

**LOCAL ARTS AGENCY
FUNDING AGREEMENT**

THIS AGREEMENT, made and entered into the 31st day of October, 2017 ("Effective Date"), by and between Pinellas County, a political subdivision of the State of Florida (hereinafter the "County"), by and through Visit St. Pete/Clearwater (VSPC) and Creative Pinellas Incorporated, a Florida nonprofit corporation (hereinafter "Creative Pinellas") (collectively hereinafter the "Parties").

WITNESSETH:

WHEREAS, Creative Pinellas is operating as the designated Local Arts Agency independent of the County, as defined by the State Division of Cultural Affairs; and

WHEREAS, Creative Pinellas requires funding support to continue its mission of promoting the arts and cultural programs in Pinellas County, as well as promoting Pinellas County as an arts destination in accordance with Florida Statutes 125.0104; and

WHEREAS, the County desires to continue to provide support for the arts and cultural programs as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is hereby agreed by and between the County and Creative Pinellas as follows:

1. Purpose. The purpose of this Agreement is to: (i) provide funding for Creative Pinellas to accomplish the duties and responsibilities relating to the promotion of arts and cultural programs of Pinellas County as an arts destination.

2. Creative Pinellas Responsibilities and Obligations. Creative Pinellas shall support arts and cultural programs for the benefit of the citizens and tourists of Pinellas County, as follows:

(a) Operate as a not-for-profit organization serving as the Local Arts Agency, until another public or private organization is designated to serve in that capacity by the Pinellas County Board of County Commissioners ("Board").

(b) Perform the duties and responsibilities of the Local Arts Agency and the obligations herein.

(c) Maintain a link to VSPC consumer website at www.creativepinellas.org.

(d) Continue to promote Pinellas County as an arts destination

(e) Prepare and submit/present quarterly reports as to its efforts to promote the County as a vibrant arts destination.

(f) Expend all Tourist Development Tax funds in accordance with Florida Statutes 125.0104.

3. County/VSPC Obligations and Responsibilities. The County shall provide support for arts and cultural programs as follows:

(a) Provide funding from Tourist Development Taxes in the amount of Three Hundred Ninety-Six Thousand Six Hundred Seventy Dollars (\$396,670.00);

(b) Provide funding from Pinellas County's General Fund in the amount of Eighty Thousand Dollars (\$80,000.00).

(c) Funding herein shall be used for marketing, promotion, and activities that promote Pinellas County as an urban arts community and an arts destination, including but not limited to related operational expenses, in compliance with the limitations established in Sections 2 and 4, herein.

4. Funding. Funding shall be made available upon the receipt of an invoice from Creative Pinellas, due and payable no earlier than October 1, 2017.

(a) Creative Pinellas agrees to solely utilize County funding provided herein in accordance with statutorily authorized uses and further agrees to reimburse County for expenditures if utilized otherwise.

5. Term. The term of this Agreement shall commence on October 1, 2017, and shall remain in full force and effect through September 30, 2018, unless terminated as provided herein.

6. Amendment of the Agreement. This Agreement may be amended only by mutual written agreement of the parties.

7. Examination of Records. Creative Pinellas shall keep adequate records and supporting documentation applicable to this Agreement. Said records and documentation shall be retained for a minimum of three (3) years from the date this Agreement terminates. Should any question arise concerning this Agreement, the County and its authorized agents shall have the right to review, inspect and copy, or audit, all such records and documentation during the record retention period stated above; provided, however, such activity shall be conducted only during normal business hours and shall be at County expense.

8. Notice. Each party hereby designates the person set forth below as its respective contact persons. The person designated herein shall be each party's prime contact person for coordinating activities related to this Agreement. Notices or reports shall be sent to the attention of each party's contact person by email or by U.S. mail, postage prepaid, to the Parties' addresses as set forth herein.

For the County/VSPC:
David Downing
President & CEO
8200 Bryan Dairy Rd., Suite 200
Largo, FL 33777
David@visitspc.com

For Creative Pinellas, Inc.:
Barbara St.Clair
Executive Director
12211 Walsingham Rd.
Largo, FL 33778
Barbara.StClair@creativepinellas.org

9. Termination.

(a) The County reserves the right to terminate this Agreement, without cause, by giving sixty (60) days advance written notice to Creative Pinellas of its election to terminate pursuant to this provision.

(b) The failure of either party to comply with any material provisions of this Agreement shall be considered a breach thereof, and shall be cause for immediate termination of the Agreement upon written notice to the defaulting party.

(c) Obligations under this Agreement are contingent upon the availability of funds. 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 Creative Pinellas in writing of such failure of appropriation, and upon such notice, this Agreement shall terminate without penalty to the County.

10. Liability and Indemnification.

(a) Neither the County nor Creative Pinellas shall make any express or implied agreements, guarantees or representations, or incur any debt, in the name of or on behalf of the other party. Neither the County nor Creative Pinellas shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The County shall have no liability or obligation for any damages to any person or property directly or indirectly arising out of the operation by Creative Pinellas of its business, whether caused by Creative Pinellas' negligence or willful action or failure to act.

(b) Creative Pinellas shall indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Creative Pinellas; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; except only such injury or damage as shall have been occasioned by the sole negligence of the County.

11. Public Records. Creative Pinellas acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County Public Records Policies. Creative Pinellas agrees that prior to providing services it will implement

policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws and regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, Creative Pinellas agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes and County policy for locating and producing public records during the term of this Agreement.

12. Miscellaneous.

(a) Creative Pinellas shall comply with all applicable federal, state and local laws, rules, regulations and guidelines, relative to performance under this Agreement.

(b) Neither party may assign or transfer its rights or obligations under this Agreement without prior written consent of the other party.

(c) Nothing in this Agreement shall be construed to benefit any person or entity not a party to this Agreement.

(d) In carrying out this Agreement, Creative Pinellas shall not exclude from participating in, deny benefits to, or otherwise discriminate against, any person because of race, color, religion, sex, national origin, family status or disability.

(e) This Agreement constitutes the entire agreement between the Parties and supersedes any and all prior agreements, communications, or representations, whether oral or written, with respect hereto.

(f) No alteration, change, modification, amendment or waiver to or of this Agreement shall be valid or binding unless in writing and signed by both Parties hereto.

(g) Nothing in this Agreement will be construed to create, or be implied to create, any relationship between the County and Creative Pinellas, or its contractors, subcontractors or suppliers, and at all times, Creative Pinellas is and shall remain an independent contractor and not an agent of the County.

(h) This Agreement shall be construed, interpreted and governed by the laws of the State of Florida and venue shall be in Pinellas County, Florida.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed on the day and year first written above.

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

CREATIVE PINELLAS INCORPORATED

Danet G. Long
Chair

Doreen Moore
Doreen Moore, President

October 31, 2017
Date

9/29/2017
Date

ATTEST:
KEN BURKE

Chelise L. Smith
Deputy Clerk

APPROVED AS TO FORM

By: *Michael A. Zas*
Office of the County Attorney