

INTERLOCAL AGREEMENT
regarding
**OPERATION OF THE BARGE LOADING FACILITY ON
ANNA MARIA ISLAND IN THE CITY OF BRADENTON
BEACH ON LONGBOAT PASS**

BY AND BETWEEN
MANATEE COUNTY, FLORIDA AND
CITY OF BRADENTON BEACH, FLORIDA

This Interlocal Agreement (“Interlocal Agreement”) is entered into on this 21st day of May, 2019 by and between the City of Bradenton Beach, a municipal corporation created and existing under the laws of the State of Florida (“City”), and Manatee County, a political subdivision of the State of Florida (“County”).

RECITALS

WHEREAS, Section 163.01, Florida Statutes, the “Florida Interlocal Cooperation Act” permits the City and the County to enter into this Interlocal 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 and the County share a common desire to accomplish the most efficient and effective delivery of services to the public; and

WHEREAS, the County owns and operates a barge loading facility located at 2651 Gulf Drive South, Bradenton Beach, Florida 34217, “Barge Loading Facility”, as identified in Exhibit “A” of this Interlocal Agreement; and

WHEREAS, on February 3, 1987, the Board of County Commissioners executed an interlocal agreement with the City for the purpose of limiting the use and operation of the Barge Loading Facility for the construction of offshore artificial reefs; and

WHEREAS, since 1987, the City and the County have entered into (2) two other interlocal agreements for various construction related activities that have terminated; and

WHEREAS, the City now wishes to utilize the Barge Loading Facility for the staging of construction materials and equipment in order to complete the City’s pier renovation project; and

WHEREAS, the County and the City wish to enter into this Interlocal Agreement to establish their mutual rights and obligations with respect to use of the Barge Loading Facility.

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

SECTION I. AUTHORITY

This Interlocal 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, Chapters 125 and 166 of Florida Statutes and Section 163.01 Florida Statutes.

SECTION II. DURATION OF AGREEMENT

The initial term of this Interlocal Agreement shall be for two (2) years for the period of June 1, 2019 to June 1, 2021. This Interlocal Agreement may be renewed for an additional year by written agreement and execution of both parties no later than thirty (30) days prior to its expiration date.

SECTION III. RIGHTS AND OBLIGATIONS OF THE CITY

City shall be permitted use of the Barge Loading Facility for the staging of the City's pier renovation project. The City shall be permitted to use the Barge Loading Facility for the duration of construction, not exceeding the duration of this Interlocal Agreement. The City shall require that its contractor: a) observe hours of operation limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday, except for those days designated as national holidays; b) procure and maintain an insurance policy addendum naming "Manatee County, a political subdivision of the State of Florida" as additional insured for liability up to two (2) million dollars; c) does not moor vessels or barges utilized in construction activities during non-operating hours; d) observe the hours of operation during active loading or unloading by captain or crew; and e) does not moor to the Barge Loading Facility more than one barge and one support vessel at any given time during hours of operation.

SECTION IV. RIGHTS AND OBLIGATIONS OF THE COUNTY

County shall retain the right to use the Barge Loading Facility for any construction related needs during the term of this Interlocal Agreement. Should the County allow a contractor to use the Barge Loading Facility for construction related activities, the County shall require that its contractor: a) observe hours of operation limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday, except for those days designated as national holidays; b) procure and maintain an insurance policy addendum naming the City as additional insured for liability up to two (2) million dollars; c) does not moor vessels or barges utilized in construction activities during non-operating hours; d) observe the hours of operation during active loading or unloading by captain or crew; e) does not moor to the Barge Loading Facility more than one barge and one support vessel at any given time during hours of operation; and f) does not impede, prevent, disrupt or hinder the City's use of the Barge Loading Facility.

SECTION V. TERMINATION

This Interlocal Agreement may be terminated by either party for any reason or no reason, at any time, upon thirty (30) days prior written notice to the other party.

SECTION VI. AMENDMENTS; ENFORCEMENT

6.1 Amendments Generally. This Interlocal Agreement may be amended, and its material provisions may be waived, only by written instrument expressly approved for the County by the Board of County Commissioners and for the City by the City Commission, and only if properly executed by all the parties hereto.

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

SECTION VII. MISCELLANEOUS PROVISIONS

7.1 Validity. After consultation with their respective legal counsel, the City and the County each represents and warrants to the other its respective authority and power under Florida law to enter into this Interlocal Agreement, acknowledges the validity and enforceability of this Interlocal Agreement, and waives any future right of defense based on claim of illegality, invalidity or unenforceability of any nature. The City and the County each hereby represents, warrants and covenants to and with the other (i) that this Interlocal Agreement has been validly approved by its respective governing body at a duly held public meeting, and (ii) that this Interlocal 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 party hereto).

7.2 No General Obligation. Notwithstanding any other provisions of this Interlocal Agreement, the obligations undertaken by the parties hereto shall not be construed to be or constitute general obligations, debts or liabilities of 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 this Interlocal Agreement.

7.3 Indemnification. To the extent authorized by Section 768.28, Florida Statutes, and from legally available funds, each of the parties hereto (in such context, an "indemnifying party") shall defend, indemnify and save harmless the other, its 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 Interlocal Agreement. Nothing in this Interlocal Agreement shall be interpreted as a waiver of the parties' sovereign immunity or an extension of its liability beyond the limits established in Section 768.28, Florida Statutes, nor be construed as consent by either party to be sued by third parties in any manner arising out of this Interlocal Agreement. The Parties to this Interlocal Agreement do not intend that this Interlocal Agreement benefit any third party, and nothing herein should be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Interlocal Agreement.

7.4 Force Majeure. No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Interlocal 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.

7.5 Ambiguities. Both parties have been allowed equal input regarding the terms and wording of this Interlocal 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.

7.6 Headings. The headings or captions of sections or paragraphs used in this Interlocal 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 Interlocal Agreement.

7.7 Severability. Should any section, sentence or clause of this Interlocal Agreement be deemed unlawful by a court of competent jurisdiction, no other provision hereof shall be affected and all other provisions of this Interlocal Agreement shall continue in full force and effect.

7.8 Governing Law; Venue. This Interlocal 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 Interlocal Agreement shall be in the Circuit Court for the Twelfth Judicial Circuit in Manatee County, Florida.

7.9 Full Agreement; Filing with Clerk of Circuit Court. This Interlocal 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 Section 163.01(11), Florida Statutes, this Interlocal Agreement and all amendments thereto shall be filed with the Clerk to the Circuit Court for Manatee County.

7.10 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 CITY

Bradenton Beach City Commission
107 Gulf Drive North
Bradenton Beach, Florida 34217
ATTN: Steve Gilbert, Building Official

FOR COUNTY

Manatee County Parks and Natural Resources Department
5502 33rd Avenue Drive West
Bradenton, Florida 34209
ATTN: Director

Manatee County Attorney's Office
1112 Manatee Avenue West, Suite 969
Bradenton, Florida 34205
ATTN: County Attorney
Facsimile: (941) 749-3089

In all cases, notices shall be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified.

[Signature page to follow]

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



MANATEE COUNTY, a political subdivision of the State of Florida

By: Its Board of County Commissioners

By: Stephen R. Johnson
Chairperson

ATTEST: ANGELINA COLONNESO,
CLERK OF CIRCUIT COURT AND COMPTROLLER

By: Wicki Lesser
Deputy Clerk

CITY OF BRADENTON BEACH, FLORIDA, a municipal corporation of the State of Florida

By: J. Chapp
Mayor

ATTEST: City Clerk

By: Sen Samiento
Clerk

EXHIBIT A BARGE LOADING FACILITY



Longboat Pass