

***PINELLAS COUNTY GOVERNMENT IS COMMITTED TO PROGRESSIVE PUBLIC POLICY,
SUPERIOR PUBLIC SERVICE, COURTEOUS PUBLIC CONTACT, JUDICIOUS EXERCISE
OF AUTHORITY AND SOUND MANAGEMENT OF PUBLIC RESOURCES, TO MEET THE
NEEDS AND CONCERNS OF OUR CITIZENS TODAY AND TOMORROW.***



INTERLOCAL AGREEMENT

BETWEEN PINELLAS COUNTY AND THE CITY OF SAFETY HARBOR

FOR

**DESIGN AND CONSTRUCTION OF A REPLACEMENT PEDESTRIAN BOARDWALK
BETWEEN NORTH BAYSHORE DRIVE AND PHILIPPE PARK DRIVE**

**SECTION 1
INTENT OF AGREEMENT**

THIS AGREEMENT, entered into on the 14th day of May 2017, between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY, and the CITY OF SAFETY HARBOR, a municipal corporation of the State of Florida, hereinafter referred to as the CITY, jointly referred to herein as Parties.

Recitals

WHEREAS, Pinellas County received funds through a settlement ("Settlement") with parties responsible for the Deepwater Horizon accident which affected the Gulf of Mexico and communities in the region including Pinellas County; and

WHEREAS, COUNTY has identified and approved projects intended to benefit the public or serves a public benefit that the Board of County Commissioners intends to be enhanced with the funding from the Settlement; and

WHEREAS, on December 13, 2016, the Board of County Commissioners approved Resolution 16-90 delegating to the County Administrator the authority to enter into agreements with entities necessary to effectuate the approved projects within the amounts approved by the Board of County Commissioners for each project; and

WHEREAS, this Agreement is made and entered between the parties pursuant to Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969"; and

WHEREAS, the CITY has requested the COUNTY replace the existing substandard pedestrian boardwalk between North Bayshore Drive and Philippe Park Drive, hereinafter referred to as the PROJECT, and has requested the COUNTY utilize the financial benefit of the Settlement funds in addition to the agreed upon financial contribution from the CITY; and

WHEREAS, the pedestrian boardwalk is located in the jurisdictional boundary of the CITY, is owned by the COUNTY and serves as a connector to a County park; and

WHEREAS, replacing this critical link between Philippe Park and the local roadway network with a boardwalk that is fifteen (15) feet wide will serve to improve access, increase bicycling and pedestrian use and provide enhanced special event usage; and

WHEREAS, the PROJECT is eligible to be funded with Settlement funds.

NOW THEREFORE, in consideration of the mutual promises herein contained, and for other good and valuable consideration, receipt of which is hereby acknowledged by all parties, it is hereby agreed by and between the parties as follows:

**SECTION 2
SERVICES TO BE PROVIDED BY THE CITY**

The CITY will coordinate with the COUNTY during both the design and construction phases of the PROJECT on any efforts needed for the connectivity to the CITY's roadway system and the COUNTY's Philippe Park, including, but not limited to, any connections to the CITY's roadway system.

The CITY will provide a financial contribution to the COUNTY in accordance with Section 3 of this Agreement for the design, construction and completion of the PROJECT.

The CITY will perform timely reviews of the design and construction plans and any appropriate permit applications and provide any written comments or concerns to the COUNTY Project Manager within 30 days of the CITY's receipt of the plans.

**SECTION 3
SERVICES TO BE PROVIDED BY THE COUNTY**

The COUNTY will coordinate with the CITY during both the design and construction phases of the PROJECT on any efforts needed for connectivity to the CITY's roadway system and the County's Philippe Park.

The COUNTY will manage and shall be solely responsible for the design and construction of the PROJECT.

The COUNTY will provide funding for the PROJECT using Settlement funds, in accordance with Section 3 of this Agreement.

**SECTION 4
PROJECT FUNDING**

The COUNTY agrees to fund Two Hundred and Fifty Thousand Dollars (\$250,000.00) of the PROJECT, which includes the cost by the COUNTY to provide project management and construction inspection.

The COUNTY will facilitate the development of the design, plans, permits and a total project cost estimate. Upon 30 days' written notice that the COUNTY is commencing design, the CITY will deposit with the COUNTY Fifty Thousand Dollars (\$50,000.00) via

electronic funds transfer. If the CITY fails to timely provide this initial deposit, this Agreement will automatically terminate, notwithstanding the provisions of Section 5 of this Agreement.

Within ten (10) days of receipt of the construction cost estimate from the COUNTY's consultant, the COUNTY shall notify the CITY, in writing, of the total construction cost estimate, which includes the estimated total costs related to design, construction, project management and construction inspection. Within thirty (30) days thereafter, the CITY shall make a second deposit with the COUNTY any difference between the initial deposit and the combination of the total construction cost estimate plus an additional 10% contingency less the combined sum of the COUNTY's contribution and the CITY's deposit.

The total estimated cost of the PROJECT is not expected to exceed Five Hundred Thousand Dollars (\$500,000.00). Additionally, should the selected construction contractor's bid or total project cost exceed Four Hundred Fifty Thousand Dollars (\$450,000.00), the COUNTY will provide written notice to the CITY within thirty (30) days and the CITY can terminate this Agreement in accordance with Section 5 without penalty.

The COUNTY shall pay for the PROJECT in accordance with the terms of any contract the COUNTY enters into in furtherance of this agreement, with funds drawn in equal shares from the COUNTY's Settlement fund commitment and from the CITY's deposit, unless and until the COUNTY's Settlement fund contribution is depleted, after which all funds shall be drawn from the CITY's deposit.

Should contract modifications occur that increase the cost of the PROJECT, the CITY will be provided written notification by the COUNTY accordingly together with the amount of such increase and all documentation regarding the proposed increase and any additional information as may be requested by the CITY. No modifications or changes shall serve to increase the cost of the PROJECT unless approval has been obtained by the CITY's Commission at a duly held public meeting prior to any work being performed, including pre-staging and personnel, that would result in an increase to the cost of the PROJECT. If the CITY's Commission approves such increase at a duly held public meeting, the CITY agrees to provide, in advance of any additional work being performed, adequate funds to ensure that cash on deposit with the COUNTY is sufficient to fully fund the revised, increased cost of the PROJECT as presented by the COUNTY and approved by the CITY's Commission. The COUNTY shall notify the CITY as soon as it becomes apparent that the actual costs will exceed the original total cost estimate.

In the event the final, actual cost of the PROJECT is less than the amount the CITY deposited with the COUNTY, the COUNTY will reimburse the CITY any excess funds, within thirty (30) days of final acceptance of the Project¹, in accordance with the County's contract with the contractor, by the COUNTY.

¹ Final acceptance occurs after the work provided for under the agreement between the COUNTY and construction contractor has been completely performed by the Contractor, the final inspection has been made by the Design Professional/Engineer/Project Manager, the Contractor has certified that all bills are paid and there are no lawsuits pending, the Contractor provides written acceptance of the final payment to be paid by the County as full settlement of its accounts under the construction agreement and of all claims in connection therewith, and the final payment has been made to the Contractor by the County.

In the event that the final actual cost of the PROJECT is less than Five Hundred Thousand Dollars (\$500,000.00), the final actual costs shall be paid equally from Settlement Funds and the money deposited with the COUNTY by the CITY. Any money due to be refunded to the CITY shall be remitted within thirty (30) days of final acceptance.

All deposits due to the COUNTY from the CITY will be provided via electronic funds transfer or mailed to:

Finance Division Accounts Payable
Pinellas County Board of County Commissioners
P. O. Box 2438
Clearwater, Florida 33757

Upon termination of this Agreement, the COUNTY will provide the CITY an accounting of expenditures, if any, incurred on the PROJECT and amounts paid from the COUNTY's funds and the CITY's deposit.

SECTION 5 ADDITIONAL SERVICES

The COUNTY shall not enter into any agreements for additional services that would require additional reimbursement without advance written approval and deposit by the CITY. This Agreement and the PROJECT are not intended to affect the current and future maintenance responsibilities of either jurisdiction and does not imply availability of future funding.

SECTION 6 TERMINATION OR MODIFICATION OF AGREEMENT

This Agreement may be terminated by either party prior to commencement of demolition or construction upon thirty (30) days written notice. Any unexpended funds deposited by the CITY will be reimbursed to the CITY within thirty (30) days after termination.

This Agreement is subject to the availability of funding. This Agreement may be modified only in writing executed by all parties.

SECTION 7 FISCAL NON-FUNDING

This Agreement is not a general obligation of the COUNTY. It is understood that neither this Agreement nor any representation by any COUNTY employee or officer creates any obligation to appropriate or make monies available for the purpose of this Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the COUNTY beyond the monies budgeted and available for this purpose. If funds are not appropriated by the COUNTY for any or all of this Agreement, the COUNTY shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The COUNTY agrees to promptly notify the CITY in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate automatically at the end of the fiscal year without liability or penalty to the COUNTY.

This Agreement is not a general obligation of the CITY. It is understood that neither this Agreement nor any representation by any CITY employee or officer creates any obligation

to appropriate or make monies available for the purpose of this Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the CITY beyond the monies budgeted and available for this purpose. If funds are not appropriated by the CITY for any or all of this Agreement, the CITY shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The CITY agrees to promptly notify the COUNTY in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate automatically at the end of the fiscal year without liability or penalty to the CITY.

SECTION 8 OFFICIAL NOTICE

All notices required by law or by this Agreement to be given by one party to the other shall be in writing and shall be sent to the following respective addresses:

COUNTY: Pinellas County Public Works
Ken Jacobs, Transportation Division Director
22211 US 19, Building 1
Clearwater, FL 33765

CITY: City of Safety Harbor
Matt Spoor, City Manager
750 Main Street
Safety Harbor, FL 34695

SECTION 9 AGREEMENT TO BE FILED WITH THE CLERK OF THE CIRCUIT COURT

Prior to its effectiveness, this Agreement and subsequent amendments thereto must be filed with the Clerk of the Circuit Court of Pinellas County.

SECTION 10 TERM

This Agreement will become effective upon the date of approval and shall remain in effect until the PROJECT'S completion and final acceptance by the COUNTY. This Agreement shall be binding upon the parties, their successors, assigns and legal representatives.

SECTION 11 HOLD HARMLESS

The COUNTY and CITY agree to be fully responsible for their own acts of negligence, or their employees' acts of negligence when acting within the scope of their employment, and agree to be liable for any damages resulting from said negligence to the extent permitted by Florida law, including without limitation, Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by either the COUNTY or the CITY. Nothing herein shall be construed as consent by the COUNTY or CITY to be sued by third parties in any manner arising out of this Agreement.

**SECTION 12
ENTIRE AGREEMENT**

This document embodies the whole agreement between the Parties. There are no promises, terms, conditions or allegations other than those contained herein and this document shall supersede all previous communications, representations and/or agreements, whether written or verbal, between the parties hereto.

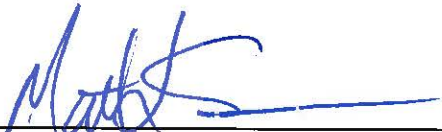
**SECTION 13
APPLICABLE LAW**

This agreement shall be governed by the laws of the State of Florida. The Parties agree that venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Pinellas County, Florida.

IN WITNESS WHEREOF, the parties hereto, governed by the laws of Florida, have caused these presents to be executed by their duly authorized officers and their official seals hereto affixed, the day and year first above written.

CITY OF SAFETY HARBOR
A municipal corporation of the State
of Florida

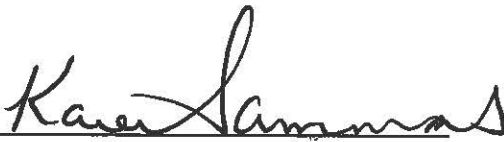
PINELLAS COUNTY, a political
subdivision of the State of Florida,
acting by and through its County
Administrator

By: 

Matt Spoor
City Manager

By: 

Mark S. Woodard
County Administrator

ATTEST: 

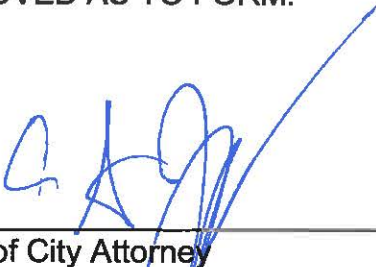
Karen Sammas
City Clerk

**APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY**

APPROVED AS TO FORM:

By: 

Christy Moun Peneel
Attorney

By: 

Office of City Attorney