

## Monica Luff

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**From:** William Clague  
**Sent:** Monday, July 01, 2019 3:26 PM  
**To:** Monica Luff  
**Cc:** Mitchell Palmer; Alex Nicodemi; Elliott Falcione; Juliet Shepard  
**Subject:** Amendment to Anna Maria City Pier Agreement and Tourist Development Plan; RLS-2019-0271  
**Attachments:** AMI Pier ILA Amend 1 - 2019 (CAO Comments).doc; 2019 TDP Amendment Ordinance (CAO Comments).doc

Monica:

Pursuant to the above Request for Legal Services you have asked this Office to review (1) a draft amendment to the interlocal agreement between the County and the City of Anna Maria to increase the County's funding of a portion of the costs of improvements to the Anna Maria Pier, and (2) a draft ordinance amending the County's Tourist Development Plan to increase the funding for such improvements. I provide the following in response:

1. Attached are redlined revisions of the draft amendment and ordinance reflecting my suggested changes.
2. In order to assure that the amendment is as clear as possible with respect to the financial relationship between the City and the County, I have revised it to restate Sections 2.2 and 2.3 with underline and strike-through. Note that I have also requested that you insert the deadline for project permits, as I do not have the final version of the interlocal agreement on my system.
3. I have provided an ordinance number for the ordinance, and made a few minor changes for clarification. Note that I have also included a comment asking that you update Section A of the tourist development plan. I realize this is additional work, but it is a statutory requirement.

Subject to the inclusion of my suggested changes, I have no objection from a legal standpoint to the amendment or the ordinance being scheduled for consideration by the Board. I express no opinion as to the policy or business decision to approve the amendment or the ordinance.

This concludes my response to the RLS. Please let me know if you have any questions or concerns.

William Clague, Chief Assistant County Attorney  
Manatee County Attorney's Office  
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Bradenton, FL 34205  
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**ORDINANCE NO. 19-35**

**AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING PUBLIC FINANCE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING SECTION 2-29-27 OF THE MANATEE COUNTY CODE OF ORDINANCES TO AMEND THE COUNTY'S TOURIST DEVELOPMENT PLAN TO AUTHORIZE THE USE OF TOURIST DEVELOPMENT TAX PROCEEDS TO FUND CAPITAL IMPROVEMENTS TO THE ANNA MARIA CITY PIER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article VII of the Constitution of the State of Florida and Section 125.0104, Florida Statutes (collectively, the "Act") authorize the County to levy and collect a tourist development tax for the purpose of promoting tourism and paying the cost of construction and/or operation and maintenance of certain capital facilities, and other public uses related to the promotion of tourism; and

**WHEREAS**, Article II of Chapter 2-29 of the Manatee County Code of Ordinances (the "Code"), provides for the County to levy and collect a tourist development tax for such purposes; and

**WHEREAS**, the Act provides that the County's Tourist Development Plan may not be substantially amended except by an Ordinance of Manatee County, enacted by an affirmative vote of the majority, plus one (1) additional member of the Board of County Commissioners.

**BE IT ORDAINED** by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set forth in, the Act.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. The findings contained in the recitals above are true and correct.
2. The powers conferred by this Ordinance are for public uses and purposes for which public money may be expended, and are hereby declared as a matter of legislative determination to be necessary for the public health, safety and welfare, and specifically for the promotion of tourism within the County.

3. Article II of Chapter 2-29 of the Code sets forth procedures for the levy and collection of the tourist development tax.
4. It is in the interest of the public health, safety and welfare to amend Section 2-29-27 of the Code as set forth in this Ordinance, to amend the County's Tourist Development Plan to authorize the uses of tourist development tax proceeds described herein.
5. On June 17, 2019, the Manatee County Tourist Development Council reviewed and, by majority vote, recommended adoption of the changes to the County's Tourist Development Plan set forth herein.
6. On \_\_\_\_\_, 2019, the Board of County Commissioners, by a vote of at least a majority plus one, adopted this Ordinance amending Section 2-29-27 of the Code, providing for the amendment to the County's Tourist Development Plan set forth herein.

Section 3. Amendment of Section 2-29-27 of the Code. Section 2-29-27 of the Code is hereby amended as set forth in Exhibit "A" to this Ordinance.

Section 4. Codification. The publisher of the County's Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 3 of this Ordinance into the Code.

Section 5. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective as provided by law.

[Signature Page to Follow]

**PASSED AND DULY ADOPTED**, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the \_\_\_ day of \_\_\_\_\_, 2019.

**BOARD OF COUNTY COMMISSIONERS OF  
MANATEE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chairperson

**ATTEST: ANGELINA COLONNESO  
CLERK OF THE CIRCUIT  
COURT AND COMPTROLLER**

By: \_\_\_\_\_  
Deputy Clerk

Exhibit "A"  
Amendment to Section 2-29-27  
Tourist Development Tax  
Manatee County Code of Ordinances  
(underlined text to be added, strike-through text to be deleted)

**Sec. 2-29-27. - Tourist development plan.**

All proceeds of the tax levied pursuant to sections 2-29-21 (a), (g) and (h) shall be used to fund the county's tourist development plan, which is hereby adopted and set forth as follows:

MANATEE COUNTY TOURIST DEVELOPMENT PLAN  
AMENDED AND RESTATED  
NOVEMBER, 2011

Pursuant to Section 125.0104, Florida Statutes (the "Act"), Manatee County levies its tourist development tax at the aggregate rate of five cents (\$.05) per dollar. The plan set forth below constitutes the county's tourist development plan for purposes of Section 125.0104(4)(d) of the Act.

- A. *Projected Revenues.* As of the date of the most recent amendment to the plan (November 2018), the county expects during the next two (2) fiscal years to derive a total of eleven million three hundred thirty-six thousand dollars (\$11,336,000.00) per fiscal year in proceeds of the tax. Pursuant to section 2-29-21(f), the proceeds of the third cent of the tax, expected during the next two (2) fiscal years to amount to two million eight hundred thirty four thousand dollars (\$2,834,000.00) per fiscal year, have been specifically dedicated to beach renourishment projects (inclusive of public access improvements) and are not to be used to fund other uses set forth in this Plan. The remaining tax proceeds expected during the next two (2) fiscal years to amount to eight million five hundred two thousand dollars (\$8,502,000.00) per year (hereinafter referred to as the "projected revenues") shall be used as set forth below.
- B. As required by the Act, the following is a list, in order of priority, of the uses of the available revenues from the tourist development tax, including the approximate cost or expense allocation for each specific project or special use:
- I. *Convention and Visitors Bureau.* Operation costs of the Bradenton Area Convention and Visitors Bureau, a tourism promotion agency within the meaning of the Act, which shall include but not be limited to rent, personnel, administration, and supplies, equipment, and building improvements, in an initial amount not to exceed one million two hundred thousand dollars (\$1,200,00.00) in each fiscal year.
  - II. *Advertising and Promoting Tourism.* Costs of advertising and promoting tourism within the meaning of the Act, either directly or through contractors or

subcontractors in an initial amount not to exceed three million five hundred thousand dollars (\$3,500,000.00) in each fiscal year.

- III. *Bradenton Area Convention Center.* Costs of debt service on bonds issued, and/or debt incurred, to finance the construction, reconstruction, or renovation, and costs of operation and maintenance of, and cash-funded capital outlay for, one or more publicly owned convention centers, in an initial amount not to exceed one million two hundred and fifty thousand dollars (\$1,250,000.00) in each fiscal year.
- IV. *County-Owned Beach Park Facilities—Maintenance.* Maintenance of county-owned beach park facilities not to exceed one million two hundred fifty thousand dollars (\$1,250,000.00) in each fiscal year.
- V. *City of Bradenton, Pittsburgh Pirates Spring Training Facility:* Commencing October 1, 2011 and terminating September 30, 2032, the cost of debt service on bonds issued to finance the acquisition, construction, reconstruction or renovation of a spring training facility for the Pittsburgh Pirates, a retained spring training franchise facility within the meaning of the Act, in an amount not to exceed four hundred fifty thousand dollars (\$450,000.00) in each fiscal year.
- VI. *County-Owned Beach Park Facilities—Capital Improvements.* Capital improvements to county-owned beach park facilities in an amount not to exceed two hundred thousand dollars (\$200,000.00) in each fiscal year, and a one-time expenditure for capital improvements to the parking lot in Coquina Beach Park, in an amount not to exceed five million four hundred thousand dollars (\$5,400,000.00).
- VII. *Premier Sports Campus.* One-time expenditure for acquisition of the Premier Sports Campus in Lakewood Ranch, not to exceed four million dollars (\$4,000,000.00).
- VIII. *Anna Maria City Pier.* Payment to the City of Anna Maria of a one-time capital contribution for improvements to the publicly owned Anna Maria City Pier in an amount not to exceed one million ~~five~~ nine hundred thirty five thousand dollars (~~\$1,500,000.00~~) (\$1,935,000.00).
- IX. *Florida Maritime Museum.* Payment to the Florida Maritime Museum of a one-time capital contribution for improvements to a museum owned and operated by a not-for-profit organization and open to the public, in an amount not to exceed one hundred eighty-one thousand dollars (\$181,000.00), subject to the Florida Maritime Museum providing matching funds.
- X. *South Florida Museum.* Payment to the South Florida Museum to fund the costs of care, feeding and maintenance of manatees and/or travelling exhibits

at the South Florida Museum, a museum owned and operated by a not-for-profit organization and open to the public, in an amount not to exceed thirty thousand dollars (\$30,000.00) in each fiscal year, and annual capital contributions for capital improvements to expand the museum facility, not to exceed two hundred thousand dollars (\$200,000.00) per fiscal year for five (5) years commencing on October 1, 2016, subject to the South Florida Museum providing matching funds.

- XI. *Bradenton Beach Fishing Pier.* Payment to the City of Bradenton Beach of a one-time capital contribution for cost of the remodeling, repair and improvement of the publicly owned Bradenton Beach Bridge Street Pier in an amount not to exceed one million dollars (\$1,000,000.00).
  - XII. *Florida Railroad Museum.* Payment to Florida Railroad Museum, Inc. of a one-time capital contribution for improvements to a museum owned and operated by a not-for-profit organization and open to the public, in an amount not to exceed one million five hundred thousand dollars (\$1,500,000.00), subject to Florida Railroad Museum, Inc. providing matching funds.
  - XIII. *Myakka Schoolhouse Museum.* Payment to the Myakka City Historical Society, Inc. of a one-time capital contribution for improvements to a museum owned and operated by not-for-profit organization and open to the public, in an amount not to exceed fifty thousand dollars (\$50,000.00).
  - XIV. *Emergency Marketing Fund.* Such remaining amounts as are necessary to maintain an Emergency Marketing Fund of one million dollars (\$1,000,000.00) for “Act of God” occurrences.
  - XV. *Surplus Revenues; Reserve for Contingency.* Such remaining amounts (including unspent balances carried forward from prior fiscal years) after all above priorities have been fully funded to be allocated as additional funds for the uses set forth in priorities I, II and III (over and above the initial revenue limitations set forth therein), and to fund reserves in the Tourist Development Tax Trust Fund, as the Board of County Commissioners shall determine in its fiscal discretion.
- C. The specific allocation of funds for expenditures authorized by this Plan shall be included in the County's official budget adopted prior to the commencement of each fiscal year. Changes in such amounts included in the county budget for authorized uses under this Plan shall be brought to the Tourist Development Council for review and recommendation prior to any change, which shall be authorized by the Board of County Commissioners in the manner provided by law for amending the county's budget. The allocation of Tourist Development Tax Revenues established under this Plan or any budget, resolution or action of the Board of County Commissioners shall not constitute a right, entitlement or benefit to any individual or entity but shall remain subject to the authority of the Board of County Commissioners to amend this Plan and the county's

budget. Funding authorized under this Plan shall be disbursed in accordance with such rules, procedure and such agreements as may be adopted, approved and/or authorized by the Board of County Commissioners.

- D. All uses of tourist development tax proceeds governed by this Plan shall be subject to the requirements of, and carried out in accordance with, the Act. This Amended and Restated Tourist Development Plan was approved by the Manatee County Tourist Development Council, by majority vote, on November 14, 2011, prior to adoption by ordinance by the Board of County Commissioners by a vote of at least a majority plus one, on November 21, 2011, as required by the Act. All subsequent amendments to this Amended and Restated Tourist Development Plan were approved by the Manatee County Tourist Development Council, by majority vote, prior to adoption by ordinance by the Board of County Commissioners by a vote of at least a majority plus one, as required by the Act.