

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: Carolyn J. Mayo

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

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.

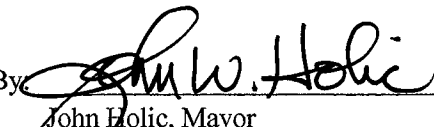
ATTEST:

CITY OF VENICE

By:

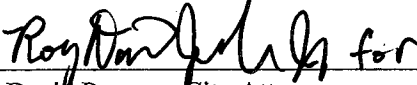
  
Lori Stelzer, City Clerk

By:

  
John Holic, Mayor

Approved as to form and correctness:

By:

  
David Persson, City Attorney

Approved By City Council

Date: March 24, 2015

FIRST AMENDMENT  
TO  
LOCALLY FUNDED AGREEMENT  
FOR USE OF PARK IMPACT FEES  
BETWEEN SARASOTA COUNTY, FLORIDA,  
AND THE  
CITY OF VENICE  
FOR CONSTRUCTION OF LEGACY PARK

FILED FOR THE RECORDS  
2016 APR 28 PM 2:24  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FL

This First Amendment to the Locally Funded Agreement for Use of Park Impact Fees for Construction of Legacy Park, Contract 2015-176 (the "Agreement"), is made and entered into as of the date of execution by both Sarasota County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the "County") and the City of Venice, a municipal corporation of the State of Florida (hereinafter referred to as the "City") (collectively the City and the County shall be referred to as the "Parties").

WITNESSETH

WHEREAS, the County has included improvements to the Legacy Park (referred to as "CIP Project No. 93046") in its Fiscal Year 2016 - 2020 Capital Improvement Program; and

WHEREAS, the County has already provided the City with an aggregate amount of One Million Six Hundred Eighty-Six Thousand and 00/100 Dollars (\$1,686,000.00) toward the completion of the Legacy Park improvements pursuant to two Locally Funded Agreements between the County and the City, respectively Contracts No. 2012-434 and 2015-176; and

WHEREAS, said funding was insufficient for the City to fully complete the improvements to the Legacy Park; and

WHEREAS, the City utilized City funds rather than County-provided funds to provide additional landscaping and permanent irrigation in accordance with a plan that was mutually developed between the respective City and County staffs; and

WHEREAS, the City has requested and the County hereby agrees, subject to the terms and conditions set forth herein, to amend the Agreement to provide the City with an additional Forty-Six Thousand Seven Hundred Twenty-One and 00/100 Dollars (\$46,721.00) in park impact fees collected within the City of Venice Park Facility Service District toward the costs incurred by the City for additional landscaping and permanent irrigation at Legacy Park; and

WHEREAS, the additional landscaping and permanent irrigation have been completed and are a necessary component of the Legacy Park Project that will increase the capacity of the park system throughout Sarasota County; and

WHEREAS, the County is now operating and maintaining the Legacy Park.

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. Section 1 of the Agreement is hereby amended to add an additional paragraph that increases the funding as follows:

In addition to the funding provided above and subject to the terms and conditions set forth herein, the County agrees that it will furnish the City with an additional lump sum deposit (the "Lump Sum Deposit") in the amount of Forty-Six Thousand Seven Hundred Twenty-One and 00/100 Dollars (\$46,721.00) within thirty (30) calendar days of the full execution of this First Amendment to the Agreement ("First Amendment").

3. Except as specifically modified herein, all other terms and conditions set forth in the original Agreement shall remain in full force and effect.

4. Nothing in this First Amendment shall be construed to require the County to commit any additional funding to this Project.

5. **Dispute Resolution.** In the event of a dispute between the City and County under this First Amendment, 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 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 Commissions to be resolved in a joint meeting. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

6. This First Amendment 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 First Amendment 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 First Amendment.



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

8. Any notices provided under the terms of this First Amendment 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 Avenue  
Venice, FL 34285

Telephone: 941-882-7409

E-mail: kweeden@venicegov.com

County's Representative:

Name: Carolyn Brown

Title: Director

Address: 1660 Ringling Blvd.,  
5th Floor  
Sarasota, FL 34236

Telephone: 941-861-5483

E-Mail: cnbrown@scgov.net

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

[REMAINDER OF PAGE INTENTIONALLY BLANK.]

**IN WITNESS WHEREOF**, the parties have executed this First Amendment as of the date last below written.

Approved this 27<sup>th</sup> day of April 2016, as to the County.

SARASOTA COUNTY

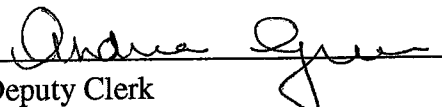
BOARD OF COUNTY COMMISSIONERS  
OF SARASOTA COUNTY, FL

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 Council, with a quorum present and voting, did approve this First Amendment on the 20<sup>th</sup> day of April, 2016.

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: David Persson for  
David Persson, City Attorney

Approved By City Council

Date: 4/26/16