

***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 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

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 an Electric Bus Charging Station Project, approved by the Pinellas County Board of County Commissioners per County Resolution 16-90. 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. The Funding Recipient /PSTA shall be responsible for obtaining any permits or approval required from regulatory agencies. Once the Project is constructed, 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.

Can this section reflect the goal, purchases to be made and implementation of the project? cbwilliams

SECTION 2 SERVICES TO BE PROVIDED BY THE COUNTY

a.

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 for the County's proportionate share for an amount not to exceed \$589,000.00 of project costs upon construction completion and invoice by the Funding Recipient/PSTA.

The Funding Recipient/PSTA understands that the County's performance of this Agreement is contingent upon annual appropriation of adequate funds by the Pinellas County Board of County Commissioners allocated for the County's obligations hereunder. If such appropriations by the Board of County Commissioners are reduced or eliminated, authorization for continuation and completion of work and payment associated therewith may be rescinded at the discretion of the County upon delivery of proper notice to the Funding Recipient/PSTA. This Agreement shall terminate upon delivery of such notice, unless otherwise stipulated by the County therein. The parties understand that this Agreement is not a commitment of future appropriations by the

Board of County Commissioners.

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.

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

- a 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.
- b Funding Recipient /PSTA is an independent party and is not an agent of the County. 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. No agent, employee, or servant of the Funding Recipient/PSTA shall be, or shall be deemed to be, the agent or servant of the County. None of the benefits provided by the County to their employees including, but not limited to, Worker's Compensation Insurance and Unemployment Insurance are available from County to the employees, agents, or servants of the Funding Recipient/PSTA.

Add more language regarding independent party. See below.

It is expressly understood and agreed by the parties that **FUNDS RECIPIENT** is at all times hereunder acting and performing as an independent party and not as an agent, servant, or employee of the **COUNTY**. No agent, employee, or servant of the **FUNDS RECIPIENT** shall be, or shall be deemed to be, the agent or servant of the **COUNTY**. None of the benefits provided by the **COUNTY** to their employees including, but not limited to, Worker's Compensation Insurance and Unemployment Insurance are available from **COUNTY** to the employees, agents, or servants of the **FUNDS RECIPIENT**.

- c 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 RIGHT OF FIRST REFUSAL

In the event the personal property is not used for the purposes of the Project, or for the depreciable life of the asset, or Funding Recipient /PSTA does not operate busses that can be charged at the electric bus charging station, then funds will be returned from the Funding Recipient/PSTA to Pinellas County, in part or in whole as determined by the County.

SECTION 5 TERMINATION OR MODIFICATION OF AGREEMENT

This Agreement may be terminated or modified prior to the commencement of the Project upon thirty (30) days written notice.

Should this section be expanded? Cbwilliams

- a) The County reserves the right to cancel this Agreement without cause by giving thirty (30) days prior written notice to the Funding Recipient /PSTA in writing of the intention to cancel, or 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 immediate termination of the Agreement at the discretion of the County.
- b) In the event the Funding Recipient /PSTA uses any funds provided by this Agreement for any purpose or programs other than authorized under this Agreement, the Funding Recipient /PSTA shall, at the option of the County, repay such amount and be deemed to have waived the privilege of receiving additional funds under this Agreement.

a) The **COUNTY** reserves the right to cancel this Agreement without cause by giving thirty (30) days prior notice to the **FUNDS RECIPIENT** in writing of the intention to cancel, or with cause if at any time the **FUNDS RECIPIENT** fails to fulfill or abide by any of the terms or conditions specified. Failure of the **FUNDS RECIPIENT** to comply with any of the provisions of this Agreement shall be considered a material breach of the Agreement and shall be cause for immediate termination of the Agreement at the discretion of the **COUNTY**.

b) In the event the **FUNDS RECIPIENT** uses any funds provided by this Agreement for any purpose or program other than authorized under this Agreement, the **FUNDS RECIPIENT** shall, at the option of the **COUNTY**, repay such amount and be deemed to have waived the privilege of receiving additional funds under this Agreement.

Should a section be added for Assignment/Subcontracting? Does the County have to approve the subcontractors? cbwilliams

Assignment/Subcontracting.

- a) This Agreement, and any rights or obligations hereunder, shall not be assigned, transferred or delegated to any other person or entity. Any purported assignment in violation of this section shall be null and void.
- b) The **FUNDS RECIPIENT** is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. The **FUNDS RECIPIENT** shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the COUNTY, without the prior written consent of the COUNTY, which shall be determined by the COUNTY in its sole discretion.

**SECTION 6
AGREEMENT TO BE FILED WITH THE CLERK OF THE CIRCUIT COURT**

Prior to its effective date, 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 of execution by both parties hereto 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. Is there a term end date? Final acceptance is open ended. cbwilliams

**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. To the greatest extent of applicable law, Funding Recipient/PSTA agrees to indemnify and defend the County, its officers, and employees, against all claims of any nature whatsoever arising out of the Project.

**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 of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Pinellas County, Florida.

**SECTION 11
OFFICIAL NOTICE**

All notices required by law and 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, Executive Director
3201 Scherer Drive
St. Petersburg, FL 33716

**SECTION 12
ASSIGNMENT/SUBCONTRACTING**

This Agreement, and any rights or obligation hereunder, shall not be assigned, transferred or delegated to any other person or entity. Any purported assignment in violation of this section shall be null and void.

The Funding Recipient/PSTA is fully responsible for completion of the services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. The Funding Recipient/PSTA shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the County, without the prior written consent of the County, which shall be determined by the County in its sole discretion.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

SECTION 13

GOVERNING LAW AND DOCUMENT EXECUTION

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: _____

Darden Rice
Chair, PSTA

By: _____

Mark S. Woodard
County Administrator

[missing approval as to form by CAO]