

***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 PINELLAS SUNCOAST TRANSIT AUTHORITY

FOR

**FUNDING THE DESIGN AND INSTALLATION OF ELECTRIC BUS CHARGING STATIONS
IN THE CITY OF ST. PETERSBURG**

FUNDING AGREEMENT

This Agreement, made this ____ day of _____, 2017, between Pinellas County, a political subdivision of the State of Florida (hereinafter "County"), and the Pinellas Suncoast Transit Authority, an independent special district of the State of Florida, (hereinafter "Funding Recipient /PSTA").

Recitals

WHEREAS, 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 Pinellas County Board of County Commissioners for each project; and

WHEREAS, Funding Recipient /PSTA is to effectuate an Electric Bus Charging Station Project approved by the Pinellas County Board of County Commissioners via Resolution 16-90 at the December 13, 2016 meeting.

WHEREAS, the Pinellas Suncoast Transit Authority Project will include deployment of alternative fuel technologies, reduction in emissions, provide improved access to jobs, healthcare, etc., with the full support of the Sierra Club and local environmental leaders.

NOW THEREFORE, the Pinellas Suncoast Transit Authority agrees, in consideration of the funds to be provided by the County, and as further described herein, to implement an Electric Bus Charging Station Project in St. Petersburg.

**SECTION 1
SCOPE OF PROJECT**

This Agreement is for the funding of an Electric Bus Charging Station Project in St. Petersburg, which includes an In-Route Charging Station, Engineering and Installation of the Chargers and a Depot Charger at the PSTA Headquarters, located at 3201 Scherer Drive, St. Petersburg, FL (hereinafter "Project").

In accordance with the terms of this Agreement, the Funding Recipient /PSTA shall fully administer the installation of the Project. The Funding Recipient /PSTA shall be responsible for obtaining any permits or approval required from regulatory agencies. The Funding Recipient /PSTA agrees to assume in perpetuity any and all maintenance responsibilities associated with the Project, along with any signs, fixtures, or appurtenances thereto required as a result of the installation of the Project or any permitting or regulatory agencies.

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

The County agrees to reimburse Funding Recipient/PSTA for an amount not to exceed \$589,000.00 in furtherance of the Project as defined in Section 1 of this Agreement. Documentation of expenditures for the Project shall be provided to the County by the Funding Recipient/PSTA with and in support of the reimbursement request. The County shall reimburse the Funding Recipient/PSTA the cost of the Project up to \$589,000.00 upon construction completion and invoice by the Funding Recipient/PSTA demonstrating costs incurred by Funding Recipient/PSTA for the Project. County shall pay the invoice within thirty (30) days of receipt.

**SECTION 3
SERVICES TO BE PROVIDED BY THE FUNDING RECIPIENT/PSTA**

- a) Funding Recipient/PSTA is responsible for the installation and the maintenance of the Project and is committed to providing sufficient funds to fund any amount exceeding the County's contribution of \$589,000.00. Upon completion of the Project, Funding Recipient/PSTA shall be the owner of the Electric Bus Charging Station and the County's interest in the Project shall be limited to its rights under this Agreement. Pinellas County shall have no ownership interest in the Project as a result of this Agreement.
- b) Funding Recipient /PSTA shall, in all aspects of the Project, ensure that Funding Recipient/PSTA, its employees, agents or contractors shall be in compliance with all applicable laws.
- c) It is expressly understood and agreed by the parties that Funding Recipient/PSTA is at all times hereunder acting and performing as an independent party and not as an agent, servant, or employee of the County.

- d) The Funding Recipient/PSTA recognizes that its records relating to this Agreement may be public records subject to Chapter 119, Florida Statutes and agrees to fully comply with said statute. The Funding Recipient/PSTA shall retain all records in such a manner that will permit their inspection and disclosure under Chapter 119, Florida Statutes as applicable. Above and beyond any requirements imposed by Chapter 119, Florida Statutes, the Funding Recipient/PSTA shall retain all records relating to this Agreement in accordance with Generally Accepted Accounting Principles for a period of at least five (5) years after final payment is made. Such records are subject to audit by the County at any time during the term of this Agreement and the following five (5) years after final payment is made, the cost of the audit to be paid by the County.
- e) Should the Funding Recipient /PSTA not abide by the terms outlined herein, the Funding Recipient/PSTA shall automatically be found in default of this Agreement and shall repay the County for all payments received hereunder within sixty (60) days.

SECTION 4 REPAYMENT OF FUNDS

The Parties recognize the funds provided herein are intended to provide electric charging stations to be utilized for at least the full useful life of the stations. In the event that Funding Recipient/PSTA discontinues use of the charging stations for the purposes of the Project or Funding Recipient /PSTA does not operate busses that can be charged at the electric bus charging station, within five (5) years after Funding Recipient/PSTA certifies to the County that the construction is completed, Funding Recipient/PSTA will notify the COUNTY. Should the electric charging stations not be utilized for at least five (5) calendar years after construction completion, Funding Recipient/PSTA will remit to COUNTY, within sixty (60) days of ceasing operation, of the charging stations or electric buses, five percent (5%) of the total funds for each year or partial year less than five (5) years that the stations are utilized.

SECTION 5 TERMINATION

- a) This Agreement may be terminated by the County prior to Funding Recipient/PSTA's award of bid for the Project upon thirty (30) days' written notice. Funding Recipient/PSTA may terminate this Agreement without cause at any time prior to Funding Recipient/PSTA's receipt of the County's contribution under Section 2, upon thirty (30) days' written notice.
- b) The County reserves the right to cancel this Agreement with cause if at any time the Funding Recipient /PSTA fails to fulfill or abide by any of the terms or conditions specified. Failure of the Funding Recipient /PSTA to comply with any of the provisions of this Agreement shall be considered a material breach of the Agreement and shall be cause for termination of the Agreement at the discretion of the County. Prior to any such termination, the County shall provide written notice to Funding Recipient/PSTA and a reasonable opportunity to cure. The County's written notice shall detail the nature of the breach and set forth the amount of time the County believes is reasonable for Funding Recipient/PSTA to cure said breach. If, upon expiration of a reasonable the cure period, the breach is not cured, this Agreement shall be deemed terminated as of the date of expiration of the reasonable cure period.

- c) Fiscal Non-Funding. In the event that sufficient funds are not available to either the County or Funding Recipient/PSTA for a subsequent fiscal year, this Agreement shall terminate on the last day of the then current fiscal year without penalty or expense to the County or Funding Recipient/PSTA. The parties agree to notify in writing promptly the other party if sufficient funds are not available for a subsequent fiscal year.

SECTION 6
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 7
TERM**

Term of this Agreement shall commence on the date it is filed with the Clerk of the Circuit Court of Pinellas County in accordance with Section 6, and continue until the Project's completion and final acceptance or within two (2) years from the date of execution, whichever is sooner. This Agreement shall be binding upon the parties, their successors, assigns and legal representatives, to the extent permitted by Section 12.

**SECTION 8
HOLD HARMLESS**

The County and the Funding Recipient/PSTA 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 the either party's sovereign immunity. Nothing herein shall be construed as consent by the County or Funding Recipient/PSTA to be sued by third parties in any manner arising out of this Agreement.

**SECTION 9
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 10
APPLICABLE LAW**

This Agreement shall be governed by the laws of the State of Florida. The Parties agree that venue for all legal and equitable proceedings related to disputes under this Agreement shall be situated solely in Pinellas County, Florida; to the extent either party can make a claim for which the federal court has subject matter jurisdiction, venue shall be in the Middle District of Florida.

**SECTION 11
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 North, Building 1
Clearwater, FL 33765

FUNDING RECIPIENT: Pinellas Suncoast Transit Authority
Brad Miller, CEO
3201 Scherer Drive
St. Petersburg, FL 33716

**SECTION 12
ASSIGNMENT**

This Agreement, and any rights or obligation hereunder, shall not be assigned, transferred or delegated to any other person or entity. Provided, however, that Funding Recipient/PSTA may assign its rights and obligations under this Agreement to any successor public transit authority or a public agency operating public bus transportation in Pinellas County, without the consent of the County. Funding Recipient/PSTA further may assign its rights and obligations under this Agreement to any successor to the rights and functions of Funding Recipient/PSTA or to any governmental agency to the extent required by applicable laws or governmental regulations. Any purported assignment in violation of this section shall be null and void.

**SECTION 13
MODIFICATIONS**

This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

**SECTION 14
FORCE MAJEURE**

Neither party shall be liable for its non-performance or delayed performance if caused by Force Majeure. Force Majeure shall be defined as a fire, flood, act of God, war, terrorism, riot, national emergency, sabotage, civil disturbance, strike, labor dispute, governmental act, law, ordinance, rule or regulation, or events which are not the fault or are beyond the control of the party whose performance is delayed or who is unable to perform.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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.

PSTA

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

By: _____

Brad Miller, CEO
PSTA

By: _____

Mark S. Woodard
County Administrator

Attest:

Rachael Cappolla

Approved as to form:

General Counsel