



Staff Report

File #: 15-814, **Version:** 1

Agenda Date: 12/15/2015

Subject:

Air Pollution Control Specific Operating Agreement between the State of Florida Department of Environmental Protection and Pinellas County.

Recommended Action:

Execute Air Pollution Control Specific Operating Agreement with the State of Florida Department of Environmental Protection.

Strategic Plan:

Practice Superior Environmental Stewardship

3.3 Protect and improve the quality of our water, air, and other natural resources

Deliver First Class Services to the Public and Our Customers

5.1 Maximize partner relationships and public outreach

Summary:

This Agreement is entered into between the Florida Department of Environmental Protection (FDEP) and Pinellas County for the Air Quality Division of Pinellas County (PCAQD or Local Agency) to act on FDEP's behalf as an approved local air pollution control program. Both parties will work together to protect the air quality of the county according to the provisions of Florida Statutes (F.S.), Section §403.182.

Background Information:

On January 26, 1986, FDEP Division of Air Resource Management (DARM) and PCAQD entered into a General Operating Agreement (GOA). The GOA, requires that the Secretary of FDEP must further authorize the delegation of specific authorities under a Specific Operating Agreement (SOA). The SOA must specify the FDEP programs or duties to be conducted by the Local Agency, and will include such specific terms as are necessary to clearly delineate each party's rights and obligations.

The SOA defines the rights and responsibilities of the Local Agency to act on DEP's behalf as an approved local air pollution control program under Sections §403.182 and §403.087 and the GOA. This SOA recognizes the Local Agency as an "approved local air pollution control program" for purposes of Sections §320.03 and §376.60. In the event that FDEP disapproves the local air pollution control program for cause, as provided in Section §403.182(4), FDEP and the Local Agency will address fee remittances consistent with the provisions of Sections §320.03 and §376.60.

Fiscal Impact:

As an approved local air pollution control program pursuant to Section §403.182, and the terms of this Agreement, Pinellas County is eligible to receive a portion of state tag fee monies pursuant to

Section §320.03(6). In addition, as an approved local air pollution control program, Pinellas County is eligible to receive federal grant monies from EPA through 42 USC Section 7403 (the "103 Grant") and 42 USC Section 7405 (the "105 Grant"). FY 15 Tag Fees generated \$1,355,593.50 in revenue to operate Pinellas County's local air program. No match is required. Funds are budgeted under the County's Tag Fee fund and General Fund.

Staff Member Responsible:

Ajaya K. Satyal, Air Quality Division Manager, Parks and Conservation Resources Department

Partners:

State of Florida Department of Environmental Protection

Attachments:

Air Pollution Control Specific Operating Agreement

AIR POLLUTION CONTROL
SPECIFIC OPERATING AGREEMENT

BETWEEN THE
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)

AND

PINELLAS COUNTY

PART I
INTRODUCTION

- 1) Purpose. This Agreement is entered into between the Florida Department of Environmental Protection (DEP) and Pinellas County for the Air Quality Division of Pinellas County (PCAQD or Local Agency) to act on DEP's behalf as an approved local air pollution control program. Both parties will work together to protect the air quality of the county according to the provisions of Section 403.182, Florida Statutes (F.S.).

By signing this Agreement, Pinellas County states that, as an approved Local Agency, PCAQD is capable of providing the administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program. *See* Section 403.182(1)(d), F.S. Further, PCAQD will coordinate with and assist DEP's Division of Air Resource Management (DARM) in the preparation and submittal to the Environmental Protection Agency (EPA) all State Implementation Plan (SIP) revisions and 111(d) plans that may affect the Local Agency. DARM will be responsible for determining the need and relative priority for any such SIP revisions or 111(d) plans.

As an approved local air pollution control program pursuant to F.S. §403.182, and the terms of this Agreement, Pinellas County is eligible to receive a portion of state tag fee monies pursuant to Section 320.03(6), F.S. In addition, as an approved local air pollution control program, Pinellas County is eligible to receive federal grant monies from EPA through 42 USC Section 7403 (the "103 Grant") and 42 USC Section 7405 (the "105 Grant").

- 2) Prior Operating Agreements. On January 26, 1986, DARM and PCAQD entered into a General Operating Agreement (GOA). A copy of the GOA is on file at the PCAQD and at DARM.

The GOA, executed pursuant to Section 403.182, F.S., requires that the Secretary of DEP must further authorize the delegation of specific authorities under a Specific Operating Agreement (SOA). The SOA must specify the DEP programs or duties to be conducted by the Local Agency, and will include such specific terms as are necessary to clearly delineate each party's rights and obligations.

This SOA constitutes the sole agreement defining the rights and responsibilities of the Local

Agency to act on DEP's behalf as an approved local air pollution control program under Sections 403.182 and 403.087, F.S., and the GOA. This SOA recognizes the Local Agency as an "approved local air pollution control program" for purposes of Sections 320.03 and 376.60, F.S. In the event that DEP disapproves the local air pollution control program for cause, as provided in Section 403.182(4), F.S., DEP and the Local Agency will address fee remittances consistent with the provisions of Sections 320.03, F.S., and 376.60, F.S.

- 3) County Authority. PCAQD was created and expanded by Chapter 78-601, Laws of Florida. The powers and duties of the PCAQD are exercised pursuant to Sections 125.275 and 403.182, F.S. and Pinellas County Code, Chapter 58, Article IV, which are incorporated herein by reference. Pursuant to Section 403.182(9), F.S., nothing in this SOA will diminish the Local Agency's independent authority as established by law, nor hinder the Local Agency from independently enforcing its own rules, regulations, or orders.
- 4) General Nomenclature. Throughout this document, "county" will mean Pinellas County and "Local Agency" will mean PCAQD. Likewise, "DEP" will mean the Florida Department of Environmental Protection and "DARM" will mean DEP's Division of Air Resource Management. "EPA" will mean the U.S. Environmental Protection Agency.
- 5) DEP's Role. DEP administers the following EPA-approved or EPA-delegated programs: the State Implementation Plan (SIP); the Title V permit program; and programs related to Sections 7411 and 7412 of Title 42, United States Code (U.S.C.). Pursuant to EPA delegations or approvals, DEP cannot delegate or sub-delegate such authorities to any approved local air pollution control program. DEP may, however, collectively through this SOA, and through any additional contracts (as applicable), authorize the Local Agency to act on its behalf for purposes of federally delegated or approved programs. Pursuant to Section 403.182, F.S., DEP may assume and retain jurisdiction over a particular area, category, or program of air pollution control. Furthermore, this SOA and any additional contracts constitute the principal agreement between the Local Agency and DEP with regard to air pollution control responsibilities. Compensation for services under additional contracts is contingent upon annual legislative appropriations.
- 6) Records. Program records associated with this SOA or contracts between DEP and the Local Agency will be made available to DEP upon request and will be retained by the Local Agency in accordance with, and for the duration specified in: Chapter 119, F.S.; DEP and the Department of State's records retention schedules; any DEP and Local Agency contracts; and the Department of State's regulations regarding electronic records, if applicable. If not otherwise specified, air program records will be maintained for a minimum of five (5) years. The Local Agency may reach agreement with the DEP district office such that the DEP district office will retain the Local Agency's air program records in accordance with the above requirements. The Local Agency shall add and maintain permitting, compliance, and enforcement records in DEP's electronic file storage system for compiling such records (e.g., Air Documents Handling System, OCULUS, etc.).

PART II
ADMINISTRATION OF THE SOA

- 1) Adequate Staff and Financial Resources. DEP has determined that the Local Agency has the adequate and appropriate administration, staff, and financial resources to effectively and efficiently carry out an “approved local air pollution control program” in its county.
- 2) Commencement. This SOA will become effective on the date this document is signed by both DEP and the Local Agency. Notwithstanding the provisions of the GOA, this SOA is entered into by the DARM Director and the Chairman of the Pinellas County Board of County Commissioners, both of whom have the authority to execute this SOA and satisfy its terms and conditions.
- 3) Expiration. This SOA will expire at midnight on August 31, 2018. It is the expectation of the parties that SOA renewals will be negotiated well in advance of the expiration deadline. However, if the parties are in good faith negotiations to renew the SOA at the time of the expiration date, the SOA will be automatically extended during the period of negotiation and will remain in effect until negotiations have ended and a new SOA has been signed, or the parties do not reach agreement on a new SOA, in which case the termination procedures in Paragraph Four of this Part will be followed.
- 4) Termination Procedures.
 - a) Termination of SOA. The Local Agency or DEP may terminate this SOA without cause by providing written notice to the other party at least ninety (90) days prior to the effective date of such termination.
 - b) Distribution of Funds. Within ninety (90) days of termination, the Local Agency will refund to DEP any financial support for air pollution control provided by or through DEP which has not been obligated or expended by the Local Agency for that purpose. Conversely, DEP will pay the Local Agency a pro rata share of any such financial support due during that budgetary period which has been obligated or funded by the Local Agency for air pollution control before the effective date of termination.
- 5) Modification. This SOA may be modified in writing at any time by mutual consent of DEP and the Local Agency. The modification will become effective on the date executed by both parties.
- 6) Agreement Conflicts. If this SOA conflicts with any part of the GOA, then that part of the SOA will not apply to DEP or the Local Agency with respect to the air pollution control program in the county.
- 7) Severability. If any part of this SOA is found invalid or unenforceable by any court or through any administrative proceeding, the remaining parts of this SOA will not be affected if DEP and the Local Agency agree that the rights and duties of both parties contained in this SOA are not materially prejudiced, and if the intentions of the parties can continue to be

effective.

8) Interpretation of Laws, Ordinances, Rules, and Regulations.

- a) Interpretation of Rules. The governmental agency responsible for promulgating a law, ordinance, rule, or regulation will be the primary interpretative authority for that law, ordinance, rule, or regulation. In the event that there is litigation concerning interpretation of a DEP or Local Agency rule, the governmental agency responsible for promulgation of the questioned rule will provide testimony concerning the interpretation. All requests for interpretation will be answered as expeditiously as possible. The term “rule” as applied to a local program refers to a local program’s duly adopted ordinances, regulations, rules, or other local law.
- b) Federally-Delegated or Approved Programs. It is recognized by the Local Agency that EPA has approved or delegated to DEP all of the federal programs listed in Part I, Paragraph Five. The Local Agency recognizes that DEP is ultimately responsible for any actions or activities related to these federally-delegated or approved programs. DEP has overriding authority regarding any conflicts arising from the Local Agency acting on behalf of DEP in the administration of these federally delegated or approved programs.
- c) Information Dissemination. DEP has the responsibility to oversee the dissemination of information. To ensure consistent state-wide implementation, responsibilities are assigned as follows:
 - i) DARM is responsible for disseminating official policy and guidance regarding the implementation of these federally-delegated or approved programs to the DEP district offices and approved local air pollution control programs.
 - ii) The Local Agency may distribute pre-existing state or federal documents (e.g., EPA guidance documents or applicability determinations) regarding federally delegated or approved programs to the public or regulated entities operating in its jurisdiction. The Local Agency will provide a copy of such information to DARM, if requested.
 - iii) To the extent the Local Agency has adopted rules more stringent than a federally delegated or approved program as set forth in this Part, the Local Agency may distribute information to the public, or regulated entities operating in its jurisdiction relating to the applicability, interpretation, or implementation of the Local Agency’s own rule. When distributing this information, the Local Agency will provide a copy to DARM in advance of dissemination.
 - iv) The Local Agency may create informational material related to the applicability, interpretation, or implementation of federally delegated or approved programs for the purposes of assisting its regulated community, or other DEP district or approved local air pollution control offices. When distributing this information, the Local Agency will provide a copy to DARM in advance of dissemination.

- d) EPA Regulations. The Local Agency will follow EPA's interpretation of its regulations such as National Ambient Air Quality Standards (NAAQS), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAP). This includes any requests related to the regulation of asbestos. In the event the Local Agency and DARM disagree about the applicability or requirements of an EPA regulation, the Local Agency may request that DARM seek clarification from EPA. DARM will be responsible for coordinating contact with EPA regarding such requests for clarification. DARM will apprise the Local Agency of any clarification provided by EPA.
 - e) SIP Revisions. SIP revisions developed by DEP are considered state-originated rules, except when EPA language is used verbatim.
- 9) Approval of Local Agency Rules. DEP has determined that the Local Agency's existing rules pertaining to air pollution control –Chapter 58, Article IV of the Pinellas County Code pertaining to air pollution control in Pinellas County, are compatible with or stricter or more extensive than those imposed by Chapter 403, F.S., and rules issued there under. This determination is not applicable to rules not listed above; to the administration or enforcement of any authority other than DEP's authority under Chapter 403, F.S., and EPA's authority under the Clean Air Act; or rules pertaining to noise pollution.
- a) Future Local Agency Rules. If the Local Agency amends any existing ordinances or rules pertaining to air pollution control, or adopts any new rules, DEP will not enforce such amended or new rules unless and until DEP has determined that such rules are compatible with, or stricter or more extensive than the requirements imposed by Chapter 403, F.S., and rules adopted thereunder. If the Local Agency attempts to implement or enforce such rules, the Local Agency cannot assert that it is acting on behalf of DEP under such circumstances. Nothing in this SOA will limit the Local Agency from adopting more stringent local rules. After any such rule adoption, the rule must be submitted to DEP as set forth in this Part.
 - b) Remaining Current with DEP Referenced Rules. In the event that DEP renumbers, amends, adds, or deletes F.A.C. regulations referenced by the Local Agency, the Local Agency understands that failure to incorporate the changes in the local rules or ordinances within twelve (12) months from the effective date of a DEP rule amendment may result in DEP determining that such local rules or ordinances are incompatible with state requirements.
- 10) Adequate Administrative and Judicial Processes. DEP has determined that the Local Agency provides for enforcement of its requirements by appropriate administrative and judicial processes. The Local Agency may utilize remedies available to DEP as an alternative to its own procedures.

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PART III
AIR PROGRAM MANAGEMENT

- 1) Budget. DARM and the Local Agency will, upon request, exchange summaries of their respective approved budgets, outlining funding and staffing for the respective air programs.
- 2) Adequate Staff and Financial Resources. The Local Agency will maintain an adequate permitting, ambient monitoring, mobile source, emissions monitoring, and compliance and enforcement staff to satisfy the requirements of this SOA. The Local Agency's organizational chart will be periodically updated or supplemented by the Local Agency when there are changes of key personnel or organizational structure, and the Local Agency will provide a copy of any such organizational chart to DARM as expeditiously as possible.
- 3) Plans. DARM and the Local Agency will coordinate and annually exchange, or otherwise make available, upon request of the other party, their respective EPA 105 Air Planning Agreements.
- 4) SIP and 111(d) Plan Revisions. The Local Agency will coordinate with and assist DARM in the preparation and submittal to EPA of all SIP and 111(d) plan revisions that may affect the Local Agency. DARM will be responsible for determining the need and relative priority for any such SIP revisions.
- 5) Proposed Federal Air Rules. The Local Agency will copy DARM on all comments to proposed federal air rules published in the Federal Register.
- 6) Evaluations and Audits. DEP will periodically conduct program performance evaluations, financial audits, and Title V audits of the Local Agency's implementation of air programs and activities. Ambient monitoring program activity evaluations are specifically addressed under Part IV of this SOA.
 - a) Performance Evaluations. DARM may conduct performance evaluations to determine if permit application reviews, permit issuances, emissions inventories, mobile-source activities, compliance activities, and enforcement actions are being effectively conducted in accordance with state requirements and DEP policies.
 - b) Financial Audits. The DEP's Office of Inspector General (OIG) may conduct financial audits to determine if state funds received by the Local Agency for its air program have been properly accounted for and spent appropriately. Upon request of DEP's OIG, the Local Agency is responsible for providing county financial records relating to expenditures from tag fees received under Section 320.03 (6), F.S., asbestos fees received under Section 376.60, F.S., and reimbursements from any contracts entered into between DEP and the Local Agency.
 - c) Title V Program Audit. Pursuant to Section 403.0872(11)(c), F.S., DEP is required to audit its Title V Program once every two years. The purpose of the audit is to determine whether the annual operation license fees collected by DEP are used solely to support any

reasonable direct and indirect costs listed in Section 403.0872(11)(b), F.S. The Local Agency is subject to this audit process.

- d) Coordination of Evaluations and Audits. To the extent practicable, DEP and the Local Agency will coordinate as necessary during evaluations and audits. Where possible, DEP will provide the Local Agency with the opportunity to prepare its response and comment on draft findings. In instances when DEP is subject to an evaluation or audit by a federal agency, and DEP requests the Local Agency's participation, the Local Agency will provide its responses through DEP. In the event the Local Agency is contacted directly by a federal agency regarding any program listed in Part I, Paragraph Five, the Local Agency will coordinate its response with DEP. The Local Agency will provide DEP with a copy of any such response.
- 7) Electronic Communications. Any reference in this SOA to "mail" includes electronic mail as described at Chapter 668, F.S. All reference to "certified mail" includes electronic mail with a receipt notification. All electronic communications relating to a permitting activity will be considered part of the permitting file and will be retained as part of the file. All electronic communications relating to a compliance or enforcement activity will be considered part of the compliance or enforcement file and will be retained as part of the file. Nothing in this SOA will preclude use of electronic files or electronic communications provided that such files and communications are easily identifiable and publicly accessible and provided that such files meet all formatting requirements detailed elsewhere in this SOA or by contract.
- 8) Mobile Source Emissions Inventory. In cooperation with the (MPO) and the Florida Department of Transportation, the Local Agency will update emissions estimates for mobile sources in its county as required by the SIP or EPA 105 Air Planning Agreement.
- 9) General Information Requests. As time and resources allow, the Local Agency will respond to and attend meetings with individual citizens, the news media, schools, civic groups, and other organizations to provide information about air pollution or about specific program activities.
- 10) Training and Meetings. The Local Agency will ensure that its employees have the requisite training to properly accomplish their work assignments. As time and resources allow, the Local Agency staff will also attend training sessions offered by DEP regarding significant program changes, as well as EPA APTI training courses and Metro 4/SESARM training courses.
- 11) Legal. The Local Agency will have access to adequate legal staff to comply with the permitting and enforcement requirements of this SOA.
- 12) Use of Tag Fees. Use of tag fees by the Local Agency is provided by Section 320.03(6), F.S., and the terms of this SOA. To provide consistency with implementing program requirements, the Local Agency agrees to work closely with DARM to address questions, as they arise, regarding the use of tag fees for program activities. The Local Agency will summarize its

activities that have been funded by tag fees in a report to DARM submitted with the tag fee certification, sixty (60) days after the end of each county fiscal year.

- 13) Local Fee Prohibited for Title V Sources. In accordance with Section 403.873, F.S., the Local Agency will collect no fees from Title V sources, except asbestos fees collected pursuant to Section 376.60, F.S.
- 14) Collection of Title V Emission Fees. Any payments for Title V annual emission fees and forms submitted to the Local Agency will be promptly returned to the applicant with a notice to submit the payment directly to DARM. A copy of the notice will be provided to DARM.
- 15) Distribution of Title V Fees. DEP may enter into a Title V contract with the Local Agency to receive compensation for the Title V Program work that is referenced in this SOA. Funding for the annual Title V Contract is contingent upon the availability of legislative budget authority each state fiscal year. When contracting with DEP, the Local Agency will abide by DEP's timeline regarding contract initiation and execution.
- 16) Emergency Situations. In emergency situations, the Local Agency will defer to DEP's decisions regarding enforcement discretion and interpretations of DEP air program rules and permit conditions, will abide by any air-related portions of a DEP Emergency Order issued by DEP, and will not take action contrary to DEP's decisions. This does not preclude the Local Agency from taking independent action on its own unique local rules (i.e., rules that are not duplicative of DEP requirements).

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PART IV
AMBIENT AIR MONITORING RESPONSIBILITIES

- 1) General Requirements. This SOA establishes how ambient air monitoring will be conducted by the Local Agency within its county. The operation and maintenance of federally required monitoring sites and equipment and other air monitoring sites and equipment deemed necessary by DEP will be the Local Agency's first monitoring priority. Minimum monitoring requirements are described in 40 CFR 58 Appendix D.
 - a) Risk Management Contingency. The Local Agency is deemed to be essential in meeting EPA minimum monitoring criteria as described in 40 CFR 58, Appendix D. Where equipment was purchased with State or federal funds, and where both the State and the Local Agency have a responsibility to see that the site is maintained and operated, the Local Agency shall allow DEP to operate said equipment in the event that the Local Agency either chooses not to operate the monitor or is unable to do so. This includes allowing the DEP access to the necessary shelters, support equipment, and data transfer equipment until such time as a mutually agreeable resolution is reached. If necessary, the Local Agency will assist the State with any access issues including amending access agreements. Continuing operation and maintenance costs, such as utilities, are the operator's responsibility.
 - b) Access Rights for New Sites. The Local Agency will include DEP in access agreements for future sites where federally-required air monitoring is to be established.
- 2) Roles and Responsibilities. The Local Agency will be responsible for calibrating, operating, maintaining, and repairing all ambient air monitoring, calibration, and data acquisition equipment utilized in the State and Local Air Monitoring Station (SLAMS) and Special Purpose Monitoring (SPM) networks, including the N-Core site (if applicable), within its county that would otherwise be operated and maintained by DEP. The Local Agency will also be responsible for operating and maintaining a laboratory, or contracting for laboratory services to perform any needed analyses or air samples, and performing any episodic air quality monitoring. SPM desired by the Local Agency will be the responsibility of the Local Agency. SPM desired by DEP may be negotiated between the two agencies and performed by the Local Agency where the availability of equipment, staffing, and funding allows.
 - a) Coordination. Excluding routine day-to-day operational functions, the Local Agency will coordinate its ambient air monitoring activities with DEP. Program decisions requiring EPA approval, such as the addition, deletion, or relocation of a monitor or the exclusion of SLAMS data, will be submitted to EPA through, and with the approval of, DARM.
 - i) Air Monitoring Procedures. All SLAMS ambient air monitoring activities and SPM activities (from which data are to be used for official purpose) conducted by the Local Agency will be performed in accordance with applicable federal regulations and the appropriate Statewide Quality Assurance Project Plans (QAPPs), using EPA and DEP-approved standard operating procedures (SOPs). DEP will provide technical assistance to the Local Agency to the extent that DEP's resources allow.

- ii) Data Automation. The Local Agency will obtain and maintain data automation equipment that can communicate with, and be linked to, the DEP Florida Air Monitoring Assessment System (FAMAS) database (or subsequent data system). The Local Agency will enter and verify all valid data into the database in accordance with technical guidelines and schedule guidelines provided by DEP.
 - iii) Remote Data Access. On or before June 30, 2016 the Local Agency will upgrade to wireless communication with FAMAS or submit hourly AQCSV files to DEP.
 - iv) Forms. The Local Agency will use EPA's Air Quality System (AQS) data forms or formats, as well as other DEP or EPA-required or approved forms or formats for ambient air monitoring activities as necessary.
- 3) Ambient Air Monitoring Quality Assurance Program. The Local Agency will coordinate all air monitoring quality assurance activities with DEP.
- a) Quality Assurance Procedures. DARM is the Primary Quality Assurance Organization for air monitoring in the state, as determined by EPA. The Local Agency will conduct all ambient monitoring activities in accordance with the Statewide QAPPs, incorporated herein by reference to ensure the collection of legally defensible ambient air quality data. This includes use of DEP's SOPs, which include approved Local Agency SOPs that have been incorporated into DEP's SOPs, and all applicable state and federal regulations and policies to ensure the acceptability of analytical results.
 - i) All of the Local Agency monitoring SOPs must be approved by DEP and EPA. DEP will provide "Quality Assurance Standards Laboratory" services on request, as resources allow. DEP will provide other technical assistance to the Local Agency, as resources allow.
 - ii) Ozone Transfer Standards. Ozone certification must provide traceability to National Institute of Standards and Technology (NIST) standards. To that end, before use in the ambient monitoring network, the Local Agency must ensure that its new ozone primary standards has undergone a three-day certification to the state standard, which has been compared to the EPA standard reference photometer (Level 1).
 - iii) Systems and Instrument Performance Audits. DEP will conduct a triennial (or more frequent) ambient air monitoring management systems audit of the Local Agency and utilize the process and schedule as outlined in the "Quality Assurance Systems Audit Protocol." As resources allow, DEP will conduct performance audits on continuous SLAMS (and SPM used for official purposes) instruments and manual PM_{2.5}, lead (Pb), and PM₁₀ samplers to meet minimum federal regulations. Written notice will be given if DEP is unable to continue conducting the performance audits. The Local Agency will be responsible for conducting performance audits to complete quarterly requirements on all high volume manual samplers.

- iv) Electronic Record Archiving. The Local Agency will create an archive in electronic form of sufficient documentation and records to provide legal defensibility for all of the ambient monitoring data submitted to the EPA database which address criteria pollutants, and which could be used to determine the attainment status of the county. This archive will be maintained on a calendar year basis, with the annual records being closed and finalized no later than ninety (90) days after the end of the calendar year, and will be maintained for a minimum of five (5) years.

- b) Ambient Monitoring Reporting Requirements. The Local Agency will enter all valid ambient air data collected each month into DEP's FAMAS database according to the schedule provided in the statewide SOP for ambient air monitoring data handling and performing data validation (DEP 18-27). The Local Agency will also adhere to the schedules provided in DEP 18-27 for submitting missing data/information and for verifying data.
 - i) Submitted data must meet or exceed the EPA's data completeness requirement (minimum requirements are prescribed in 40 CFR Part 58, Appendix A, various appendices of 40 CFR Part 50, and the EPA *Quality Assurance Handbook for Air Pollution Measurement Systems*) and must have been collected in accordance with 40 CFR Parts 50 and 58; the *Quality Assurance Project Plans for the State of Florida Ambient Air Quality Monitoring Program*; and EPA- and DEP-approved SOPs.
 - ii) The Local Agency will transmit valid ambient monitoring data to DEP's FAMAS database (or subsequent data system) in accordance with DEP 18-27, unless data transmission problems make this impossible.
 - iii) Missing data forms/information will be submitted to DARM in accordance with DEP 18-27.
 - iv) All data will be verified in DEP's FAMAS database (or subsequent data system) to ensure that the data were transmitted without errors. A verification notice will be transmitted to DEP in accordance with DEP 18-27.

- c) Quality Assurance Reporting Requirements. The Local Agency will use DEP-approved forms and/or formats and will comply with DARM's reporting guidance when submitting data and performing ambient air monitoring and quality assurance activities. All precision, bias and accuracy data will be submitted to DARM within thirty (30) days after the end of the quarterly reporting period.

- d) Air Quality Reporting Requirements. The Local Agency will report to the general public notice of the Air Quality Index in accordance with federal regulations. The Local Agency will correct the concentration values reported, to be used in Florida's Air Quality System (FLAQS) and the Spatial Air Quality System (SAQS), as soon as practicable after discovery of any errors.

- e) Annual Network and 5-year Network Assessment Plans. The Local Agency must respond timely to DARM's requests for assistance in the preparation of the statewide Annual Air Monitoring Network Plan and, if applicable, the 5-year Air Monitoring Network Assessment Plan. The Annual Network Plan must be submitted to EPA by July 1st of each calendar year. Prior to submission to EPA, the proposed Annual Network Plan must be made available for a 30-day public comment period. The next 5-year Network Assessment Plan must be submitted to EPA by July 1, 2020.
- f) Air Monitoring Technology Status Reporting. An Annual Air Monitoring Technology Status Report describing the Local Agency's air monitoring system must be provided to DARM by March 1 to coincide with development of the statewide Annual Network Plan. The report must include, but not be limited to, the following information:
 - i) Status of each of the Local Agency's network monitors;
 - ii) A summary of the areas where the Local Agency is satisfied or not satisfied with its air monitoring technology;
 - iii) An explanation as to why the current technology is still appropriate or if new technology will need to be explored;
 - iv) A summary of the Local Agency's data system capabilities and deficiencies; and
 - v) A plan that corrects deficiencies that threaten data quality and/or data capture rates.

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PART V
COMPLIANCE AND ENFORCEMENT RESPONSIBILITIES

- 1) General Requirements. This part of the SOA establishes how air program compliance and enforcement will be conducted by DEP or the Local Agency within its county.
 - a) County Authority. The Local Agency will use its remedies and procedures in its authorizing act(s) and ordinances. The Local Agency may utilize remedies available to DEP as an alternative to its own procedures.
 - b) Roles and Responsibilities. Subject to Part II (Administration of the SOA), and except as provided below, the Local Agency will conduct compliance and enforcement activities within its county. The Local Agency will provide the necessary support for DEP's compliance and/or enforcement actions as requested. DEP's district office will conduct compliance and enforcement activities for permitted facilities owned or operated by the county.
 - c) DEP Action in County. Nothing herein prohibits DEP from initiating compliance and/or enforcement activity for any facility within the Local Agency's county. In the event that DEP initiates an enforcement activity in the Local Agency's county, DEP will provide the Local Agency with notice unless circumstances make notice inappropriate. The Local Agency's rules will be enforced by DEP if it elects to exercise its jurisdiction over air pollution sources within the jurisdiction of the Local Agency. If enforcement actions are initiated by DEP and the Local Agency against the same source for the same violations, then the actions should be combined as a joint consolidated enforcement action where possible. Any penalty fees or damages collected as a result of joint action will be divided equitably between the two agencies.
 - d) Federal Facilities. If federal facilities are not responsive to enforcement action initiated pursuant to local rules reflecting federal NSPS or NESHAP requirements and further action is necessary to achieve compliance, the Local Agency shall consult with DARM (not EPA) to determine the appropriate enforcement approach.
- 2) Citizen Complaints. The Local Agency will respond to and investigate complaints from citizens and any such complaints forwarded by DEP, in a timely manner. If there is a non-compliance issue, the Local Agency will attempt to bring about compliance in accordance with this SOA when appropriate and inform the complainant (if not anonymous) of the action taken.
- 3) Sampling of Fuels and Materials. In accordance with the most recent DARM guidance, the Local Agency will collect or assist DEP in collecting and analyzing fuel and material samples for air sources within the county, as needed, to determine compliance with DEP's air pollution control rules or permit conditions.

- 4) Open Burning. A Local Agency open burning program shall be operated in accordance with Section 590.125 F.S., and Chapter 62-256, F.A.C. The Local Agency will adopt and enforce open burning requirements at least as stringent as DEP's open burning rules and may enter into agreements with local fire control authorities or the Florida Forest Service to assist in the enforcement of these requirements. A copy of any open burning operating agreement between the Florida Forest Service and the Local Agency shall be provided to DEP upon request.
- 5) Stack Tests. In accordance with the most recent DARM guidance, the Local Agency will witness pollutant stack tests performed in the county, including relative accuracy test audits (RATAs). Witnessing stack tests will, at a minimum, include witnessing the equivalent of one complete stack test run, and may include witnessing any required laboratory procedures preserving a suitable chain of evidence. For all stack tests, the Local Agency is responsible for monitoring compliance with stack test methods that are required by state rules or federal regulations. In addition, the Local Agency shall review 100% of stack test reports and timely enter related data into AirCom. (For purposes of this paragraph, "stack tests" are not considered to include determinations of visible emissions.)

The Local Agency shall follow the most recent stack test audit sample guidance from DEP and the EPA.

- 6) Continuous Emissions Monitoring Systems (CEMS). In accordance with the most recent DARM guidance, the Local Agency is responsible for monitoring compliance with appropriate quality assurance procedures for CEMS that are required by state rules, federal regulations and permits.
- 7) Review of Reports. The Local Agency will receive and review all of the following reports for completeness, accuracy, and compliance with applicable state rules or federal regulations: Excess Emissions Reports; Stack Test Reports; Visible Emissions Test Reports; RATA Reports; and Relative Accuracy Audit (RAA) Reports. For each report that is deficient or requires additional information, the Local Agency will timely send an appropriate written correspondence (letter or e-mail) to the source owner or operator requesting additional information necessary to make the report complete, and take additional action, as appropriate.
- 8) Alternatives to Testing and Monitoring. All requests for alternative testing and monitoring requirements, and determinations of MACT minor source status, will be handled in accordance with the most recent DARM guidance.
- 9) Compliance Planning and Activities.
 - a) Compliance Monitoring Strategy Plan. Compliance monitoring will be done according to applicable federal and state statutes, rules, and guidelines. In accordance with EPA's latest Stationary Source Compliance Monitoring Strategy (CMS) and DARM guidance, the Local Agency will complete and submit to DARM a CMS plan to achieve the inspection frequencies identified by EPA and DEP. The Local Agency will abide by its

CMS plan and will notify DEP in advance if it is unable to meet the requirements contained therein to afford DEP the opportunity to meet the federal commitments.

b) Inspection Frequency.

- (1) In accordance with EPA's Stationary Source CMS and DARM guidance, the Local Agency will conduct full compliance evaluations once every two (2) years for all Title V major sources.
- (2) In accordance with EPA's Stationary Source CMS and DARM guidance, the Local Agency will conduct full compliance evaluations, at least once every five (5) years for all synthetic minor sources within its authority.
- (3) The Local Agency will conduct an on-site inspection or compliance outreach visit for all other permitted air facilities, including those with air general permits, at least once every five (5) years.
- (4) Follow-Up Inspections. The Local Agency will conduct follow-up inspections as necessary to determine if a facility has returned to compliance.
- (5) Identification of Unpermitted Facilities. The Local Agency will identify facilities that are operating without a permit and take appropriate action.
- (6) The Local Agency will enter inspection results into the AirCom database. DEP encourages the Local Agency to utilize portable field computers along with DEP electronic tools to document inspection results.

c) Annual Statement of Compliance. By April 1 of each calendar year, the Local Agency will identify facilities which did not submit the annual statement of compliance by March 1 of that calendar year. In addition, the Local Agency will complete the reviews of the annual statements and make a compliance determination by August 31 of each calendar year and take appropriate action, as needed.

d) Semi-Annual Monitoring Reports. The Local Agency will review each semi-annual monitoring report within thirty (30) days of the date the report was received.

e) Outreach, Compliance Assistance and Pollution Prevention. The Local Agency will conduct outreach activities and compliance assistance as appropriate. The Local Agency will promote pollution prevention as time and resources allow.

10) Enforcement Activities. The Local Agency will follow EPA Guidance for timely and appropriate enforcement response to high priority violations, consult the DEP enforcement manual and its appendices including DARM's Air Penalty Guidelines, and follow any other DARM guidance documents or reference materials in determining appropriate enforcement responses and penalty calculations. The Local Agency will maintain all penalty calculations for each enforcement action in the appropriate enforcement file (including documentation that economic benefit was considered), and will provide information regarding those calculations to DEP upon request. The Local Agency shall add all enforcement records and supporting documents to DEP's electronic file storage system in accordance with this SOA.

- 11) Small Business Environmental Assistance Program. The Local Agency will assist the Small Business Environmental Assistance Program (SBEAP) and provide ongoing support of activities associated with the mission and directives of that program as time and resources allow.
- 12) Asbestos Compliance. Inspections by the Local Agency will be conducted at a minimum frequency as specified by the EPA Section 105 Air Planning Agreement. Upon determining that a violation has occurred, the Local Agency will initiate appropriate enforcement action that is consistent with state and federal requirements. The Local Agency will receive asbestos notifications for facilities located in its county and will input the notification and compliance data into the DEP asbestos database. The Local Agency will encourage the use of DEP's web-based electronic notification system. Notwithstanding exclusions noted in this Part, the Local Agency may inspect any asbestos activity within the county, and take enforcement action pursuant to its local authority. DEP district offices and the Local Agency will coordinate on asbestos inspections for facilities owned or operated by the county to the extent possible.
- 13) Misdirected Asbestos Notifications. Asbestos notifications received by the Local Agency, including those received from the County for facilities owned and operated by the County, which should have been sent instead to DEP shall be redirected to DEP no later than two working days of receipt by the Local Agency, in a format acceptable to DEP. Asbestos notifications received by DEP which should have been sent instead to the Local Agency shall be redirected to the Local Agency no later than two working days of receipt.
- 14) DEP AirCom Database – Compliance and Enforcement Data.
 - a) The Local Agency will have full access to the DEP AirCom database and will designate an employee to serve as the primary contact for AirCom compliance and enforcement data. This contact will be the primary person who DEP will contact on compliance and enforcement data entered into the database by the Local Agency.
 - b) The Local Agency will enter all compliance and enforcement data in a timely manner in accordance with the most recent DARM guidance (e.g., level of service document) with primary emphasis on achieving the commitments made to EPA as part of the State Review Framework (SRF).
 - c) The Local Agency will update AirCom for compliance data, enforcement data, minimum data requirements, excess emissions reports, CEMS data, and stack test and visible emission test results. All applicable inspection and source compliance and enforcement activity data including, but not limited to, NSPS, NESHAP, Title V, non-Title V minor source, and general permit facilities will be entered into AirCom as soon as possible, but not later than thirty (30) days from the date the activity was performed by the Local Agency.
 - d) The Local Agency will review 100% of stack test reports and enter the results in the AirCom database within 75 days of the test date. If the test report is received late, the Local Agency shall review the report as soon as possible, but no later than 30 days upon receipt.

- e) The Local Agency will review and enter related data for each semi-annual monitoring report into AirCom within thirty (30) days of receipt of the report.
- f) The Local Agency will follow the most recent DARM guidance for reviewing and entering electronic and hardcopy data from the Annual Operating Reports (AOR). The Local Agency will complete its quality assurance review of the data in AirCom (i.e., the “edit check” process) by September 30th of each year. If DEP finds items of incompleteness or errors in the submitted reports during either the edit check process or the report review, the Local Agency will take the lead on any necessary follow up with the facility. DEP will perform all uploads of Electronic Annual Operating Report (EAOR) data into AirCom.
- g) The Local Agency will respond promptly to requests from DEP for information, correction and clarification of any compliance and enforcement data entered into these databases by the Local Agency.
- h) The Local Agency will notify DEP of any systems-related problems or training needs.

15) DEP Asbestos Database.

- a) The Local Agency will have full access to the DEP asbestos database and will designate an employee to serve as the primary contact for AirCom and asbestos compliance and enforcement data. This contact will be the primary person with whom DEP will consult on asbestos-related data entered into the database by the Local Agency.
- b) The Local Agency will enter all asbestos-related data in a timely manner in accordance with the most recent DARM guidance (e.g., level of service document).
- c) The Local Agency will update DEP Asbestos database for compliance data, enforcement data and minimum data requirements. All applicable inspection and compliance and enforcement activity data for asbestos renovation/demolition data will be entered into the DEP asbestos database as soon as possible, but not later than thirty (30) days from the date the activity was performed by the Local Agency.
- d) The Local Agency will respond promptly to requests from DEP for information, correction and clarification of any asbestos data entered into the database by the Local Agency.
- e) The Local Agency will notify DEP of any systems-related problems or training needs.

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SIGNATURES

State of Florida
Department of Environmental Protection

By _____

Date: _____

Justin B. Green
Director, Division of Air Resource Management

Pinellas County
Board of County Commissioners

By _____

Date: _____

Chairman

APPROVED AS TO FORM

By: Chelsea Mandy
Office of the County Attorney

OMB Contract Review

Contract Name	Air Pollution Control Specific Operating Agreement Between State of Florida Department of Environmental Protection (DEP) and Pinellas County				
GRANICUS	15-814	Contract #		Date:	24-Nov-2015

Mark all Applicable Boxes:

Type of Contract									
CIP		Grant		Other	X	Revenue	X	Project	

Contract information:

New Contract (Y/N)	N	Original Contract Amount	
Fund(s)	1075	Amount of Change	
Cost Center(s)	258700	Contract Amount	
Program(s)	1398	Amount Available	Total:
Account(s)	Various	Included in Applicable Budget? (Y/N)	Y
Fiscal Year(s)	FY16		
Description & Comments			
(What is it, any issues found, is there a financial impact to current/next FY, does this contract vary from previous FY, etc.)			
This amendment is an extension of previous years' agreements. Pinellas County will continue to operate the Air Quality Division, with funding received from the state through the vehicle tag fee, Title V grant, and other state and federal grants.			

Analyst: **Jim Abernathy**

Ok to Sign:

Instructions/Checklist

1. Upon receipt of a contract and notification in Granicus, review the Agenda and Contract for language and accuracy. Make sure there are available funds, the dept is not overextending itself, was it planned, etc.
2. Complete the form above using the contract document and the County accounting & budgeting systems.
3. Use the Staff Report section to give a brief summary of the contract and include your thoughts and pertinent information.
4. Upload to Granicus as a numbered attachment.

Risk Management Contract Review

Contract Name	Air Pollution Control Specific Operating Agreement Between State of Florida Department of Environmental Protection (DEP) and Pinellas County						
Bid/Contract#		Granicus	15-814	PID #			
Department	PCR - Air Quality	Project Mgr	Ajaya Satyal			Date In	11/17/2015
Contract Mgr	Ajaya Satyal	RUSH?	n	Pre-Review?	n	Date Out	Click here to enter a date.
Purchasing Contact		Term		Amount	\$1,355,593.50		
Type of Contract (select both)	Funding/Grant Agreement	Non-Purchasing	Method of Review		Granicus		
Limitation of Liability?		Indemnification Language?	n	If PE to PE, \$768.28?	n		

Required Coverages	Add'l Language / Exclusions	Limits	Justification
Choose an item.			PE to PE
Choose an item.			

Discussed scope & suggested insurance requirements with

Date/Time/Comments: Agreement between State of Florida DEP and Pinellas County for Air Pollution Control Specific Operating Agreement – Pinellas County agrees that as an approved local agency PCAQD is capable of providing the administrative organization staff and financial and other resources necessary to efficiently carry out its program under Florida law. As such Pinellas County is eligible to receive a portion of tag fee monies and federal grant monies from EPA . Reporting and records retention requirements. Term of agreement until 08312018 is renewable

NOTES:
 Periodic evaluations and audits performance evaluations and financial audits there is a Risk Management Contingency under General Requirements which allows the State to gain access to and operate local agency air quality monitoring equipment if the County (local Agency) fails too.- Local agency is responsible for calibration, operating, maintaining. And repairing all ambient air monitoring, calibration and data acquisition equipment utilized in the State at local air monitoring station – operation of the laboratory or contracting for laboratory services in the performance of the agreement. FUNDING ONLY – no insurance requirements of the Local Agency (Pinellas County)

Reviewed By	GWhite	Date	12/1/2015
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<input checked="" type="checkbox"/> Ready for Signature	Authorized By Virginia E. Holscher, Director
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