

LOCALLY FUNDED AGREEMENT
FOR USE OF PARK IMPACT FEES
BETWEEN
SARASOTA COUNTY, FLORIDA,
AND THE
CITY OF VENICE
FOR
DESIGN AND CONSTRUCTION OF THE NEW PUBLIC PARK IN NORTHEAST VENICE

This Locally Funded Agreement for the Design and Construction of the New Public Park in Northeast Venice (“Agreement”) is made and entered into as of the date of execution by both parties, by and 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") (collectively the City and the County shall be referred to as the “Parties”).

WITNESSETH

WHEREAS, the County and City entered into a Park Impact Fee Interlocal Agreement, County Contract No. 90-447, under which the City collects County-imposed park impact fees from new residential development within the City (“County Park Impact Fees”); and

WHEREAS, under the terms of Contract No. 90-447, the County Park Impact Fees collected by the City must be used exclusively for developing park facility projects within the City of Venice Park Facility Service District or an abutting Service District; and

WHEREAS, the City owns the property located at 3560 Laurel Road, Venice, which contains land for the future public park in northeast Venice; and

WHEREAS, based on cooperative planning discussions, on August 18, 2022, the City has requested the use of County Park Impact Fees collected within the City of Venice Park Facility Service District for the design and construction at the future public park in northeast Venice including potential amenities such as a public restroom, parking area, walking trails, open natural space, children’s playground, pickleball courts, dog park, and other passive recreation improvements, as funding allows (the “Project”); and

WHEREAS, the City has requested Two Million, Seven Hundred Fifty Thousand and 00/100 Dollars (\$2,750,000.00) for the Project in the FY2023-2027 Capital Improvement Program as Project 93114, and County Park Impact Fees are presently available for the Project; and

WHEREAS, the City has assured the County that the Project will be completed by September 30, 2025; and

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

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the County and City agree as follows:

1. The above recitals are true and correct and incorporated herein by reference.
2. Subject to the terms and conditions of this Agreement, the County agrees that it will furnish the City with an aggregate sum deposit (the “Lump Sum Deposit”) in the amount of Two Million Seven Hundred Fifty Thousand and 00/100 Dollars (\$2,750,000.00) within sixty (60) calendar days of the execution of this Agreement.
3. Failure of the County to timely provide said Lump Sum Deposit shall cause this Agreement to be void.
4. The City acknowledges and agrees that the Lump Sum Deposit provided by the County shall be spent only on the design and construction of the Project.
5. In the event that the final Project costs are less than the Lump Sum Deposit, the City shall 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. Nothing in this Agreement shall be construed to require the County to commit any additional funding to this Project. Further, nothing in this Agreement shall be construed as to prevent the City from requesting additional funding from County Park Impact fees in the future for the Project.
6. The City agrees to provide the County with quarterly progress reports identifying the Project timeline and costs expended and budgeted for the Project.
7. 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 otherwise required by regulatory requirements. This section will survive termination of this Agreement.
8. *Dispute Resolution.* In the event of a dispute between the City and County under this Agreement, the City Manager and the County Administrator or their designated representatives shall review such dispute and options for resolution. Any dispute not resolved by the representatives shall be referred to the City Manager and the County Administrator. The mutual decision of the City Manager and County Administrator regarding the dispute shall be final. In the event the City Manager and County Administrator are unable to agree, the matter shall be referred to the respective Commission/Council who may jointly elect to hold a joint meeting to resolve the matter. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.
9. This Agreement shall continue in effect and be binding on the Parties until the Project is completed.

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 City shall hold the County harmless, defend the County, and, to the express limits of Section 768.28, Florida Statutes, shall indemnify the County and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error or omission by the City, its agents or its employees during the performance of this Agreement. However, nothing in the foregoing shall be construed to require the City to indemnify the County for any claim, loss, damage, cost, charge or expense that results from the negligence of the County or any of its officers, agents, or employees during the performance of this Agreement. It is expressly noted and agreed that the County is providing funding under this Agreement toward the Project but is not in any way responsible for the quality, safety, or suitability of the Project. Nothing contained herein shall be deemed to constitute any waiver of either Party's sovereign immunity beyond the waiver provided in Section 768.28, *Florida Statutes*.

12. The City agrees to require any contractors or consultants performing any services for the Project after the effective date of this Agreement to indemnify the 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 for the Project. Additionally, the City agrees to require such contractors or consultants name the County as an additional insured on any required general liability insurance.

13. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party.

14. This Agreement constitutes the sole and complete understanding between the Parties and supersedes all other contracts between them, whether oral or written with respect to the subject matter. No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both Parties and incorporated into this Agreement.

15. The language of this Agreement shall be construed, in all cases, according to its fair meaning and not for or against any Party hereto.

16. The exercise by either Party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.

17. The Parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.

18. The rights and remedies of the Parties provided for under this Agreement are in addition to any other rights and remedies provided by law.

19. The City and County hereby expressly agree that in the event of litigation regarding this Agreement, any and all rights to a jury trial are waived.

20. Any notices of default or termination shall be sufficient if sent by the parties via United States certified mail, postage paid, or via a nationally recognized delivery service, to the addresses listed below:

City's Representative:

Name: Kathleen Weeden
Title: City Engineer
Address: 401 W. Venice Ave.
Venice, FL 34285
Telephone: 941-882-7409
Email: kweeden@venicefl.gov

County's Representative:

Name: Nicole Rissler
Title: Director, Parks, Recreation and
Natural Resources
Address: 1660 Ringling Blvd., 5th Fl.
Sarasota, FL 34236
Telephone: 941-861-5483
Email: nrissler@scgov.net

Any change in representatives will be promptly communicated by the party making the change.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last below written this ____ day of _____, 2022.

SARASOTA COUNTY

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FL

By: _____
Chairman

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

City of Venice

The City of Venice, Florida, a municipal corporation of the State of Florida, acting by and through its City Commission, with a quorum present and voting, did approve this Agreement on the ____ day of _____, 2022.

CITY OF VENICE

By: _____
Ron Feinsod, Mayor

ATTEST:

By: _____
Kelly Michaels, City Clerk

Approved as to form and correctness:

By: _____
Kelly Fernandez, City Attorney