

**LOCALLY FUNDED AGREEMENT
BETWEEN SARASOTA COUNTY, FLORIDA,
AND THE
CITY OF NORTH PORT, FLORIDA,
FOR THE IMPROVEMENT OF RIVER ROAD**

THIS AGREEMENT ("Agreement") is entered into by and between Sarasota County, Florida, a political subdivision of the State of Florida (herein referred to as the "County") and the City of North Port, Florida, a municipal corporation of the State of Florida (herein referred to as the "City"), for the City to contribute funds to the County for making capacity-adding improvements to River Road.

WHEREAS, the segment of River Road between U.S. 41 and West Villages Parkway (herein referenced as "River Road") is a major arterial roadway that directly abuts properties within the unincorporated area of the County and within the City; and

WHEREAS, River Road is utilized by traffic originating in the unincorporated southern portion of the County and from within the City; and

WHEREAS, River Road requires capacity-adding improvements in order to increase its ability to accommodate population growth in both the unincorporated southern portion of the County and within the City; and

WHEREAS, the County and the City agree to cooperate pursuant to the terms and conditions contained herein in order to make capacity-adding improvements to River Road.

NOW THEREFORE, in consideration of the mutual covenants, obligations, and benefits to be derived from this Agreement, the County and City agree as follows:

1. Incorporation: The above recitals are confirmed as correct and incorporated herein by reference.
2. Initial Deposit: Noting the County is presently engaged in the design of the capacity-adding improvements to River Road, the City agrees that within ninety (90) calendar days of the full execution of this Agreement, the City shall pay the County an initial deposit of Two Million Dollars (\$2,000,000.00) (the "Initial Deposit").
3. Annual Sum Deposits: Beginning one year from the date of the Initial Deposit, and then annually on that date thereafter, the City shall make annual payments to the County (the "Annual Sum Deposit"). Each Annual Sum Deposit shall be in an amount equal to Fifty Percent (50%) of all the City-imposed transportation impact fees collected by the City during the preceding Fiscal Year from the development within the West Villages Improvement District ("Impact Fees").
4. Calculation of Fees: The total amount of Impact Fees shall be used to calculate the Annual Sum Deposit, including those not collected by the City due to a credit agreement or waiver.
5. Term/Total Payment: This Agreement shall become effective upon its full execution by the parties and shall remain in effect for fifteen (15) years. The City shall continue to make Annual Sum Deposits to the County until the City has made fourteen (14) total Annual Sum Deposits or until the total amount paid by the City to the County totals Six Million Dollars (\$6,000,000.00), whichever occurs first. At

no time shall the total amount paid by the City to the County pursuant to this Agreement be greater than Six Million Dollars (\$6,000,000.00). If the County does not complete the capacity-adding improvements to River Road by the end of the term of this Agreement the County shall refund in full all money paid to it by the City pursuant to this Agreement. If a refund is required, the County shall pay the refund within ninety (90) calendar days of the expiration of this Agreement.

6. Annual Reporting by City: Each time the City makes its Annual Sum Deposit, it shall provide the County with a report ("Annual Report") showing the property ID numbers upon which development(s) have been issued a certificate of occupancy and the corresponding impact fees collected, credited, or waived from each property for development within the West Villages Improvement District during the preceding Fiscal Year.

7. Quarterly Reporting by County: The County shall provide the City with quarterly progress reports identifying the outstanding project timeline, costs expended, and costs budgeted for the capacity-adding improvements being made to River Road. Quarterly progress reports shall be provided as follows:

For Activity in Months:	Due Dates
October, November, December	January 31
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31

8. Appropriation Covenant: For each Fiscal Year this Agreement is in effect, the City hereby covenants and agrees, in accordance with its budgetary processes and to the extent permitted by and in accordance with applicable law, to prepare, approve and appropriate in its Annual Budget, by amendment if necessary, an amount equal to the Impact Fees required to satisfy that year's Annual Sum Deposit. The City's covenant and obligation to annually budget and appropriate Impact Fees shall be cumulative, and shall continue until such revenues in amounts sufficient to make all required payments hereunder as and when due, including any delinquent payments, shall have been budgeted, appropriated, and actually paid to the County; provided, however, such obligation shall not constitute a lien, either legal or equitable, on any of the City's other road impact fee revenue, non-ad valorem revenue, or other revenues, nor shall it preclude the City from pledging any of its other road impact fee revenue, non-ad valorem revenue, or other revenues to other obligations in the future.

9. County's Obligations: The County shall use the Initial Deposit and the Annual Sum Deposits solely for the reasonable and customary expenses associated with the planning, design, property acquisition, permitting, and construction of capacity-adding improvements to River Road including reasonable expenses associated with borrowing funds to carry out the foregoing. The County shall complete the capacity-adding improvements to River Road before the expiration of this Agreement. Recognizing that the County is utilizing available resources to advance the project timeline to complete the capacity-adding improvements to River Road well before the expiration of this Agreement, the City agrees that the Annual Sum Deposits may be used to reimburse the County for funding advanced by the County to complete the capacity-adding improvements to River Road, including debt repayment (principal and interest) or cash advanced.

10. Mobility Fees: The parties agree that if during the term of this Agreement, the City transitions from the collection of transportation impact fees from the development within the West Villages Improvement District to the collection of mobility fees from the development within the West Villages Improvement District, for purposes of this Agreement such mobility fees shall stand in the place of and replace any reference to transportation impact fees. The calculation of the Annual Sum Deposits shall then be made using the City-imposed mobility fees collected from development within the West Villages Improvement District.

11. Payment: The City shall pay the Initial Deposit and Annual Sum Deposits (collectively "Deposits") to the County through wire transfer instructions to be provided by the County.

12. Audits: The City may audit all costs, records, and accounts of the County created pursuant to this Agreement for three (3) years following the expiration or termination of this Agreement.

13. Involvement of the State of Florida: The parties agree that River Road is a roadway of regional significance and that it is reasonable and appropriate for the State of Florida to participate in the capacity-adding improvements of River Road. Accordingly, the City agrees that the County may furnish the funding provided by the City pursuant to this Agreement to the State of Florida to make the capacity-adding improvements to River Road. The parties further agree that the County may transfer jurisdiction of all or a portion of River Road to the State of Florida, Department of Transportation, and that such transfer will not alter the rights and responsibilities of the parties under this Agreement.

14. Notices: Any notice, demand, communication, Proof of Deposit, Annual Report, Quarterly Report, or request required or permitted hereunder shall be sent by certified mail, return receipt requested, to the following:

As to the County:

County Engineer
Public Works Department
1001 Sarasota Center Boulevard
Sarasota, FL 34240

**With copies of notices
and demands sent to:**

Office of the County Attorney
1660 Ringling Blvd, 2nd Floor
Sarasota, FL 34236

As to the City:

City Engineer
City of North Port
4970 City Hall Boulevard
North Port, FL 34286

**With copies of notices
and demands sent to:**

City Attorney's Office
4970 City Hall Boulevard
North Port, FL 34286

15. Binding Effect, No Third-Party Beneficiaries: This Agreement is solely for the benefit of the named parties and is binding upon and shall inure to the benefit of the parties and their respective successors, and assigns. No right or cause of action shall accrue upon or by reason hereof, to or for the

benefit of any third party. Nothing in this Agreement either express or implied is intended or shall be construed to confer upon or give any contractor, bidder, vendor, any of their officers or employees, or any other person, corporation, or governmental entity other than the parties themselves, any right, remedy, or claim under or by reason of this Agreement.

16. **Indemnity:** The County and City agree to indemnify, defend, and save harmless the other party, its agents, officials, and employees against all injuries, deaths, losses, damages, claims, liabilities, judgments, and expenses, including attorney fees and costs through appeal, which may accrue against the other party as a consequence of the negligent acts of the indemnifying party's officers, employees, agents, or licensees arising out of the performance of each party's obligations under this Agreement, up to the express monetary limits provided by Section 768.28, Florida Statutes. Nothing contained in this Section shall constitute a waiver of sovereign immunity or of the limitations on liability provided to either party under the Florida Constitution or general law. In the event of any threatened or impending action that may give rise to a claim under the terms of this Section, the party seeking indemnification must promptly give notice to the other party in writing by certified mail. The terms of this section shall survive the termination of this Agreement. The terms of this Section do not constitute a waiver of either party's sovereign immunity under the Florida Constitution or Section 768.28, Florida Statutes, or extend either party's liability beyond the limits established in Section 768.28, Florida Statutes.

17. **Dispute Resolution:** In the event of a dispute between the City and the County under this Agreement, the City Manager and the County Administrator or their respective designee(s) shall review the dispute and negotiate a mutually acceptable resolution. Any dispute not resolved by the designee(s) shall be referred to the City Manager and the County Administrator to address. The mutual decision of the City Manager and County Administrator shall be final. In the event the City Manager and the County Administrator are unable to agree, the matter shall be referred to the respective Commissions, who may jointly elect to hold a joint meeting to resolve the matter. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

18. **Governing Law/Venue:** The rights, obligations, and remedies of the parties under this Agreement shall be governed by the laws of the State of Florida and the exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida.

19. **Severability:** If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction, or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement invalidated or declared unenforceable is not material to the intended operation of this Agreement.

20. **Complete Agreement:** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings of the parties as applicable to the matters contained herein. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. No deviation from the terms contained herein shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no modification, amendment, or addendum to the terms or conditions contained herein shall be enforceable unless made in writing and executed by both parties.

22. Headings: The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.

23. Assignment: Neither party shall assign this Agreement or any right or responsibility herein unless with the written consent of the other party.

24. Non-Discrimination: The City of North Port, Florida, does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in the administration of its programs, activities, or services. The parties shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family, or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

SARASOTA COUNTY, FLORIDA

Sarasota County, a political subdivision of the State of Florida, did approve this Agreement on the _____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY:

KAREN E. RUSHING, Clerk of the Circuit Court
Ex-Officio Clerk of the Board of County
Commissioners, Sarasota County, Florida

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM AND CORRECTNESS:

By: _____
County Attorney

CITY OF NORTH PORT, FLORIDA

The City of North Port, Florida, a municipal corporation of the State of Florida, did approve this Agreement on the _____ day of _____, 2019.

ATTEST:

CITY OF NORTH PORT, FLORIDA:

By: _____
Katheryn Peto
City Clerk

By: _____
Christopher Hanks
Mayor

APPROVED AS TO FORM AND CORRECTNESS:

By: _____
Amber L. Slayton
City Attorney