

CONTRACT NO. 2012-434

BCC APPROVED 7-10-12

LOCALLY FUNDED AGREEMENT
BETWEEN
SARASOTA COUNTY, FLORIDA,
AND THE
CITY OF VENICE
FOR
LEGACY PARK

This is an Agreement between Sarasota County, Florida, a political subdivision of the State of Florida (herein referred to as the "County") and the City of Venice, a municipal corporation of the State of Florida (herein referred to as the "City") for the County to provide the City with funding in an amount of Eight Hundred Eighty Thousand and 00/100 Dollars (\$880,000.00) toward the design, permitting and construction of improvements to the Legacy Park in accordance with the Legacy Park Management Plan (herein referred to as the "Project") approved by the County, the City, and the Florida Communities Trust.

WHEREAS, the City acquired the property located at 395 East Venice Avenue on December 19, 2008, which was formerly known as the Cemex site and is now known as the Legacy Park; and

WHEREAS, the Florida Communities Trust provided the City with \$3,700,000 towards the \$7,300,000 paid for the acquisition of the site; and

WHEREAS, the acceptance of funding from the Florida Communities Trust required the City to develop a park management plan acceptable to the Florida Communities Trust; and

WHEREAS, the County and City have entered into an interlocal agreement regarding Parks and Recreational Services (herein referred to as the "Parks Interlocal") within the incorporated limits of the City of Venice; and

WHEREAS, the County agreed to support the City in the pursuit of the acquisition assistance from Florida Communities Trust, by agreeing to contribute to the development and operations of a public park on the site in accordance with the Parks Interlocal Agreement rather than contributing funds to the purchase of the site; and

WHEREAS, the Parks Interlocal provides that the County will not be responsible to fund capital improvements at the Legacy Park unless otherwise agreed; and

WHEREAS, the Parks Interlocal provides that the County will be responsible for the operation and routine maintenance of the Legacy Park; and

WHEREAS, the City, County and Florida Communities Trust have each approved the Legacy Park Management Plan; and

WHEREAS, the County has included the Legacy Park project in the Capital Improvement Program as Project 93046; and

WHEREAS, the City will use the money provided herein toward meeting the obligations of the Florida Communities Trust (FCT) Grant Contract.

WHEREAS, the total anticipated cost to complete development of the park will exceed the amount of this funding agreement; and

WHEREAS, the City and County jointly desire to begin development of the site into a public park; and

WHEREAS, the City and County agree that the City shall take the lead role in managing the development of the Legacy Park and will involve the County in all decision making regarding the park development; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation in this Agreement, the County and City agree as follows:

1. The County agrees that it will furnish the City with a Lump Sum Deposit in the amount of Eight Hundred and Eighty Thousand and 00/100 Dollars (\$880,000.00) within sixty (60) calendar days of the parties execution of this Agreement.

2. All deposits shall be made to the City and mailed as follows:

City of Venice
Finance Department
401 West Venice Avenue
Venice, FL 34285

A copy shall be sent to:

Kathleen Weeden, P.E., City Engineer
City of Venice
401 West Venice Avenue
Venice, FL 34285

3. The Lump Sum Deposit shall be used by the City solely for the completion of the design, permitting and construction of improvements to the Legacy Park in accordance with the Legacy Park Management Plan approved by the City, County and Florida Communities Trust, which is hereby incorporated by reference.

4. The City acknowledges that the Lump Sum Deposit funds shall be spent solely on the park development consistent with the approved Legacy Park Management Plan. Furthermore, the Lump Sum Deposit shall be expended only on reasonable and customary costs associated with park design, permitting and construction.

5. In the event that the final Project costs are less than the Lump Sum Deposit, the City will refund the amount by which the Lump Sum Deposit exceeds those costs. The failure of the County to request the refund from the City shall not relieve the City from its obligation to refund the amount determined on final accounting.

6. The City shall coordinate with the County throughout the term of this Agreement to ensure the Project meets applicable standards and is designed and constructed as to minimize costs of the operation and maintenance of the park consistent with the County's standards for parks of similar size and character. Such coordination shall include but not be limited to:

- a. The County Parks Manager and the County Engineer must review and approve the City's design criteria for the Project before they are issued.
- b. Prior to the City's issuance of a notice to proceed with construction, any construction plans for the Project must be approved by the Parks Manager and the County Engineer as being safe and as meeting the minimum standards for public parklands in accordance with the consumer product safety standards and be deemed acceptable by the County in terms of the cost of operation and maintenance of the proposed improvements.
- c. Any modifications to the plans after award of the construction contract also must be approved in advance by the Parks Manager and the County Engineer.
- d. The County shall have fifteen (15) business days from receipt to comment on or request any changes or request additional information regarding the plans.
- e. The design/construction contract shall provide that the construction contract shall be terminated without penalty if the County does not approve the construction plans.
- f. Any proposed deviations from the approved Legacy Park Management Plan must be approved by the Board of County Commissioners prior to installation in a separate written agreement that addresses the respective future obligations of the City and County to maintain such enhancements.
- g. Upon completion of the Project, the City will notify the County in writing of project completion and the Board of County Commissioners shall take formal action to accept operation and maintenance responsibility of the park by amendment to the Parks Interlocal, with the possible exception of improvements constructed that deviate from the construction plans approved by the County.
- h. The City is required to provide the County a transfer-to-operations package which includes record drawings, certifications for completion and any necessary locks and keys. Also, at final completion the City should coordinate with the County for a final walk thru prior to acceptance.

7. The City agrees to provide County Finance staff with bi-annual progress reports identifying the Project timeline and costs expended and budgeted for the Project.

8. All costs, records and accounts may be subject to audit by a representative of the County upon the effective date of this agreement until three (3) years after final closeout of the Project. No separate records will be required to be kept by the City unless required by regulatory requirements.

9. This Agreement shall continue in effect and be binding on the parties until the Project is completed and the County has issued a letter of acceptance and accepted operation and maintenance responsibility for the park.

10. This Agreement is solely for the benefit of the parties, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party. Nothing in this Agreement either expressed or implied is intended or shall be construed to confer upon or give any contractor, bidder, or other vendor, or any of their officers or employees, or any other person, corporation or governmental entity other than the parties themselves, any right, remedy, or claim under or by reason of this Agreement.

11. The parties are insured or self-insured for all liability claims and related expenses pursuant to the provisions of Florida Statute 768.28. The parties' interests, as they may appear, will be protected under the provisions of Florida Statute 768.28 and nothing herein shall be construed as any waiver of sovereign immunity

12. The City agrees to require any contractors or consultants hired to provide services in the development of the Legacy Park to indemnify Sarasota County, all of its agents, officers and employees from any claim, loss, damage, cost, charge as a result of any act, error or omission on the part of said contractor or consultant in providing services in the design and construction of the Legacy Park. Additionally, the City agrees to require such contractors or consultants to name Sarasota County as an additional insured on any required general liability insurance.

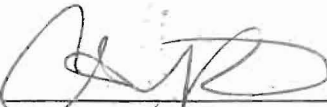
13. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

14. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both parties.

Approved this 10 day of July 2012, as to the County.

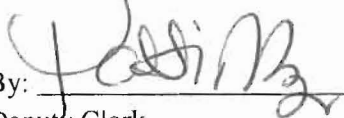
"County"

SARASOTA COUNTY, a political
subdivision of the State of Florida

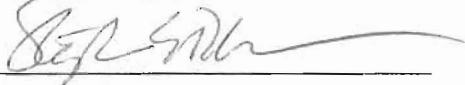
By: 
Chair

ATTEST:

KAREN E. RUSHING, Clerk of the Circuit Court
Ex-Officio Clerk of the Board of County
Commissioners, Sarasota County, Florida

By: 
Deputy Clerk

Approved as to form and correctness:

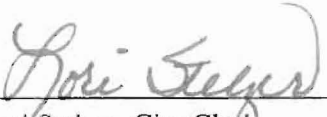
By: 
County Attorney *KAS*

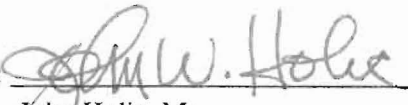
City of Venice

The City of Venice, Florida, a municipal corporation of the State of Florida, acting by and through its City Council, with a quorum present and voting, did approve this Agreement on the 24th day of July, 2012.

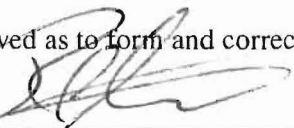
ATTEST:

CITY OF VENICE

By: 
Lori Stelzer, City Clerk

By: 
John Holic, Mayor

Approved as to form and correctness:

By: 
Robert Anderson, City Attorney