be offered in satisfaction of the obligation or responsibility.
- c. As a condition precedent to its effectiveness, and pursuant to Section 163.01(11), Florida Statutes, this Agreement and any subsequent amendments hereto shall be filed with the Clerk of the Circuit Court of the County.

2. Incorporation of Recitals. The Recitals are an integral part of this Agreement and are incorporated herein by reference.

3. Terms and Conditions.

- a. The Project. The City shall provide the Property located at Augusta Savage Park for six outdoor pickleball courts to the County at no cost for the design and construction

of the courts. The design and construction of six outdoor pickleball courts will consist of six paved and striped courts with a total impervious surface of approximately 14,641 square feet, netting for each court, fencing around the perimeter of the outdoor courts, and infrastructure as may be required by St. Johns River Water Management District (the “Project”). Once the Project is available for public use, the City agrees to operate and maintain the courts and to provide access to the courts by the general public.

- b. Design and Construction. The County agrees to fund the design, permitting, and construction of the Project. The County further agrees to procure and enter into contracts for the goods and services related to the design and construction of the Project. The County shall oversee the contract administration, construction inspection, and project oversight required to complete the Project. The County will provide direction to the selected contractors in the performance of the design and construction of the Project. In the event of an unforeseen or a change in condition arising during the design or construction of the Project, the County agrees to notify the City of these conditions in an effort to verify the cause or conflict and determine any resolution to these conditions. Any expenditure of funds by the County for construction or otherwise under this Agreement is subject to appropriation of such funds in the County’s budget.
- c. Cooperation. The parties agree to cooperate and work together during the term of this Agreement in order to complete the Project in accordance with the intent of this Agreement. The City shall provide the County and its contractors access to the Property to perform the work associated with the Project.
- d. Permits. The parties agree to cooperate and work together to obtain or renew any and all permits which may be required by any federal, state, municipal, or other governmental entities in relation to the Project. The City agrees to cooperate with the St. Johns River Water Management District and any other federal, state, municipal, district, or other governmental entity with respect to the renewal or obtaining of any such permits for the Project. As owner of the Property, the City agrees to execute any necessary permit applications for the Project.
- e. Warranty. The County shall ensure that the contractor provides a 2-year warranty for all work constructed as part of this Project.
- f. Ownership, Operation and Maintenance. The City shall retain ownership of the Property. Upon completion of the construction of the Project, the City shall be responsible for managing, operating, and maintaining the Property and the constructed Project, as well as any repairs, amenities, or improvements thereafter. After completion of the construction of the Project, the County shall have no further monetary responsibility associated with the Property or the Project and shall not be responsible for any maintenance, repairs, amenities, improvements, or any associated utility expenses related to the Property or the Project.

- g. Additional Services. The City will use its best efforts to provide additional services, amenities, and goods to benefit the Project, including, but not limited to, installation of lighting and seating.

4. Term. The term of this Agreement shall commence on the Effective Date and shall continue through the completion of construction of the Project.

5. Termination. The parties agree that the construction of the Project, once commenced, must proceed and be ongoing. This Agreement may only be terminated by the City prior to expiration of this Agreement if the County uses the Property for a purpose not permitted by this Agreement or in violation of the local, state, or federal laws, and such use continues for a period of thirty days after written notice given by the City to the County to desist from such use. Otherwise, any termination of this Agreement prior to expiration of the Agreement must be mutually agreed to by the parties through an amendment to the Agreement providing the terms of such termination along with any compensation that may be due either party for any improvements constructed on the Property.

6. Appropriated Funds. The City acknowledges that in the budget for each fiscal year of the County during which the term of the Agreement is in effect a limited amount of funds are appropriated which are available to make payments for the Project arising under the Agreement. Any other provisions of the Agreement to the contrary notwithstanding, and pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under the Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year. Nothing in this Agreement shall obligate the County to the City to expand appropriations or to enter into any contract or other obligation.

7. Insurance. The County and the City shall, throughout the term of this Agreement, provide, maintain, and keep in force a program of insurance or self-insurance covering its liabilities. The County shall ensure that the construction of the Project is insured against casualty and liability loss during the construction.

8. Bonds. The County shall require the contractor who performs the construction of the Project to furnish a sufficient and satisfactory Performance Bond and Payment Bond in the sum of not less than 100% of the contract price as security for the faithful performance and payment of all of the contractor's obligations under the agreement between the County and the contractor. These Bonds shall remain in effect until one year after the date when final payment by the County becomes due, except as provided otherwise by laws or regulations, or by specific provisions of the agreement between the County and the contractor. All Bonds shall be in compliance with, and in the form prescribed by, Section 255.05, Florida Statutes. Prior to the contractor commencing any work on the Property, the County shall require the contractor to record the required Bonds in the public records of the County with the Clay County Clerk of Court and Comptroller at the contractor's sole cost and expense. The County shall deliver a certified copy of the recorded Bonds to the City. The Bonds may be assignable to the City in the event it is necessary for the City to pursue the Bonds for defective work, failure to perform, or failure to complete the Project.

9. Personnel. Each party shall be responsible for all costs of its own personnel including pay, benefits, support, and travel. Each party is responsible for the supervision and management of its own personnel. At all times, each party's respective employees shall remain and be considered employees of their respective agency for the purpose of maintaining medical and workers compensation insurance.
10. Liability. Each party agrees that it shall be solely responsible for the negligence, willful misconduct, or wrongful acts of its directors, officers, employees, representatives, agents, and volunteers. Notwithstanding anything stated to the contrary in the Agreement, nothing contained herein is intended to serve as a waiver of either parties' sovereign immunity protections nor does it extend the parties' liability beyond the limits established in Section 768.28, Florida Statutes. The provisions of this paragraph shall survive the expiration or termination of this Agreement.
11. Taxes. In that the County is a governmental agency exempt from sales and use taxes, the County shall pay no such taxes, any other provisions of this Agreement to the contrary notwithstanding. The County shall provide proof of its exempt status upon reasonable request.
12. No Joint Venture. Both the City and the County acknowledge and agree that this Agreement represents an expression of intent to form a definitive agreement between the parties and nothing in this Agreement should be construed as creating a partnership, joint venture or other legal entity.
13. Independent Contractors. The parties are independent contractors and are not joint employers, employees, agents, partners, or representatives of the other.
14. Remedies. The parties will attempt to settle any dispute arising from this Agreement through negotiation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. Each party shall have the right to seek the judicial enforcement and interpretation of this Agreement.
15. Public Records and Audit.
- a. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. The parties shall comply with all requirements of Chapter 119, Florida Statutes, to the extent applicable to the records and documents associated with this Agreement that are in its possession or under its control. A request to inspect or copy public records relating to the Agreement must be made directly to either the County or the City.
 - b. The parties shall retain all records relating to this Agreement for a period of at least five (5) years following completion of the Project. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. Each party to this Agreement, upon written reasonable notice, shall have the right to audit and inspect any records of the other party relating to this Agreement to ensure compliance with the terms of this Agreement.

IF THE CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 278-4754, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

IF THE COUNTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 297-7047, EWest@Greencovesprings.com, 321 WALNUT STREET, GREEN COVE SPRINGS, FLORIDA 32043.

16. Compliance with Applicable Laws. Each party will comply with all applicable federal, state, and local laws, regulations, rules, ordinances, orders, and policies concerning the performance of this Agreement.

17. Notice. Any notice required or desired to be given hereunder, or any items required or desired to be delivered hereunder, may be served or delivered personally or by certified mail, return receipt requested, postage prepaid, or by any reliable and nationally recognized overnight delivery service, addressed as follows:

To City:

The City of Green Cove Springs
321 Walnut Street
Green Cove Springs, Florida 32043
Attention: City Manager

To County:

Clay County
477 Houston Street
Post Office Box 1366
Green Cove Springs, Florida 32043
Attention: County Manager

With copy to City Attorney at same address

Notice may also be delivered to such other address as the party to be served may direct by written notice to the other party. If such notice is sent or delivery is made by registered or certified mail, such notice or delivery shall be deemed as served, made and effective seventy-two (72) hours after posting.

18. No Third-Party Beneficiaries. Any other provisions of this Agreement to the contrary notwithstanding, no third-party beneficiaries are intended or contemplated under this Agreement, and no third-party shall be deemed to have rights or remedies arising under this Agreement against either party to this Agreement.

19. Non-Reliance by Non-Parties. No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third party claim or entitlement to or benefit of any service or program contemplated hereunder, and the parties agree that neither the City nor the County or any agent, officer or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to or superior to the community in general or for the purposes contemplated in this Agreement.
20. Amendment. The Agreement may only be modified or amended by written agreement duly authorized and executed by the parties hereto. No oral agreements or representation shall be valid or binding upon either party.
21. Further Assurances. Each party agrees that it will execute and deliver to the other promptly upon demand any and all documents or other instruments, and take such other action as is necessary to give effect to the terms and intent of this Agreement.
22. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation, mediation, or other action proceeding between the parties arising out of this Agreement lies in Clay County, Florida.
23. Attorneys' Fees. In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, or obligations of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees, costs, and expenses against the other party, including fees, costs, and expenses incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend either party's liability beyond the limits established in Section 768.28, Florida Statutes.
24. Waiver. No waiver by either party of any term or condition of this Agreement will be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, subparagraph, clause, phrase, or other provision of this Agreement.
25. Severability. If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein. In no event shall either party or their assigns have any cause of actions against the officers or employees of the other party, or against any elected official of the County or the City based upon or materially related to any finding by any court that any or all provisions of this instrument violate Florida law.
26. Headings. The headings contained in this Agreement are for reference purposes only and

shall not affect in any way the meaning or interpretation of any or all of the provisions hereof.

27. Counterparts. The Agreement may be executed in one or more counterparts and by the separate parties in separate counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the one and the same agreement.

28. Entire Agreement. It is mutually acknowledged and agreed by the parties hereto that this Agreement contains the entire agreement between the County and the City with respect to the subject matter of this Agreement, and that there are no verbal agreements, representations, warranties or other understandings affecting the same.

29. Authority. The parties agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this Agreement and have the same force and effect as manual written signatures. Each person signing on behalf of the parties represents and warrants that he/she has full authority to execute this Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party.

IN WITNESS WHEREOF, the County and the City have executed this Agreement as of the date and year first above written.

**CLAY COUNTY, a political subdivision of the
State of Florida**

By: _____
Wayne Bolla
Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

CITY OF GREEN COVE SPRINGS, FLORIDA

By: _____
Daniel M. Johnson, Mayor

ATTEST:

Erin West, CMC, City Clerk

APPROVED AS TO FORM ONLY:

L.J. Arnold, III, City Attorney

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EXHIBIT A

MAP



0 15 30 60 90 120 150
Feet

This information is provided as a visual representation only and is not intended to be used as legal or official representation of legal boundaries. The Clay County Board of County Commissioners assumes no responsibility associated with its use.

File Name: Thomas Hogans Memorial Gym_Map_8.5x11

Thomas Hogans Memorial Gymnasium

City of Green Cove Spring, FL



Created By: GIS Department
Map Prepared: 7/29/2022