

**INTERLOCAL AGREEMENT
RELATING TO THE COLLECTION OF
EDUCATIONAL FACILITIES IMPACT FEES**

CITY OF PALMETTO, FLORIDA
MANATEE COUNTY, FLORIDA
SCHOOL BOARD OF MANATEE COUNTY, FLORIDA

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into as of the 23rd day of Oct, 2018, by and among the City of Palmetto, a municipal corporation existing under the laws of the State of Florida (the “City”), Manatee County, a political subdivision of the State of Florida (the “County”), and the School Board of Manatee County, a body corporate created and existing under the laws of the State of Florida (the “School Board”).

WHEREAS, the parties hereto wish to provide for the collection, transfer and expenditure of educational facilities impact fees in accordance with the specific restrictions and limitations set forth in Manatee County Ordinance No. 16-03, as amended by Manatee County Ordinance 17-46 and codified as Article VII, Division II of Chapter 2-29 of the Manatee County Code of Ordinances (as amended from time to time, the “County Ordinance”); and

WHEREAS, the County Ordinance requires new residential construction to contribute, by the payment of educational facilities impact fees, its share of the cost of public educational facilities necessitated by such new residential construction in accordance with applicable law,

including without limitation Section 163.31801 of Florida Statutes (the “Florida Impact Fee Act”); and

WHEREAS, the County Ordinance provides that educational facility impact fees are applicable countywide and shall be collected by the County in Manatee County, unless a municipality elects to collect the fees imposed within its jurisdiction; and

WHEREAS, by entering into this Agreement, the City has elected to collect and transfer educational facility impact fees for the convenience of its residents; and

WHEREAS, originals of this Agreement, upon its execution by the parties hereto shall be on file with the City, County and the School Board; and

WHEREAS, Section 163.01 of Florida Statutes, the “Florida Interlocal Cooperation Act”, permits the City, the County and the School Board to enter into this Agreement to exercise the powers, privileges and authority which they share in common and which each might exercise separately, in order to make the most efficient use of their powers; and

WHEREAS, the City, the County and the School Board wish to enter into this Agreement to establish their mutual rights and obligations with respect to the collection and use of the proceeds of educational facilities impact fees.

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

SECTION 1. AUTHORITY

This Agreement is entered into pursuant to the powers and authority granted to the parties hereto under the Constitution and laws of the State of Florida, including expressly (but not

limited to) Sections 1 and 2 of Article VIII of the Constitution of the State of Florida, Chapter 125, Part II of Chapter 1001, and Section 163.01 of Florida Statutes.

SECTION 2. PURPOSE AND NEED

The purpose of this Agreement is to ensure that, subject to the conditions, restrictions and limitations set forth in the County Ordinance and this Agreement, the educational facilities impact fees imposed on new residential construction within the jurisdictional boundaries of the City are collected by the City and transferred to the School Board for encumbrance and expenditure in accordance with the County Ordinance and applicable law. Further, it is intended that this Agreement will provide certain protections to the City and the County for the collection of such educational facilities impact fees by the City.

SECTION 3. DEFINITIONS

The terms, words and phrases used herein shall have the same meaning as those set forth in the County Ordinance.

SECTION 4. REFERENCES TO COUNTY ORDINANCE

This Agreement shall be subject to and construed in accordance with the County Ordinance. The County shall provide written notice to the City of consideration by the County of amendments to the County Ordinance, and shall provide the City with a copy of any proposed amendments prior to public hearing and adoption of any such changes or modifications.

SECTION 5. DURATION/TERMINATION OF AGREEMENT

(a) Duration of Agreement.

This Agreement shall remain effective from the date of its filing with the Clerk of the Circuit Court pursuant to Section 9(j) hereof, and shall continue in effect until terminated as provided for in sub-paragraph (b) herein.

(b) Termination of Agreement.

This Agreement may be terminated by the unilateral action by any party to the Agreement; provided, however, that such termination action may only occur after the party seeking termination provides written notice in accordance with Section 14 hereof to the other parties at least sixty (60) days prior to taking such action.

SECTION 6. AMENDMENTS TO THE AGREEMENT

This Agreement may be amended, and its material provisions may be waived, only by written instrument expressly approved by the City, the County and the School Board, and only if properly executed by all the parties hereto.

SECTION 7. RESPONSIBILITIES OF THE CITY

(1) Pursuant to and in accordance with the County Ordinance, the City shall collect all educational facilities impact fees due from new residential construction within the City's jurisdictional boundaries, subject to the exceptions and restrictions set forth in the County Ordinance and applicable law.

(2) The amount of the educational facility impact fees shall be assessed and collected in accordance with the County Ordinance.

- (3) The City shall not issue certificate(s) of occupancy for new residential construction unless the applicant has paid the required education facility impact fee in full.
- (4) The City shall instruct any applicant to file with the Superintendent any requests for approval of an independent fee calculation study as described in Section 2-29-85 of the County Ordinance.
- (5) The City shall instruct any applicant to file with the Superintendent any requests for credits or exemptions as described in Section 2-29-90 of the County Ordinance.
- (6) The City shall instruct any applicant to file with the Superintendent any requests for appeal hearings as described in Section 2-29-91 of the County Ordinance.
- (7) Pursuant to Section 2-29-87(c) of the County Ordinance, and subject to the Florida Impact Fee Act, the City may impose an administrative fee not to exceed three and one-half percent (3.5%) of any educational facilities impact fees imposed. Such administrative fee shall be used to pay the costs incurred by the City in the collection and transmittal of the educational facility impact fees.
- (8) Upon the collection of the educational facility impact fees, they shall be segregated and held separately from all other revenues of the City. Such educational facility impact fees shall be transferred, as provided herein, to the School Board on a quarterly basis by the 15th day of the first month of each calendar quarter for those impact fees collected in the prior calendar quarter.

SECTION 8. RESPONSIBILITIES OF THE SCHOOL BOARD

(1) The School Board shall perform all functions assigned to it pursuant to the County Ordinance, including without limitation:

- (a) Receipt, use of and accounting for educational facilities impact fees; and
- (b) Through the School Board's Superintendent, administration of all applications and appeals directed thereto.

All such functions shall be carried out in accordance with the County Ordinance and applicable law, including without limitation the Florida Impact Fee Act.

(2) Nothing contained in this Agreement shall be construed to impose any duty or obligation upon the City to review the use of, accounting for, or administration of the educational facilities impact fees by the School Board.

SECTION 9. MISCELLANEOUS PROVISIONS

(a) Enforcement.

The parties to this Agreement shall have all legal and equitable remedies provided by Florida law for enforcement hereof.

(b) Validity.

After consultation with their respective legal counsel, the City, the County and the School Board each represents and warrants to the other its respective authority and power under Florida law to enter into this Agreement, acknowledges the validity and enforceability of this Agreement, and waives any future right of defense based on claim of illegality, invalidity or unenforceability of any nature. The City, the School Board and the County each hereby represents, warrants and covenants to and with the others (i) that this

Agreement has been validly approved by its respective governing body at a duly held public meeting, and (ii) that this Agreement constitutes a legal, valid and binding contract enforceable against the respective party in accordance with the terms hereof (assuming the due authorization, execution and delivery hereof by the other parties hereto).

(c) No General Obligation.

Notwithstanding any other provisions of this Agreement, the obligations undertaken by the parties hereto shall not be construed to be or constitute general obligations, debts or liabilities of the School Board, the City, the County or the State of Florida or any political subdivision thereof within the meaning of the Constitution and laws of the State of Florida, but shall be payable solely in the manner and to the extent provided in or contemplated by the respective authorizing instruments and this Agreement.

(d) Indemnification.

To the extent permitted by law, and from legally available funds, each of the parties hereto (in such context, an "indemnifying party") shall defend, indemnify and save harmless the others, their officers, agents, employees and assigns, from and against any and all liabilities, claims, damages, losses and expenses, including costs and attorneys' fees, arising out of or resulting from the negligent or wrongful acts or omissions of such indemnifying party, its officers, agents or employees, made in connection with the performance of the acts, duties, covenants and obligations contemplated in, or imposed pursuant to, this Agreement.

Additionally, to the extent allowed by law, the School Board shall defend, indemnify and hold the City and the County harmless from any loss or damage occasioned by this Agreement or the County Ordinance, including, but not limited to, any loss or damage for any claim arising from the passage, administration or enforcement of the County Ordinance by the City or the collection or transfer of the educational facility impact fees provided that such action is taken by the City, its officials, employees, or agents in good faith. In the event of litigation of such claims pursuant to this paragraph, the School Board has the right to hire attorneys and otherwise control the litigation.

(e) Force Majeure.

No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Agreement if such failure is caused directly by hurricane, tornado, fire, earthquake, civil commotion or failure or disruption of utility services, or other like cause beyond the reasonable control of the party obliged to perform.

(f) Ambiguities.

The parties hereto have been allowed equal input regarding the terms and wording of this Agreement and have had the benefit of consultation with legal counsel prior to its execution, such that all language herein shall be construed equally against the parties, and no language shall be construed strictly against its drafter.

(g) Headings.

The headings or captions of sections or paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

(h) Severability.

The provisions of this Agreement are declared by the parties to be severable.

(i) Governing Law; Venue.

This Agreement shall be governed by and construed in accordance with laws of the State of Florida, and venue for any action arising out of or related to this Agreement shall be in the Circuit Court for the Twelfth Judicial Circuit in Manatee County, Florida.

(j) Full Agreement; Filing with Clerk of Circuit Court.

This Agreement contains the entire agreement of the parties with respect to the matters addressed herein. Previous agreements and understandings of the parties with respect to such matters are null and void and of no effect. As required by Subsection 163.01(11) of Florida Statutes, this Agreement and all amendments thereto shall be filed with the Clerk to the Circuit Court for Manatee County.

(k) Counterparts.

This Agreement may be executed in counterparts and if so executed, it shall be construed as if all signatures had been executed and appeared on a single document.

(l) Notices.

All notices, elections, requests and other communications hereunder shall be in writing and shall be deemed given in the following circumstances: when personally delivered; or three (3) business days after being deposited in the United States Mail, postage prepaid, certified or registered; or the next business day after being deposited with a recognized overnight mail or courier delivery service; or when transmitted by facsimile or telecopy transmission, with receipt acknowledged upon transmission; and addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

For the City of Palmetto:

Mayor
City of Palmetto
516 8th Avenue West
Palmetto, Florida 34221

For the County:

Chairman of the Board of County Commissioners
Manatee County Courthouse
P.O. Box 1000
Bradenton Florida 34206

For the School Board:

Chairman
The School Board of Manatee County
215 Manatee Avenue West
Bradenton, Florida 34205

With a copy to:

The Superintendent
The School Board of Manatee County
215 Manatee Avenue West
Bradenton, Florida 34205

[signature page to follow]

WHEREFORE, the City, the County and the School Board have executed this Agreement as of the date and year first above written.

MANATEE COUNTY, FLORIDA

By: Board of County Commissioners

By: [Signature]
Chairperson

ATTEST:

ANGEL COLONNESO,
Clerk of the Circuit Court and Comptroller

By: _____
Deputy Clerk

CITY OF PALMETTO

By: Shirley Hoover Bryant

ATTEST:

By: [Signature]
City Clerk

THE SCHOOL BOARD OF MANATEE COUNTY, FLORIDA

[Signature]
By its Chairman
Scott Hopes
Print Name

MP
9/17/18
9/17/18

ATTEST:

By: [Signature]
Superintendent

Approved to form
[Signature]
10/8/18