

Clearwater Undergrounding of Electric Utilities Project Interlocal Agreement

THIS Clearwater Undergrounding of Electric Utilities Project INTERLOCAL AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2025, by and between the CITY OF CLEARWATER, a political subdivision of the state of Florida (the "City") and the PINELLAS SUNCOAST TRANSIT AUTHORITY, an independent special district created by Chapter 2000-424, Laws of Florida, as amended, ("PSTA") (collectively, the "Parties").

RECITALS

WHEREAS, pursuant to Chapter 2000-424, Laws of Florida, as amended, PSTA has the authority to plan, develop, improve, construct, maintain, operate, and finance a public transit system, as that term is defined therein; and

WHEREAS, PSTA was awarded funding from the FY22 RAISE Grant from USDOT; and

WHEREAS, PSTA is agreeable to contribute to the undergrounding of electric utilities in the City of Clearwater as part of the redevelopment of certain properties owned by the Parties ("the Project"); and

WHEREAS, the City of Clearwater has obtained a binding cost estimate for the undergrounding of electric utilities by Duke Energy in Project area (Exhibit A); and

WHEREAS, pursuant to section 163.01, Florida Statutes, counties, cities, public authorities, state agencies, and other public agencies are authorized to enter into interlocal agreements among and between themselves in order to make the most efficient use of their powers and enabling them to cooperate with other governmental entities; and

WHEREAS, the Parties desire to identify the responsibilities of PSTA and the City, respectively, for the portions of the Project located within City limits, including but not limited to design, construction, maintenance, and operation of the Project; and

NOW, THEREFORE, for and in consideration of the foregoing recitals (all of which are adopted as an integral part of this Agreement), the mutual promises, covenants, and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the City and PSTA agree as follows:

1. PURPOSE

The Parties desire to enter into this Agreement in order to identify the responsibilities of PSTA and the City, respectively, for the Project within City limits, including but not limited to design, construction, maintenance, and operation of the Project.

2. DESCRIPTION OF THE PROJECT

The Project includes the relocation and replacement of certain existing overhead distribution lines and related facilities with new underground distribution lines and related facilities

(“Infrastructure”) in the area of South Myrtle Avenue. It is understood that the Infrastructure will lie within the City limits and will extend from Cleveland Street to Court Street (4 blocks).

3. PROJECT FUNDING

The City shall make payment to Duke Energy to complete the Project pursuant to a separate agreement between Duke Energy and the City. PSTA shall reimburse the City according to the following:

The total cost of the Project is \$671,431.56. PSTA shall contribute 25% or **\$167,858.00** of the total cost of the Project, with the City being responsible for the remaining 75% or \$503,573.56 of the total cost of the Project.

PSTA shall make its contribution to the City within thirty (30) days of the City executing a binding agreement with Duke Energy to complete the Project. The City shall provide PSTA an invoice upon execution of its binding agreement with Duke Energy to complete the Project. These funding estimates are based on the Binding Cost Estimate provided to the City by Duke Energy on February 15, 2025, attached to this Agreement as Exhibit A. If the Project’s total cost provided in the agreement between the City and Duke Energy (“Duke Agreement”) differs from the binding cost estimate, then the Parties shall amend this Agreement to reflect the final, actual cost of the Project according to the percentage of responsibility described above, provided however, that either Party may terminate this Agreement if it determines to not proceed with the Project based on the Project’s total cost provided in the Duke Agreement. If either Party terminates this Agreement for any reason, then the Parties shall share whatever expenses incurred up to the point of termination based on the percentages described above, and any remaining portion of PSTA’s deposit to the City will be reimbursed to PSTA within thirty (30) days of termination of this Agreement.

4. PROJECT MANAGEMENT

The City shall coordinate with Duke Energy to enter into the Duke Agreement and any other necessary agreements, and to ensure that the Project is completed in a timely manner.

The City shall keep PSTA notified of the progress of the Project throughout its duration and until completion.

5. CONSTRUCTION

The Parties recognize that Duke Energy is responsible for design, construction and maintenance of the Infrastructure, in compliance with the applicable rules and regulations.

Neither Party will be responsible for design, construction or maintenance of the underground electrical distribution lines and related facilities.

6. NO LIABILITY

- a. The City and PSTA shall be responsible for their respective officers’, officials’ and employees’ acts of negligence when such officers, officials and employees are acting within

the scope of their employment and shall only be liable for any damages resulting from said negligence to the extent provided by section 768.28, Florida Statutes and under the doctrine of sovereign immunity. Nothing herein is intended to serve as a waiver of any immunity from liability that the City or PSTA may be entitled to under the doctrine of sovereign immunity or section 768.28, Florida Statutes. Nothing herein shall be construed as consent by the City or PSTA to be sued by third parties in any matter arising out of this Agreement. This paragraph shall survive termination of this Agreement.

7. TERMINATION

- a. In the event funds to finance the Project become unavailable, a Party may terminate its participation by providing written notification to the other Party, pursuant to Section 12 of this Agreement. Each Party shall endeavor, whenever possible and consistent with its legal obligations and principles of prudent management, to provide thirty (30) days' written notice of termination for lack of funds.
- b. Neither party may terminate this Agreement either for convenience or cause, except as provided in paragraphs 3.c or 6.a above, or upon mutual agreement of the Parties. The Parties' sole remedy for breach of this Agreement shall be to seek specific performance of the other Party's obligations.
- c. If the City terminates this Agreement after PSTA has paid its contribution pursuant to Paragraph 3.c above and prior to completion of the work across PSTA's property, the City shall refund PSTA within thirty (30) days of termination, the remaining amount of PSTA's contribution for the portion of the work across PSTA's property that is not completed.
- d. If PSTA and Duke for any reason do not enter into an indemnity agreement in a form approved by PSTA in its sole discretion, PSTA may terminate this Agreement and receive a refund of its deposit. In the event, PSTA terminates under this provision, the City shall proceed to reduce the Scope of the Project to eliminate PSTA's portion to the extent it is legally able to do so. The City may offset PSTA's deposit by an amount up to 25% of the costs incurred at the time of PSTA's termination and shall provide PSTA an itemized statement of costs incurred along with the remaining deposit due within sixty (60) days.

8. FILING AND EFFECTIVE DATE

PSTA shall be responsible for filing this Agreement with the Clerk of the Circuit Court of Pinellas County and this Agreement shall be effective on the date of such filing ("Effective Date").

This Agreement shall commence on the Effective Date and the provisions of the Agreement applicable to the design and construction of the Infrastructure shall terminate upon completion of construction of the Infrastructure. However, all other terms and conditions of this Agreement, including but not limited to those related to the maintenance responsibilities for the Infrastructure, and any other provisions specifically noted as surviving termination of this Agreement shall continue in effect.

9. AMENDMENTS

This Agreement may be modified or amended only by a document in writing executed by the City and PSTA with the same formality of this Agreement.

10. GOVERNING LAW

The laws of the State of Florida shall govern this Agreement.

11. RELATIONSHIP OF THE PARTIES

Nothing contained herein shall be deemed or construed by the Parties, nor by any third party, as creating the relationship of principal and agent or landlord and tenant or of partnership or of joint venture between the City and PSTA.

12. SEVERABILITY

Should any section or portion of any section of this Agreement be rendered void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other section or any part of any other section of this Agreement.

13. NOTICES

Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approvals and other communications which are required to be given by one Party to another shall be in writing and shall be deemed given and delivered on the date delivered in person, upon the expiration of five (5) days following the date mailed by registered or certified mail, postage prepaid, return receipt requested, to the address provided below, or upon the date delivered by overnight courier (signature required) to the address provided below.

If to PSTA:
Chief Executive Officer
Pinellas Suncoast Transit Authority
3201 Scherer Drive
St. Petersburg, Florida 33716
Fax: (727) 540-1913

If to the City:
Director, Public Works
City of Clearwater
100 S. Myrtle Ave.
Clearwater, FL 33755
Fax: (727)

With required copy to:
Alan S. Zimmet, General Counsel
Bryant Miller Olive, P.A.
400 Tampa St. Suite 1600
Tampa, FL 33602
Fax: (813) 223-2705

14. FORCE MAJEURE

Neither Party shall be liable for its non-performance or delayed performance under this Agreement if caused by force majeure. Force majeure shall be defined as a fire, flood, act of God, war,

terrorism, riot, national emergency, sabotage, civil disturbance, strike, labor dispute, governmental act, law, ordinance, rule or regulation, or event which are not the fault or are beyond the control of the Party.

15. NON APPROPRIATION

The obligations of the City and PSTA as to any funding required pursuant to this Agreement shall be limited to an obligation in any given year to budget, appropriate and pay from legally available funds, after monies for essential City or PSTA services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the City or PSTA shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the City or PSTA pursuant to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

CITY OF CLEARWATER, FLORIDA

ATTEST:

By: _____
Bruce Rector, as its Mayor

Rosemarie Call, City Clerk
(SEAL)

Approved as to Form:

Jerrod Simpson, Senior Assistant City Attorney

PINELLAS SUNCOAST TRANSIT AUTHORITY

ATTEST:

By: 
Chief Executive Officer


Rachael Cappolla, Executive Assistant

Approved as to Form:



Alan S. Zimmet, General Counsel

February 15, 2025

Tara Kivett
City of Clearwater
100 S Myrtle Ave
Clearwater, FL 33756

RE: *Binding cost estimate to underground S Myrtle Ave – New City Hall location*

Dear Ms. Kivett:

Thank you for submitting your request to Duke Energy. The purpose of this proposal is to provide a binding cost estimate for the area you have identified. The effective date of this proposal is February 15, 2025. This cost estimate is based on current labor and material rates and is valid for 180 days (August 14, 2025). Requests beyond that period will require review and adjustments as needed.

Project Scope

Underground the existing Duke Energy electrical distribution facilities along S Myrtle Ave. Duke Energy to perform the work associated with this undergrounding as outlined in the forthcoming agreement.

Binding Cost Estimate

The binding cost estimates is:

- S Myrtle Ave – Between Cleveland Ave and Court St: \$ 671,431.56

Proposal Assumptions

Below is a non-inclusive list of assumptions used in calculating this estimate:

- All underground facilities to be located in private property easements, not in the right of way. Easements to be obtained by customer at no cost to Duke Energy.
- Does not include cost to underground joint users, such as telephone and cable television.
- Does not include cost for restoration of any street, right of way, easement, private property or pavement reconstruction that may be necessary as a result of the construction. This cost only includes backfilling the affected area to safe condition.
- Does not include costs associated with new streetlights.
- Does not include cost to replace existing meter can to accept new underground service.
- Does not include any survey work that may be required to identify right of way and easements.
- Duke Energy's design does not guarantee construction feasibility in the field until a constructability review is completed.



4121 St Lawrence Dr
New Port Richey, FL 34653

o: 727.372.5164
miriam.tucker@duke-energy.com

Next Steps

Below is a high-level list of next steps if you wish to proceed with this project.

	Task	Responsible Party
1	Gather cost estimates from all other joint utilities (Telephone, cable television, etc.)	Applicant
2	Obtain easements to install facilities and locate equipment	Applicant with support from Duke Energy
3	Coordinate customer obligations and possible outages	Applicant with support from Duke Energy
4	Sign and approve agreements required by Duke Energy. Provide payment to Duke Energy prior to construction start.	Applicant
5	Schedule and complete conversion	Duke Energy / Other utilities

Enclosed is a breakdown of the facility charges per the Duke Energy Tariff for your reference.

If you would like to proceed with this project, please contact me at the email address above. We appreciate your business and look forward to providing you with excellent customer service.

Sincerely,

Miriam Tucker

Miriam Tucker
Project Manager
Power Grid Operations

Enclosure



Facility Charges per Tariff Section 12.05(2)

Project Name	City of Clearwater - City Hall	
Location	Myrtle Ave - Extended scope - Cleveland to Court	
Substation	Clearwater	
Date	2/15/2025	
		Tariff Charges
a) Remaining Net Book Value		\$ -
Of existing overhead facilities to be removed*		
b) Removal Cost		\$ -
Of existing overhead facilities*		
c) Salvage Value		\$ -
Of existing overhead facilities*		
d) Construction Cost of Underground		\$ 1,110,915.57
Estimated construction cost of underground facilities including underground service laterals to residential customers meters or point of delivery for general service customers		
e) Construction Cost of Overhead		\$ (405,732.11)
Estimated construction cost of overhead facilities Including overhead service drops to customers' meters		
f) Cost Estimate Fee		\$ (1,756.00)
Qualifying binding cost estimate fee		
g) Lifecycle Operations Costs		\$ (31,995.90)
The net present value of the lifecycle operational costs differential including storm restoration		
Total Charges		\$ 671,431.56
Total credits applied to project:		\$ (439,484.01)

* In calculating the Applicant's Facility Charge, elements a, b, and c of the Facility Charge formula above are to be excluded from Facility Charge due from an Applicant who submits an application providing a binding notification that the Applicant intends to convert existing non-hardened overhead facilities to underground facilities.