

7/2/90

CONTRACT NO. 90-447

BCC APPROVED 6-26-90

PARK IMPACT FEE INTERLOCAL AGREEMENT

851.B

THIS AGREEMENT is made this 26th day of June, 1990, by and between the CITY OF VENICE, (Venice), a Florida Municipal Corporation, and SARASOTA COUNTY (County), a Political Subdivision of the State of Florida and a Home Rule Charter County.

W I T N E S S E T H:

WHEREAS, the County adopted Ordinance No. 89-99 on September 21, 1989, effective at 4:20 p.m. on September 22, 1989, which Ordinance imposes park impact fees on new development in Sarasota County immediately in the designated Unincorporated Area Park Facility Service Districts and upon adoption of a Resolution by the City Council of the applicable municipality in each of the designated Municipal Park Facility Service Districts.

WHEREAS, said Resolution shall declare the intent of the City Council to be subject to the park impact fees imposed by County Ordinance No. 89-99.

WHEREAS, as part of that certain Stipulated Agreement For Entry of Order Settling The Dual Taxation Dispute Between The City of Venice and Sarasota County, Venice agreed to adopt a Resolution consenting to the imposition of park impact fees provided that Venice and the County could reach an agreement on certain issues.

WHEREAS, Venice and the County now wish to set forth the terms and conditions of their agreement with respect to the park impact fees.

WHEREAS, Venice and the County are acting pursuant to the authority contained in their respective charters, general law and Section 163.01, Florida Statutes (1987).

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein, Venice and the County agree as follows:

1. Resolution. The Venice City Council shall adopt a Resolution in substantially the same form as Exhibit "A" attached hereto and incorporated herein by reference, within thirty (30) days of the effective date of this Agreement, but not later than the _____ day of _____, 1990.
2. Notification to County. Upon the adoption of such Resolution, the City Council shall forward same immediately to the Board of County Commissioners.

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3. Designation of City Council As Facility Service District Advisory Committee. Not sooner than thirty (30) days after the adoption of such Resolution by the City Council of Venice, the Board of County Commissioners shall adopt a Resolution in substantially the same form as Exhibit "B," attached hereto and incorporated herein by reference, designating the City Council of Venice as a Facility Service District Advisory Committee and imposing the impact fees and service charges pursuant to Ordinance No. 89-99 within the City of Venice Park Facility Service District.

4. District Boundaries.

a. The boundaries of the Venice Park Facility Service District shall be as shown on the Maps dated August 31, 1989 and titled Park Facility Service District Boundaries which are on file in the Office of the County Clerk.

b. Upon the annexation of any unincorporated County land by the City Council of Venice, the City shall forward the Annexation Ordinance immediately to the County. The Board of County Commissioners shall, by appropriate ordinance, amend the Maps herein referenced to reflect the new boundaries of the City of Venice Park Facility Service District.

c. From and after the effective date of the Ordinance adopted by the Board of County Commissioners amending the Maps, all applications for certificates of occupancy for residential development in the affected area shall be submitted to and approved by the City of Venice. Applications for certificates of occupancy submitted to the County prior to the effective date of the Ordinance adopted by the Board of County Commissioners amending the Maps shall be submitted to and approved by the County.

d. If an application for a building permit has been submitted to and accepted by the County prior to the effective date of Ordinance No. 89-99 in the annexed area, a subsequent application for the corresponding certificate of occupancy shall be subject to payment of the applicable impact fee if the application is made after the effective date of the County ordinance amending the Maps or, to payment of the park assessment pursuant to County Ordinance No. 83-24, as amended, if the application for certificate of occupancy is made prior to the effective date of the County ordinance amending the Maps.

5. Calculation and Collection of Impact Fees and Service Charges.

a. Impact fees and service charges calculated and imposed pursuant to County Ordinance No. 89-99 shall be collected by the Venice official authorized to issue certificates of occupancy within the City of Venice Park Facility Service District.

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b. Venice shall collect the park impact fees and service charges determined to be due prior to issuance of a certificate of occupancy for the subject residential development, except as provided in Section 15 of Ordinance No. 89-99 regarding the filing of a bond or other sufficient surety upon an appeal.

c. City staff shall be designated to calculate the park impact fee due for all principal residential uses listed in Section 9(b) of Ordinance No. 89-99.

d. Service charges shall be as determined by County Resolution No. 89-374 adopted by the Board of County Commissioners on September 21, 1989 and, as may from time to time be amended. Any amendments to a service charge shall be based upon and shall reflect actual costs of administering the impact fee system, as documented by the County Administrator with respect to the County portion of the service charges, and as documented by the Facility Service District Advisory Committee with respect to the City portion of the service charges. Service charges are in addition to the applicable impact fee.

e. The service charge is in addition to and shall be paid separately from the impact fee, but, shall be payable at the time of certificate of occupancy issuance.

f. The service charge shall be for the sole purpose of defraying expenses associated with the establishment, amendment and annual updates of the impact fee ordinance and for expenses associated with the certificate of occupancy and financial administration of the impact fee ordinance.

g. The service charge shall be allocated between the City and the County in accordance with Section 11 of Ordinance No. 89-99 and County Resolution No. 89-374, and as they may from time to time be amended.

h. Notwithstanding Sections 5(d) and 5(g) above, neither shall the amount of the service charge payable to the City of Venice be reduced nor shall the allocation of the service charge between the City of Venice and the County be changed without the prior written consent of the City of Venice.

6. Transfer of Funds.

a. All impact fee funds and service charges collected by Venice shall be properly identified as City of Venice Park Facility Service District funds and, with the exception of the 1% of the Service Charge to defray City administrative expenses, shall be transferred from the City to the County once each month by wire transfer on the last working day of the month beginning with April 30, 1990.

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b. Impact fees received by the County from the City shall be placed in the City of Venice Park Facility Service District Fund, which shall be an interest-bearing account. Interest earned in such Fund shall be used solely for park facility projects pursuant to Ordinance No. 89-99.

c. Service charges received by the County from the City shall be allocated pursuant to County Resolution No. 89-374 as follows: 1% to Venice to defray administrative expenses; 1% to the County Finance Department; and one quarter percent (1/4%) to the General Revenue Fund of the Board of County Commissioners.

d. Service charges received by the County shall be deposited to the appropriate County funds within five (5) working days of receipt. Service charges retained by the City shall be deposited to the appropriate City fund within five (5) working days of receipt.

7. Accounting of Funds.

a. The County Finance Department shall maintain the records of the City of Venice Park Facility Service District Fund.

b. The County Finance Department shall provide quarterly financial reports to the City Finance Department, which reports shall include a year-to-date Trial Balance, a Revenue Comparison Report (year-to-date versus estimated fiscal year) and a Statement of Encumbrances and Expenditures versus Appropriations (year-to-date).

8. Use of Impact Fee Funds.

a. Park impact fees collected from the City of Venice Park Facility Service District shall be used exclusively for developing park facility projects within such District or, subject to subsection (b) herein, in a Park Facility Service District abutting the City of Venice Park Facility Service District.

b. If the County intends to utilize park impact fees collected from the City of Venice Park Facility Service District in an abutting District, the County shall first notify the Venice Facility Service District Advisory Committee of their intention. Any evidence and supporting data compiled by the County shall be made available to the Advisory Committee not less than two (2) weeks before the Board of County Commissioners is scheduled to consider such matter. The Advisory Committee shall be notified with the date, time and place of Board consideration and shall be requested to comment thereon.

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c. In no event shall the Board utilize impact fee funds collected from the City of Venice Park Facility Service District in an abutting District without making the findings set forth in Section 10(d)(4) of Ordinance No. 89-99.

d. Park facility projects shall be scheduled and prioritized in accordance with the County Capital Improvements Program and Annual Budget, as adopted by the Board of County Commissioners. Changes to the scheduling and prioritization of park facility projects may be incorporated in the Annual Report and provided to the Advisory Committee as set forth in Section 10 of this Agreement. If the scheduling and prioritization of projects in the City of Venice Park Facility Service District or in an abutting District is proposed to be changed at a time other than in the Annual Report, the Advisory Committee shall be notified of such proposed change and the date, time and place of the Board of County Commissioners' consideration of such change. The Advisory Committee shall be requested to comment on such proposed change.

9. Refunds, Credits and Appeals. Applications for refunds, credits and appeals shall be made to the County pursuant to Sections 12, 13 and 15, respectively of Ordinance No. 89-99.

10. Annual Report. The Annual Report required pursuant to Section 14 of Ordinance No. 89-99 shall be made available to the Advisory Committee when incorporated as a supplement to the County Administrator's proposed budget and submitted to the Board of County Commissioners.

11. Administration. Ordinance No. 89-99 shall be administered and interpreted by the County pursuant to an adopted Sarasota County Government Administrative Directive.

12. Amendments.

a. Ordinance No. 89-99 may be amended based on the recommendations of the Annual Report or at such other times as the Board deems necessary.

b. Not less than two (2) weeks prior to the consideration of any amendment to Ordinance No. 89-99 or the schedule of impact fees therein by the Board of County Commissioners, the County shall submit such proposed amendment to the Advisory Committee for review and comment. The Advisory Committee shall be notified of the date, time and place of the public hearing at which such proposed amendment will be considered and shall be invited to comment thereon.

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c. If the proposed amendment will change the schedule of impact fees as set forth in Section 9(b) of Ordinance No. 89-99, the County shall notice, schedule and hold a public hearing within the Venice city limits prior to the adoption of any such amendment by the Board of County Commissioners.

13. Indemnity. The County shall indemnify, defend and hold harmless Venice, its officers, agents and employees from and against all liability, claims, suits, costs and attorney fees in any manner resulting from, arising out of, or in any way connected with County Ordinance No. 89-99 or any future amendments or successors thereto, unless caused by the sole negligence of the City or its officers, agents or employees.

14. Duty to Defend. Venice shall promptly notify the County of all claims or suits within the scope of Section 13. The County shall defend all such claims at the sole cost and expense of the County unless it is determined that the claim or liability is based upon the sole negligence or breach of this Agreement by Venice or its officers, agents or employees.

15. Duration.

a. This Agreement shall remain in full force and effect unless terminated by the parties hereto pursuant to the procedure set forth herein.

b. Either party intending to terminate this Interlocal Agreement shall declare its intention to do so at a public meeting of the Governing Body, stating with particularity the reasons therefor.

c. The Declaration of Intention to Terminate shall be forwarded to the other party.

d. Not less than thirty (30) day after receipt of the Declaration of Intention to Terminate, the Board of County Commissioners shall schedule and hold a public hearing on the matter.

e. Not less than fourteen (14) days prior to the date set for the public hearing, the City shall be given notice of the date, time and place of the public hearing and shall be invited to appear and make a presentation to the Board of County Commissioners.

f. The Board of County Commissioners shall hear evidence and testimony regarding the proposal to terminate, the effect thereof on the Capital Improvements Program and the provision of County parks in the City of Venice Park Facility Service District, the funds collected and expended to date in such District, the status of park facility projects in such District and other relevant information.

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g. After the close of the public hearing, the Board of County Commissioners shall make Findings with respect to the evidence and testimony given and shall make a recommendation regarding termination of the Interlocal Agreement, which recommendation shall be provided to the Advisory Committee.

h. If the recommendation is to permit termination, the Board shall specify how the remaining funds in the City of Venice Park Facility Service District Fund shall be disbursed.

i. If the recommendation is to deny termination, the Board shall specify the reasons therefor.

j. The recommendation of the Board of County Commissioners shall be provided to the Advisory Committee, who shall schedule and hold a public hearing not sooner than thirty (30) days following receipt of the recommendation.

k. If, after the close of the public hearing, the Advisory Committee recommends termination, the Interlocal Agreement shall be terminated effective on the next succeeding September 30th and the Board of County Commissioners shall modify the County Annual Budget and Capital Improvements Program to reflect the termination of the District and the modification of park facility projects therein.

16. Effective Date. This Agreement shall be effective as of the date it has been signed by both parties hereto.

IN WITNESS WHEREOF, the CITY OF VENICE, FLORIDA, has caused this Agreement to be executed by its Mayor and affixed its official seal, attested to by its Clerk, pursuant to the authorization of the Venice City Council, and SARASOTA COUNTY, FLORIDA, has caused this Agreement to be executed by its Chairman and affixed its official seal, attested to by its Clerk, pursuant to the authorization of its Board of County Commissioners, on the day and year indicated below.

CITY OF VENICE, FLORIDA

ATTEST:

B. J. Simonski
City Clerk

By: Barry E. Case

Mayor

Dated:

APPROVED AS TO FORM AND EXECUTION:

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CLERK OF COUNTY COURT
SARASOTA COUNTY, FL

Wayne C Hall
Attorney for the City of Venice

SARASOTA COUNTY, FLORIDA

ATTEST:

John A. Shum, Deputy Clerk
Clerk

By: Jim Greenwald
Chairman

APPROVED AS TO FORM AND EXECUTION:

Brenda L. Valle
Attorney for Sarasota County
Board of County Commissioners

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CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

RESOLUTION NO. 1022-90

A RESOLUTION OF THE VENICE CITY COUNCIL DECLARING ITS INTENTION TO BE SUBJECT TO THE IMPOSITION OF SARASOTA COUNTY PARK IMPACT FEES WITHIN THE CITY OF VENICE.

WHEREAS, Sarasota County (hereafter referred to as County) adopted Ordinance No. 89-99 which imposes park impact fees within the City limits of Venice upon adoption by the Venice City Council of a Resolution declaring its intent to be subject to the park impact fees.

WHEREAS, the County and the City of Venice have entered into a Park Impact Fee Interlocal Agreement, attached hereto and incorporated herein by reference, which specifies certain rights and responsibilities of the City and the County with respect to the application, imposition, calculation, collection, use and administration of park impact fees collected within the City of Venice.

WHEREAS, the Venice City Council has determined that the collection of County park impact fees within the City of Venice is in the best interest of the citizens and residents of Venice in order to provide a fair and equitable method of generating funds to improve County parks that will be impacted by new development in the City and, therefore, that such impact fees will be of real and substantial benefit to such new development and to the citizens and residents of the City of Venice.

WHEREAS, the Venice City Council desires to declare its intent that County park impact fees be collected within the City of Venice pursuant to the Interlocal Agreement and the terms and conditions set forth herein.

NOW, THEREFORE, be it resolved by the City Council of the City of Venice, Florida, as follows:

1. The Venice City Council hereby declares its intention to be subject to the imposition of County park impact fees within the City of Venice as set forth in County Ordinance No. 89-99 and any amendments or successors thereto.

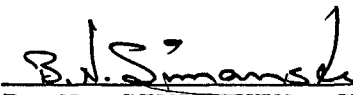
2. This Resolution shall take effect on the 10th day of August, 1990.

3. The Venice City Council reserves the right to amend or repeal this Resolution in accordance with the procedure specified in the Interlocal Agreement.

APPROVED AND ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 10TH DAY OF JULY, 1990.

I, BERNARD N. SIMANSKEY, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of a Resolution duly adopted by the City Council of said City at a meeting thereof duly convened and held on the 10th day of July, 1990, a quorum being present.

WITNESS my hand and the official seal of said City this 13th day of July, 1990.


B. N. SIMANSKEY, CMC
City Clerk

(S E A L)