

Monica Luff

From: William Clague
Sent: Monday, October 24, 2016 5:09 PM
To: Monica Luff
Cc: Mitchell Palmer; Ed Hunzeker; Dan Schlandt; Elliott Falcione; Juliet Shepard
Subject: Tourist Development Tax Ordinance Amendment; RLS-2016-0774
Attachments: Bradenton Beach Pier Dock ILA (v2).doc

Monica:

Pursuant to the above Request for Legal Services, you have asked whether it is legally necessary to amend the County's Tourist Development Plan (TDP), codified in Section 2-29-27 of the County's Code of Ordinances, to authorize the expenditure of \$125,000 of tourist development tax (TDT) proceeds for construction of a day dock on the Bridge Street Pier owned by Bradenton Beach (City). Pursuant to our response to RLS-2016-0714, provided to you by email on October 7, 2016, our office has already opined that the project is a legal use of TDT proceeds. We have also provided a draft interlocal agreement under that RLS.

This RLS indicates that the TDP presently authorizes \$1,000,000 of TDT proceeds for the Pier, under the following provision:

XII. *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). (emphasis added)

This provision was amended into the TDP in 2014. A previous interlocal agreement provided funding to the City for major structural improvements under this language. By email of today, your office informs me that the County reimbursed approximately \$832,000 of construction costs to the City under that ILA, such that \$168,000 of the original \$1,000,000 TDP remains unutilized.

From a legal standpoint, the additional \$125,000 for the day dock may be funded under the existing language in the TDP. In established public finance parlance, the term "one-time capital contribution" typically does not require that all funds be extended under a single agreement. Rather, it protects the County against claims for additional contributions over and above the authorized \$1,000,000. Too, the day dock falls within the term "improvement", included within the existing language in the TDP. For these reasons, there is no legal requirement to amend the TDP to authorize additional funds or improvements in order to fund the day dock.

For purposes of clarity and consistency, we do advise that the ILA should include a recital specifying that the day dock is part of the same overall improvements authorized in the 2014 amendment to the TDP. I have attached a revised version of the ILA that includes this change.

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

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