

INTERLOCAL AGREEMENT BETWEEN THE CITY OF PENSACOLA AND ESCAMBIA COUNTY, FLORIDA RELATING TO THE USE OF TROLLEY VEHICLES

THIS AGREEMENT made and entered into by and between the City of Pensacola, Florida, a municipal corporation organized under the laws of the State of Florida (hereinafter referred to as "City"), with administrative offices located at 222 West Main Street, Pensacola, Florida 32502, and Escambia County, a political subdivision of the State of Florida (hereinafter referred to as "County"), with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502.

WITNESSETH:

WHEREAS, both the City and County have legal authority to perform general government services within their respective jurisdictions; and

WHEREAS, the City and County are authorized by §163.01, Florida Statutes, to enter into interlocal agreements and thereby cooperatively utilize their powers and resources in the most efficient manner; and

WHEREAS, the County owns a trolley vehicle, more particularly, described as Vehicle #1967, County Property #44030, (hereinafter referred to as "Vehicle"), which has been classified by the County as surplus property; and

WHEREAS, the City's Parks and Recreation Department has a need for additional transport vehicles; and

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the citizens to allow the City to use the Vehicle under the terms and conditions stated herein.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and of the mutual benefits and for other good and valuable consideration, Escambia County and the City of Pensacola agree as follows:

Section 1. Recitals. The recitals contained in the Preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.

Section 2. Use of Property.

2.1 **Property.** Subject to the terms and conditions set forth herein, the County authorizes the City to use the following property (hereinafter referred to as "Vehicle") within the incorporated areas of the City of Pensacola:

Vehicle #1967 (Co #44030)

2.2 **General Requirements.**

(a) The City shall accept said Vehicle "as-is," and the County makes no warranties regarding the operability of the Vehicles.

- (b) The City shall maintain said Vehicles in good operating condition and use reasonable diligence to protect said Vehicles from any damage.
- (c) Upon the termination or expiration of this Agreement, the City shall return the Vehicles to the County in at least as good as condition when received less depreciation occasioned by normal usage.
- (d) The City agrees to operate as an independent contractor and to hold the County harmless from any and all liabilities or obligations arising out of the City's use of the Vehicle. It is specifically understood that the above statement shall be interpreted in a manner that will hold the City solely liable, to the exclusion of the County, for any expense, damage or liability arising out of the City's use of the Vehicle.
- (e) Nothing in the Agreement shall be construed as making the City an agent of the County or as creating a relationship of a partnership or a joint venture between the City and the County.
- (f) The City may not assign any right or interest held under the terms of this Agreement or part with the possession of said Vehicle without the prior written approval of the County.
- (g) The City agrees to comply with all federal, state and local laws, ordinances, policies or other governmental regulations applicable to the use of said Vehicle.
- (h) Nothing in this agreement shall be construed to vest any title, legal or equitable, in said Vehicle to the City, and the City's use of said Vehicle shall not change or affect its character as the personal property of the County.

2.3 Insurance. During the term of this Agreement, the City shall be responsible for maintaining the appropriate liability insurance coverage for the defense and satisfaction of claims as it relates to liability for injury to persons or property incurred in connection with, or arising out of, any negligence due to an occurrence caused by the use of said Vehicle. The City is a qualified self-insurer pursuant to Florida Statutes for general liability and has established a self-insurance fund in lieu of purchasing liability insurance. Said self-insurance fund shall provide liability coverage, to the extent permitted by law, for claims arising out of such negligence up to the limits of sovereign immunity as provided for by Florida Statutes applicable to the City. The City shall also be responsible for the defense and satisfaction of all claims under federal or state laws which are not limited by Florida sovereign immunity.

2.4 Effective Date. This Agreement shall become effective, after being properly executed by the Parties, when filed in the Office of the Clerk of the Circuit Court of Escambia County. The County shall be responsible for filing the Agreement with the Clerk.

Section 3. Miscellaneous Provisions.

3.1 Liability.

- (a) The parties hereto, their respective elected officials, officers, and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party. The City of Pensacola, as a local governmental body of the

State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the County and agrees to be fully liable for any damages proximately caused by said acts or omissions. Escambia County, as a subdivision of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which results in claims or suits against the City and agrees to be fully liable for any damages caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or the County and nothing herein shall be construed as consent by the City or the County to be sued by third parties in any matter arising out of this Agreement.

- (b) Each party is responsible for maintaining, in a form acceptable to the parties, all relevant records for a period of five (5) years and each party's records shall be subject to audit after reasonable notice.

3.2 Term and Termination. The term of this Agreement shall commence upon the Effective Date and remain in full force and effect until terminated as provided herein. The Agreement may be terminated by either party for cause, or for convenience, upon thirty (30) days written notice by the terminating party to the other party of such termination.

3.3 Records. The parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may, without prejudice to any right or remedy and after giving that party, seven (7) days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.

3.4 Assignment. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties, without the prior written consent of the other party.

3.5 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue, for any matter, which is the subject of this Agreement shall be in the County of Escambia.

3.6 Severability. The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion shall be deemed severed from this Agreement and the balance shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

3.7 Further Documents. The parties shall execute and deliver all documents and perform further actions that may reasonably be necessary to effectuate the provision of this Agreement.

3.8 No Waiver. The failure of either party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

3.9 Notices: All notices required or made pursuant to this Agreement by either party to the other shall be in writing and delivered by hand or by United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

To the County:
Jack R. Brown
County Administrator
Escambia County
221 South Palafox Place
Pensacola, Florida 32502

To the City:
Ashton J. Hayward, III
Mayor
City of Pensacola
222 West Main Street
Pensacola, Florida 32502

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this section.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates, under each signature:

COUNTY:
ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its authorized Board of County Commissioners.

By: _____
D. B. Underhill, Chairman

Date: _____

ATTEST: Pam Childers
Clerk of the Circuit Court

By: _____
Deputy Clerk

CITY:
The City of Pensacola, a Florida Municipal Corporation

By: _____
Ashton J. Hayward, III, Mayor,

Date: _____

ATTEST: Ericka Burnett
Clerk of the City of Pensacola

By: _____
City Clerk