

FIRE STATION 28 FUNDING AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 18th day of July, 2023, between the Pinellas Suncoast Fire & Rescue District, an independent special fire control district, ("District"), and Pinellas County, a political subdivision of the State of Florida, ("County") (collectively "Parties").

WITNESSETH:

WHEREAS, District provides fire, and emergency medical services ("EMS") pursuant to the authority granted to it under the District's Charter for that geographic area set out by the District's Charter that includes certain portions of unincorporated Pinellas County; and

WHEREAS, District has presented to the County a need for a new Fire Station to replace or refurbish the existing Fire Station 28 which is past its serviceable and safe useful life; and

WHEREAS, District and the County entered into a Settlement Agreement dated July 2017 where the County and the District agreed, among other things, that the County would provide funds to replace or refurbish Fire Station 28 in an amount not to exceed \$3,000,000; and

WHEREAS, the County has local option infrastructure sales tax funds ("Penny for Pinellas"), and American Rescue Plan Act (ARPA) federal grant which are being made available to provide funding assistance for the design and construction of the new Fire Station; and

WHEREAS, Parties have agreed to enter into this Agreement for the County to provide funding to assist the District in its design and construction of a new or refurbished Fire Station 28; and

WHEREAS, this Agreement is entered between the Parties pursuant to Section 163.01, Florida Statutes.

NOW THEREFORE, in consideration of one dollar, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and the promises and covenants contained herein, the Parties agree as follows:

1. **Recitations.** The above recitations are true and correct and are incorporated herein by reference.
2. **Project.** The District shall be responsible for all aspects of design, construction, operation and future maintenance of its Fire Station facility. The County is solely providing funding support for the project. The new or refurbished Fire Station 28 will replace the existing facility at 13501 94th Ave N, Seminole, FL 33776 and will continue to be referred to as Fire Station 28.
3. **Term.** The term of this Agreement ("Term") shall commence on date approved and signed by the County and shall end on September 30, 2024.
4. **Funding.**
 - A. The County shall provide up to \$3,000,000.00 ("County Funds") to pay for the Project in accordance with this Agreement. County Funds may be used by District for the following to include, but not limited to, land acquisition, engineering, site preparation, design, construction, and associated costs directly related to the Project.

- B. The actual cost to the County shall not exceed the Project cap of \$3,000,000.00 without an amendment to this Agreement subject to the approval of the Board of County Commissioners. A total of \$2,000,000 is derived from the County's "Penny for Pinellas" capital improvement program and \$1,000,000 is derived from the American Rescue Plan Act grant funds awarded to the County.
 - C. The County shall make a one-time payment to District of \$3,000,000 within forty-five (45) days (in accordance with 218.70, et seq., the Florida Prompt Payment Act) of execution of this agreement. Said payment shall be made during the Parties fiscal year 2022-2023, which fiscal year ends on September 30, 2023.
 - D. Nothing in this agreement shall be interpreted to prevent the District from seeking additional funding from the County or from other sources in the future.
5. **Use of Funds.** The County Funds shall be used solely and exclusively for the Project as defined in Section 2 above, and any funds not so utilized at the end of the Project shall be returned to the County. Should the District fail to construct and operate the fire station facility by September 30, 2026, the District shall return any unused amounts of the original funding amount to the County. Should the District voluntarily cease continuous operation of the fire station or a successor facility before ten (10) years from the certificate of occupancy date, the District shall return that amount of the original funding amount to the County on a pro-rated per diem basis. The terms of this paragraph shall survive termination of this Agreement.
6. **Compliance with Federal, State, County, and Local Laws.** The Parties shall comply with all federal, state, county, and local laws, regulations, and ordinances at all times. The District agrees to comply with all requirements of the American Rescue Plan Act (ARPA) federal grant program and specifically the requirements on Attachment A attached hereto.
7. **Parties' Liabilities.**
- A. The County's liability and obligations to District or any person having a claim pursuant to this Agreement shall be limited solely to the amount of the County Funds committed herein and the terms and conditions of this Agreement.
 - B. District's liability and obligations to the County shall be to deliver a completed Project and refund any unused portion of the funds received from the County, to the County, or in the event of termination of this Agreement.
8. **Acts of Negligence.** To the greatest extent of applicable law, the Parties shall be responsible for their own acts of negligence. Nothing herein is intended to serve as a waiver of sovereign immunity by either the County or the District. Nothing herein shall be construed as consent by the County or District to be sued by third parties in any matter arising out of this Agreement.
9. **Discrimination.** District and the County shall not discriminate against any person in violation of federal, state, or local law and ordinances.
10. **Assignment.** This Agreement may not be assigned by either party without the written consent of the other party.
11. **Severability.** Should any section or part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section of this contract.

12. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties, and no change will be valid unless made by supplemental written agreement executed by both Parties.
13. **Notices.** All notices, requests, demands, or other communications required by law or this Agreement shall be in writing and shall be deemed to have been served as of the delivery date appearing upon the return receipt if sent by certified mail or the actual date of delivery. The primary contact for each of the Parties is:

Fire Chief
Pinellas Suncoast Special Fire Rescue District
304 1st St
Indian Rocks Beach, FL 33785.

EMS & Fire Administration Director
Pinellas County EMS & Fire Administration
12490 Ulmerton Road - Suite 134
Largo, Florida 33774.
14. **Waiver.** No act of omission or commission of either party, including without limitation, any failure to exercise any right, remedy, or recourse, shall be deemed to be a waiver, release, or modification of the same. Such a waiver, release, or modification is to be affected only through a written modification to this Agreement.
15. **Governing Law, Venue.** This Agreement is to be construed in accordance with the laws of the State of Florida. The sole and exclusive venue for any cause of action or claim asserted by either party hereto brought in state courts shall be in Pinellas County, Florida. The sole and exclusive venue for any action brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in District or Pinellas County, in which case action shall be brought in that division.
16. **Due Authority.** Each party to this Agreement represents and warrants to the other party that (i) they are duly organized, qualified, and existing entities under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the persons executing this Agreement to so execute the same and fully bind the party on whose behalf they are executing.
17. **Headings.** The paragraph headings are inserted herein for convenience and reference only, and in no way define, limit, or otherwise describe the scope or intent of any provisions hereof.
18. **Approval.** This Agreement is subject to approval of the Pinellas Suncoast Fire & Rescue District and the Pinellas County Board of County Commissioners.
19. **Fiscal Non-Funding.** In the event that sufficient budgeted funds are not available for a new fiscal period, the County shall notify District of such occurrence, and the contract shall terminate on the last day of the then-current fiscal period without penalty or expense to the County.
20. **Only Agreement of the Parties.** This Agreement replaces and supersedes and replaces all prior Agreements of the Parties governing the construction of a Fire Station in District. The Parties agree that this document extends the agreement of the Parties regarding this construction but allocates no additional funds beyond the prior agreements.
21. **Force Majeure.** The District shall be excused from the performance of the obligations under

paragraph 5. Use of Funds, to the extent that such performance is prevented by force majeure. Force Majeure shall be defined as fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of government bodies, voluntary or involuntary compliance with any regulation, law or order of the government, failure or default of public utilities, pandemic, epidemic, riot, strikes, labor or supply disruptions or similar causes beyond the control of the District.

22. No Waiver of Any Rights Under the Settlement Agreement. Neither party hereto waives any rights it might have pursuant to the Settlement Agreement referenced elsewhere herein.

[Signature Page to Follow]

IN WITNESS WHEREOF the parties hereto, by and through their undersigned authorized officers have caused this Agreement to be executed on this 18th day of July, 2023.

ATTEST:
KENNETH BURKE, CLERK

PINELLAS COUNTY, FLORIDA
By and through its
Board of County Commissioners

by: *Kenneth Burke*
Deputy Clerk

by: *Janet C. Long*
Chair



APPROVED AS TO FORM
By: *Jason C. Ester*
Office of the County Attorney

Countersigned:

PINELLAS SUNCOAST
FIRE & RESCUE DISTRICT

by: *Louis B. Rodriguez*
Chairperson, Board of Commissioners

Attest:

by: *Laura M. Shy*
Secretary/Treasurer

Attachment A

CONTRACT PROVISIONS FOR CONTRACTS UNDER FEDERAL AWARDS BID OR PROPOSAL NUMBER: BID OR PROPOSAL TITLE:

This solicitation is either fully or partially funded with federal funds from the Coronavirus Local Fiscal Recovery Funds made available under the American Rescue Plan Act (ARPA). In addition to other terms and conditions required by Pinellas County and the applicable federal agency, all contracts awarded to the qualified bidder are subject to the following provisions, as applicable to the services provided.

Equal Employment Opportunity: Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

If this contract meets the definition of a "federally assisted construction contract" during the performance of this contract, the Contractor agrees as follows:

- (1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer or is consistent with the contractor's legal duty to furnish information.
- (4) The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September

24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of his contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor.

Davis-Bacon Act as amended (40 U.S.C. 3141-3148): When required by federal program legislation, for all prime construction contracts awarded in excess of \$2,000, Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors must be required to pay wages not less than once a week. If the applicable grant award contains Davis-Bacon provisions, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation document. The decision to award a contract shall be conditioned upon the acceptance of the wage determination [Appendix II to 2 CFR Part 200].

Copeland Anti Kick Back Act: If Davis-Bacon is applicable, CONTRACTOR shall also comply with all the requirements of 29 CFR Part 3 which are incorporated by reference to this contract. Contractors are prohibited from inducing by any means any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he or she is otherwise entitled [Appendix II to 2 CFR Part 200].

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708): Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each CONTRACTOR is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence [Appendix II to 2 CFR Part 200].

Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387): As amended—The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental

Protection Agency (EPA) [Appendix II to 2 CFR Part 200].

Debarment and Suspension (Executive Orders 12549 and 12689): A contract award (see 2 CFR 180.220) will not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. If applicable, the CONTRACTOR must verify that none of their subcontractors (for contracts expected to equal or exceed \$25,000), appear on the federal government's Excluded Parties List. The Excluded Parties List is accessible at <http://www.sam.gov> [Appendix II to 2 CFR Part 200].

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): CONTRACTORs that apply or bid for an award **exceeding \$100,000** must submit a completed "Disclosure of Lobbying Activities" [Form SF-LLL]. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with *non-federal funds* that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. [Appendix II to 2 CFR Part 200].

The bidder shall complete Form SF-LLL and submit with bid. Bidders may be deemed nonresponsive for failure to submit this certification.

Conflict of Interest [2 CFR §200.112]: The CONTRACTOR must disclose in writing any potential conflict of interest to the Federal awarding agency or COUNTY in accordance with applicable Federal awarding agency policy.

Mandatory Disclosures [2 CFR §200.113]: The CONTRACTOR must disclose in writing all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.339 - Remedies for noncompliance, including suspension or debarment.

Certifications and representations. [2 CFR § 200.209]

Unless prohibited by the U.S. Constitution, Federal statutes or regulations, CONTRACTOR may be required to submit certifications and representations required by this agreement, Federal statutes, or regulations on an annual basis. Submission may be required more frequently if the CONTRACTOR fails to meet a requirement of these provisions for contracts under federal awards.

Protected Personally Identifiable Information (Protected PII) [CFR §200.303(e)]: The CONTRACTOR must take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or COUNTY designates as sensitive or the County considers sensitive consistent with other applicable federal, state, and local laws regarding privacy and obligations of confidentiality. Per 2 CFR § 200.82, Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be

disclosed.

Prohibition on utilization of time and material type contracts [2 CFR §200.318 (j) (1)]: The COUNTY will not award contracts based on a time and material basis if the contract contains federal funding.

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms [2 CFR § 200.321]: If using subcontractors, the CONTRACTOR must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises.
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- (6) Affirmative Action Requirements per 41 CFR 60-4.1 Goals for Women and Minorities in Construction (for contracts in excess of \$10,000): Goals and timetables for minority and female utilization may be set which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects or construction contracts performed in specific geographical areas. The goals, which shall be applicable to each construction trade in a covered Contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the Federal Register, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60-4.2. Covered construction Contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed.

Information regarding certified M/WBE firms can be obtained from:

- Florida Department of Management Services (Office of Supplier Diversity);
- Florida Department of Transportation;
- Minority Business Development Center in most large cities; and
- Local Government M/DBE programs in many large counties and cities.

Domestic preferences for procurements. [2 CFR § 200.322]

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as

polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Procurement of Recovered Materials [2 CFR §200.323]: CONTRACTOR must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Prohibition on utilization of cost plus a percentage of cost contracts [2 CFR §200.324 (d)]: The COUNTY will not award contracts containing federal funding on a cost plus percentage of cost basis.

Retention of Records [2 CFR 200.334]: Financial records, supporting documents, statistical records, and all other records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or invoice. Record retention may be required to be longer if any of the provisions of 2 CFR 200.334(a)-(f) apply.

Access to Records [2 CFR 200 § 200.337]: The County, Pass-through agency or Federal awarding agency have the right of timely and unrestricted access to any documents, papers, or other records, including electronic records, of the CONTRACTOR which are pertinent to the Federal award in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents.

This right also includes timely and reasonable access to the CONTRACTOR'S personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained.

Remedies for noncompliance. [2 CFR § 200.339]

If CONTRACTOR fails to comply with the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or COUNTY may impose additional conditions, as described in 2 CFR § 200.208. If the Federal awarding agency or COUNTY determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or COUNTY may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the CONTRACTOR or more severe enforcement action by the Federal awarding agency or COUNTY.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Agreement.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of the COUNTY, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Take other remedies that may be legally available.