

CONTRACT NO. 2015-176

BCC APPROVED 3-31-15

LOCALLY FUNDED AGREEMENT  
FOR USE OF PARK IMPACT FEES  
BETWEEN  
SARASOTA COUNTY, FLORIDA,  
AND THE  
CITY OF VENICE  
FOR  
CONSTRUCTION OF 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 a lump sum amount to construct park amenities such as picnic pavilions, kayak launch, multi-use trails, observation deck, playground, restroom facilities, parking and native landscape at Legacy Park as shown on the plans prepared by DMK Associates dated March 20, 2015 ("the Project").

WHEREAS, the County in its Fiscal Year 2015 - 2019 Capital Improvement Program has included the Legacy Park (referred to as "CIP Project No. 93046") which includes design, permitting and construction of the park.

WHEREAS, the County and City entered into the Locally Funded Agreement between the City of Venice and Sarasota County, Contract No. 2012-434, for the design, permitting and construction of improvements to the Legacy Park in accordance with the Legacy Park Management Plan; and

WHEREAS, the County and City entered into the Park Impact Fee Interlocal Agreement between the City of Venice and Sarasota County, Contract No. 90-447, for the purpose of developing park facility projects within Sarasota County and the City of Venice that is equitable and further outlines procedures for collecting and managing these park impact fees; and

WHEREAS, funds collected pursuant to the above referenced Park Impact Fee Interlocal Agreement in the amount of one million eight hundred forty two thousand, four hundred seventy five Dollars (\$1,842,475.00) are programmed for the Project in CIP Project No. 94682; and

WHEREAS, the Project is a new park and will increase the capacity of the County's park system; and

WHEREAS, the City seeks to manage the construction of the Project, and use said funds available in CIP Project No. 94682; and

WHEREAS, the City shall follow the County's Land Development Regulation standards for the Project and shall coordinate with the County through the design and construction of the Project; and

WHEREAS, following the completion of the Project, Legacy Park shall be a County-operated and maintained park; and

WHEREAS, the County and the City desire to enter into this Locally Funded Agreement to set forth the terms and conditions upon which County shall provide funding to the City for the Project.

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 six thousand Dollars (\$806,000.00) within thirty (30) 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. Failure of the County to timely deposit said Lump Sum Deposit shall cause this Agreement to be void.

4. The Lump Sum Deposit shall be used by the City solely for the completion of the Project and shall be encumbered in the form of an executed construction contract within ninety (90) calendar days of the execution of this Agreement and the Project must be completed by September 30, 2016 unless a written notice of project extension is provided to the County prior to that date. The Director of Sarasota County Parks, Recreation and Natural Resources is authorized to approve extensions.

5. The City acknowledges that the Lump Sum Deposit funds shall be spent solely on the Project consistent with Chapter 70, Article V, Section 70-180 of the Sarasota County Code and the approved Legacy Park Management Plan. Furthermore, the Lump Sum Deposit shall be expended only on reasonable and customary costs associated with park construction.

6. If the final park impact fee eligible Project costs are less than the Lump Sum Deposit, the City will refund the amount by which the Lump Sum Deposit exceeds those costs if such refund is requested by the County in writing unless the County approves transfer to another eligible project. However, 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.

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

- a) Prior to the City's issuance of a notice to proceed with construction, any construction plans for the Project must be approved by the Director of Parks, Recreation and Natural Resources and the Director of Public Works 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.
- b) Any modifications to the plans after award of the construction contract also must be approved in advance by Director of Parks, Recreation and Natural Resources and the Director of Public Works.
- c) The County shall have ten (10) business days from receipt to comment on or request any changes or request additional information regarding the plans.
- d) The construction contract shall provide that the construction contract shall be terminated without penalty if the County does not approve the construction plans.
- e) 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.
- f) Upon completion of the Project, the City will notify the County Administrator in writing of project completion. Upon County inspection and approval of the construction as conforming to the Project plans, 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.
- g) 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.

8. The City agrees to provide County Finance staff and the Director of Parks, Recreation and Natural Resources with quarterly progress reports identifying the Project timeline and costs expended and budgeted for the Project.

9. All costs, records and accounts may be subject to audit by a representative of the County within 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.

10. 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.

11. 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 express 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.

12. To the extent provided by Florida Statute 768.28, the City shall indemnify, defend, and hold harmless the County and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense for any act, error or omission as a direct cause of any negligent act by the City, its agents or its employees during the performance of this Agreement, except that neither the City or its agents or its employees will be liable under this Agreement for any claim, loss, damage, cost, charge or expense arising out of any act, error, omission or negligence by the County or any of its officers, agents or employees during the performance of this Agreement.

13. 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.

14. The City agrees to require any contractors hired to provide services in the construction 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 Legacy Park. Additionally, the City agrees to require such contractors to name Sarasota County as an additional insured on any required general liability insurance.

14. 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.

15. 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 31 day of March 2015, as to the County.

"County"  
SARASOTA COUNTY, a political  
subdivision of the State of Florida  
By the:  
BOARD OF COUNTY COMMISSIONERS  
OF SARASOTA COUNTY, FLORIDA

By: Candyn J. Mason  
Chair

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

By: [Signature]  
Deputy Clerk

Approved as to form and correctness:

By: [Signature]  
County Attorney LS

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 24<sup>th</sup> day of March, 2015.

ATTEST:

CITY OF VENICE

By:

Lori Stelzer  
Lori Stelzer, City Clerk

By:

John W. Holic  
John Holic, Mayor

Approved as to form and correctness:

By:

Roy Orr for  
David Persson, City Attorney

Approved By City Council

Date: March 24, 2015