

A G R E E M E N T

THIS AGREEMENT made and entered into this 16th day of May 1991, by and between the FEATHER SOUND MUNICIPAL SERVICES TAXING UNIT, a municipal service taxing unit of Pinellas County, a political, subdivision the State of Florida, by and through its Board of County Commissioners (hereinafter "UNIT"), and the FEATHER SOUND COMMUNITY SERVICES DISTRICT, INC., Florida not-for-profit corporation (hereinafter FSCSD),

W I T N E S S E T H:

WHEREAS, pursuant to applicable authority, the Pinellas County Board of County Commissioners, by Ordinance 90-25, did create the FEATHER SOUND MUNICIPAL SERVICES TAXING UNIT, a municipal service taxing unit of Pinellas County; and

WHEREAS, pursuant to the aforesaid ordinance, the UNIT is authorized to contract with a non-profit corporation created for the administration and operation of the business and affairs of the UNIT; and

WHEREAS, the FSCSD, which was incorporated in 1990, is willing to contract with the UNIT for the administration and operation of the business and affairs of the UNIT;

NOW, THEREFORE, in consideration of the mutual benefits to flow to each other and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Scope of Services. The FSCSD shall provide, operate and fully perform the following minimum services and projects for residents of the UNIT:

A. The Street Lighting Services for the area covered by FSCSD.

B. The acquisition, development and maintenance of greenspace/recreational areas.

C. For purposes of this Agreement, the term "Resident" means qualified elector, resident, or property owner in the UNIT.

2. Term. This Agreement shall be effective when approved by the UNIT, and shall remain in full force and effect through September 30, 1992. Thereafter, this Agreement shall be automatically renewed for successive one-year terms beginning October 1 and ending September 30 upon the approval of an annual budget as provided in paragraph 3.

3. Compensation. The UNIT shall compensate FSCSD as follows:

A. FSCSD shall submit an annual budget to the UNIT setting forth the reasonable and customary cost of providing the services described in Section 1. Upon approval of the budget by the UNIT, the UNIT shall make monthly payments to FSCSD beginning at the commencement of any fiscal year for which funds have been appropriated. The parties agree and understand that the submission and approval of the budget shall determine the amount of payment by the UNIT to FSCSD for the services to be rendered under this Agreement.

B. The UNIT may withhold payment to FSCSD if FSCSD fails to perform in accordance with the provisions of this Agreement or any state or local rules and regulations.

C. Notwithstanding any provision contained herein or in the approved budget as provided in Section 3(b), FSCSD may retain and utilize any and all gifts, monetary or in-kind, to defray the costs of providing services, and does not have to remit same to the UNIT; provided, however, that any gifts, monetary or in kind, made the UNIT shall be retained and utilized as determined by the governing body of the UNIT.

4. Independent Contractor Status. Both the UNIT and the FSCSD expressly agree that the FSCSD is an independent contractor and is not under any circumstances or by any means to be considered an employee of the UNIT.

5. Reports. The FSCSD agrees to provide to the UNIT the following:

A. Within sixty (60) days of the end of the fiscal year of FSCSD, an annual report setting out the specific services required under this Agreement and provided to the Residents for the preceding fiscal year.

B. As soon as practicable and in any event within ninety (90) days after the end of the fiscal year of the FSCSD, audited financial statements covering the operations of the FSCSD for such fiscal year, including consolidated statements of income, consolidated balance sheets and statements of changes in financial position, accompanied by an opinion issued in accordance with generally accepted accounting principles as approved by the American Institute of Certified Public Accountants and signed by an independent certified public accountant.

C. The preparation and submittal of an annual budget for recreation/greenspace and streetlighting programs, submitted to the UNIT in a form and within the time period prescribed by the Board of County Commissioners of Pinellas County for similar agencies requesting budgeted funds.

6. Default and Termination.

A. The failure of either party to comply with any provision of this Agreement shall place that party in default. Prior to terminating this

Agreement, the non-defaulting party shall notify the defaulting party in writing. Notification shall make specific reference 'to the provisions which give rise to the default. The defaulting party shall then be entitled to a period of fifteen (15) days in which to cure the default. In the event said default is not cured within said 15-day period, this Agreement may be terminated by giving an additional 15-days' notice in writing specifying the termination date. If this Agreement is terminated by either party under the terms of this paragraph, the FSCSD shall be paid an amount to adequately compensate it for that portion of the services satisfactorily provided prior to the termination date.

B. The funds to be used for services performed pursuant to this contract are subject to periodic appropriation of funds by the UNIT. Obligations under this contract are contingent upon the availability of funds. If funds are not appropriated by the UNIT for any or all of this contract, the UNIT shall not be obligated to pay for any services performed under this contract beyond the portion for which funds are appropriated. Such failure of appropriation shall not constitute a breach of this Agreement. The UNIT agrees to promptly notify FSCSD in writing of such lack of appropriation.

7. Special Covenants of FSCSD. During the term of this Agreement, the FSCSD shall comply with the following:

A. FSCSD Will perform all services under this Agreement, in accordance with all applicable state and local laws and regulations. FSCSD is solely responsible for the performance of its employees. FSCSD shall contract with service providers or employ, assign and discipline the personnel authorized by its budget.

B. Any purchase or sale of any real property used in programs operated by FSCSD must be approved by the Board of County Commissioners as the governing body of the UNIT, and all such real property shall be titled in the name of the UNIT.

C. All meetings of the FSCSD Board of Directors shall be open to the public and shall be scheduled only after 7-days' written notice published in a newspaper circulated within the UNIT; provided, however, that the appropriate officer of the FSCSD can call emergency meetings from time to time to deal with emergency items of the FSCSD upon giving reasonable notice to the public as determined by the officer calling the meeting of the FSCSD.

D. As an entity receiving funding from, and providing for the administration and operation of the business and affairs of the UNIT, FSCSD Agrees to comply with any state statute or rule imposed on public bodies to the extent required by law.

E. The FSCSD shall maintain proper books of record and account of all its business and affairs in accordance with standard accounting practice.

F. Prior to the time the FSCSD is entitled to commence any part of the project, work or services under this Agreement, the FSCSD shall

procure, pay for and maintain at least the following insurance coverages and limits. Said insurance shall be evidenced by delivery to the UNIT of: (1) certificates of insurance executed by the insurers listing coverages and limits, expiration dates and terms of policies and all endorsements whether or not required by the UNIT, and listing all carriers issuing said policies; and (2) a certified copy of each policy, including all endorsements. The insurance requirements shall remain in effect throughout the term of this Agreement.

(1) Worker's Compensation as required by law; Employer's Liability Insurance of not less than \$100,000 for each accident.

(2) Comprehensive General Liability Insurance including, but not limited to, Independent Contractor, Contractual, Premises Operations, and Personal Injury covering the liability assumed under indemnification provisions of this Agreement, with limits of liability for personal injury and/or bodily injury, including death, of not less than \$500,000, each occurrence; and property damages of not less than \$100,000, each occurrence. (Combined Single Limits of not less than \$500,000, each occurrence, will be acceptable unless otherwise stated.) Coverage shall be on an "occurrence" basis, and the policy shall include Broad Form Property Damage coverage, and Fire Legal Liability of not less than \$50,000 per occurrence, unless otherwise stated by exception herein.

(3) Comprehensive Automobile and Truck liability covering owned, hired and non-owned vehicles with minimum limits of \$500,000 each occurrence for bodily injury including death, and property damage of not less than \$100,000, each occurrence. (Combined Single Limits of not less than \$500,000, each occurrence, will be acceptable unless otherwise stated.) Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, if or when vehicles are used for purposes of this Agreement.

(4) \$500,000 combined single limits, personal injury and/or bodily injury, including death, and property damage liability insurance as an excess of the primary coverage required above, or any combination of primary and excess which will provide a total limit of \$1,000,000 for both automobile and truck, and comprehensive general liability. Each insurance policy shall include the following conditions by endorsement to the policy:

(1) The FSCSD shall notify the Pinellas County Risk Management Department, 400 So. Ft. Harrison, Clearwater, Florida 34616, within 24 hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage received by said FSCSD from its insurer; and nothing contained herein shall absolve the FSCSD of this requirement to provide such notice.

(2) The term "UNIT" shall include Pinellas County and all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and offices of Pinellas County and individual members and employees thereof in their official capacities, and/or while acting on behalf of the UNIT.

(3) The UNIT shall be endorsed as an additional insured to the required policy or policies.

(4) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by the UNIT or Pinellas County to any such future coverage, or to Pinellas County Self-Insured Retentions of whatever nature.

G. FSCSD covenants and agrees that it will indemnify and hold harmless UNIT and all of UNIT's officers, and employees from any claim, loss, damage, cost, charge or expense arising out any act, action, neglect or omission by FSCSD during the performance of the contract, whether direct or indirect, and whether to any person or property to which UNIT or said parties may be subject, except that neither FSCSD nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of UNIT or any of its officers or employees.

8. Notice. Except as provided herein, any notice, acceptance, request or approval from either party to the other shall be in writing and sent by certified mail, return receipt requested, and shall be deemed to have been received when either deposited in the United States postal service mailbox or personally delivered with signed proof of delivery.

The UNIT's representative is:

Fred E. Marquis,
County Administrator Pinellas
County Courthouse 315 Court Street

Clearwater, FL 34616

and the FSCSD's representative is:

Earl R. Maize
Feather Sound Community Services District, Inc.
14876 Feather Cove Road
Clearwater, FL 34622

A copy of any notice hereunder shall also be sent to the Finance and Accounting Department, Pinellas County, 315 Court Street, Clearwater, Florida 34616.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed for the uses and purposes therein expressed, the day and year first above written.

FEATHER SOUND MUNICIPAL SERVICES TAXING UNIT

By: George Greer,
Vice Chairman
Pinellas County Board of County Commissioners

FEATHER SOUND COMMUNITY SERVICES DISTRICT

By: Earl R Maize
Chairman