

## **INTERLOCAL AGREEMENT**

**THIS INTERLOCAL AGREEMENT** (the "AGREEMENT") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between Pinellas County, a political subdivision of the State of Florida (the "COUNTY"), and the City of Tarpon Springs, a municipal corporation of the State of Florida (the "CITY").

### **WITNESSETH:**

**WHEREAS**, the U.S. Army Corps of Engineers (the "CORPS"), together with the COUNTY and the CITY, share a mutual interest in improving navigable conditions within the Anclote River Federal Navigation Channel (the "Channel");

**WHEREAS**, the most recent effort to dredge the Channel for navigation commenced in 1994 and was successfully completed in 1998;

**WHEREAS**, in order to improve Channel conditions for navigation again, the CORPS and the CITY have entered, or are close to entering, into an agreement (the "Project Agreement") to dredge the Channel (the "Project"), which designates the CITY as the Local Sponsor for the Project;

**WHEREAS**, under the terms of the Project Agreement, the CORPS is responsible for maintaining the Authorized Navigational Depth of the Channel to a minimum of nine (9) feet at mean low water;

**WHEREAS**, under the terms of the Project Agreement, the CORPS is responsible for maintenance dredging of the Channel extending to the western terminus of the Anclote River approximately one (1) mile west of Anclote Key;

**WHEREAS**, under the terms of the Project Agreement, the CORPS requires a payment of Three Hundred Thousand and no/100 Dollars (\$300,000.00) from the CITY in order to initiate the Planning, Engineering, and Design Phase of the Project, which will take eighteen (18) months to complete before the Dredging Phase of the Project may commence; and

**WHEREAS**, to facilitate the Project and assist the CITY, the COUNTY desires to reimburse the CITY for this Three Hundred Thousand and no/100 Dollars (\$300,000).

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

#### **1. SERVICES TO BE PROVIDED BY THE CITY**

The CITY shall continue to serve as the Local Sponsor of the Project at a minimum throughout the term of the Project Agreement, as may be amended, and fulfill all of its obligations under the Project Agreement, as may be amended. The CITY shall deliver to the COUNTY an

invoice, suitable to the COUNTY in form and substance, for the amounts described in Section 2 below before May 1, 2020.

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

Upon receiving the invoice described in Section 1 above, the COUNTY shall reimburse the CITY for one hundred percent (100%) of the costs of the CITY's initial payment to the CORPS to initiate the Planning, Engineering, and Design Phase of the Project, in an amount not to exceed Three Hundred Thousand and no/100 Dollars (\$300,000.00). In no event shall the actual costs to the COUNTY under this Agreement exceed Three Hundred Thousand and no/100 Dollars (\$300,000.00) without an amendment hereto.

**3. AGREEMENT TERM**

This AGREEMENT shall commence upon execution by both parties and expire on September 30, 2020, unless terminated or extended in accordance with the terms of this AGREEMENT.

**4. AMENDMENTS**

This AGREEMENT may be modified, amended, or extended only by a document in writing executed by the parties.

**5. TERMINATION**

This AGREEMENT may be terminated in writing by either party: (1) without cause upon forty-five (45) days' notice to the other party; or (2) with cause immediately upon notice to the other party. If the COUNTY terminates the AGREEMENT with cause, the CITY shall, within thirty (30) days of receipt of such notice, refund to the COUNTY all funding awarded to the CITY by the COUNTY under this AGREEMENT.

In accordance with Section 4 ("Amendments") above, this AGREEMENT may also be terminated at any time by mutual written agreement of the parties.

The delivery of notices and refunds under this Section 5 shall fully comply with all provisions set forth in Section 6 ("Notices") below.

**6. NOTICES**

In order to assure proper coordination and review throughout the term of this AGREEMENT, the CITY and the COUNTY each designate a Project Manager as follows:

AS TO THE CITY

City of Tarpon Springs  
Robert R. Robertson, P.E,  
Project Administration Dept. Director  
324 East Pine Street  
Tarpon Springs, FL 34689  
[rrobertson@ctsfl.us](mailto:rrobertson@ctsfl.us)

AS TO THE COUNTY

Pinellas County Environmental Management  
Attn: Kelli Hammer Levy, Division Director  
22211 U.S. 19 N, Building #10  
Clearwater, FL 33765  
[klevy@pinellascounty.org](mailto:klevy@pinellascounty.org)

The Project Managers shall be responsible for transmitting and receiving all communications concerning this AGREEMENT to the other party. All notices, invoices, payments, refunds, approvals, demands, and other correspondence required by this AGREEMENT and by law shall be in writing sent via e-mail or USPS Certified Mail to the respective Project Manager. Notice shall be considered delivered or received as reflected by an e-mail read receipt or certified mail delivery receipt.

**7. PAYMENT LIMITATIONS AND FISCAL NON-FUNDING**

Project costs incurred prior to the effective date of this Agreement are not payable by the COUNTY under this AGREEMENT.

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, or any department, 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 without liability or penalty to the COUNTY.

**8. RECORDS AND AUDIT**

The CITY agrees:

a) To retain all data, financial records, statistical records, and any other records (including electronic storage media) pertinent to this AGREEMENT (“Records”) for a period of five (5) years after termination or expiration of this AGREEMENT or, if an audit has been initiated in accordance with subsection c) of this Section 8 below and audit findings have not been resolved at the end of five (5) years, Records shall be retained until resolution of the audit findings.

b) To maintain all Records in accordance with generally accepted accounting procedures and practices that sufficiently and properly reflect all revenues and expenditures of funds provided by the COUNTY under this AGREEMENT.

c) To assure that all Records are subject at all reasonable times for inspection, review, audit, and duplication by COUNTY personnel, and other personnel duly authorized by the COUNTY.

d) To fully comply with the provisions of Chapter 119, Florida Statutes, as applicable.

e) To include all requirements in this Section 8 in all approved contracts and subcontracts under this Agreement.

## **9. LIABILITY**

The COUNTY shall not be responsible or liable for the operation, maintenance, or capital refreshment of any assets resulting in any way from the Project. The CITY shall indemnify, defend, pay the cost of defense—including attorney’s fees—, and hold harmless the COUNTY, and all of its officers, employees, and agents, against all claims of any nature arising from the Project, except to the extent such claim arises from the COUNTY’s negligence. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by either party to be sued by third parties in any manner arising out this AGREEMENT or contracts related thereto.

## **10. ENTIRE AGREEMENT**

This AGREEMENT reflects the full and complete agreement between the parties regarding the subject matter contained herein and supersedes all prior or contemporaneous agreements (whether oral or written) between them regarding the subject matter contained herein.

## **11. GOVERNING LAW**

The laws of the State of Florida shall govern this AGREEMENT.

## **12. SEVERABILITY**

The terms and conditions of this AGREEMENT shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect, unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

## **13. CONDITION PRECEDENT:**

Full execution of the Project Agreement by the CORPS and the CITY shall be a condition precedent to performance of this Agreement.

*[The rest of this page intentionally left blank.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF TARPON SPRINGS, FLORIDA

By: *Chris Alahouzos*  
Chris Alahouzos, Mayor

ATTEST

*Jane S. Seely*  
City Clerk

(SEAL)



Approved as to Form:

*Arica Angello* for  
City Attorney *TOM TRASK*

PINELLAS COUNTY, FLORIDA

ATTEST

By: \_\_\_\_\_  
Karen Williams Seel, Chairman  
Pinellas County Board of County Commissioners

Approved as to Form:

*Brendan Mackesey*  
Office of the County Attorney