

### **THIRD AMENDED AND RESTATED INTERLOCAL RECREATION AGREEMENT**

THIS AGREEMENT is made and entered into this 11<sup>th</sup> day of December, 2018, superseding and replacing certain prior agreements, between HENDRY COUNTY, a political subdivision of the State of Florida, hereinafter called "County", and the CITY OF LABELLE, a municipal corporation existing under the laws of Florida, hereinafter called "City", providing for recreational programs to residents of the City and unincorporated areas in the western part of the County.

WHEREAS, the Florida Interlocal Cooperation Act of 1969, codified as Section 163.01, Florida Statutes, authorizes governments in the state of Florida to jointly exercise any constitutional or statutory power, privilege or authority which either government might exercise separately; and,

WHEREAS, City and County determined that recreational programs should be provided jointly to residents of the City and unincorporated areas in the western part of Hendry County in order to maximize the quantity and quality of such programs and to achieve certain efficiencies of operation; and

WHEREAS, City and County decided to jointly form a Recreation Board to organize and operate recreational facilities and programs within the City of LaBelle and the unincorporated area of Hendry County included in the West Hendry County Recreational Municipal Services Benefit Unit, as established by Hendry County Resolution No. 88-71; and

WHEREAS, City and County entered into an interlocal agreement on October 1, 1990, to establish a Recreation Board and set forth its powers and duties and goals; and

WHEREAS, City and County subsequently entered into an amended and restated interlocal agreement on January 9, 2007, a second amended and restated interlocal agreement on May 17, 2012, and further amendments to the second amended and restated interlocal agreement on March 13, 2014 and April 10, 2014; and

WHEREAS, on December 13, 2016, County adopted Resolution No. 2016-129 modifying the boundaries of the area encompassed by the West Hendry County Recreational Municipal Services Benefit Unit to exclude the Pioneer Plantation community, Leon Dennis Subdivision and other areas in the center of the County; and

WHEREAS, City and County now desire to amend and restate the interlocal agreement to add information technology to the list of services that may be provided by the County or the City, to remove provisions relating to assessments for recreational vehicle park sites, to detail the circumstances governing special assessments not matched by the other local government, to remove the Pioneer Plantation Community Center Facilities and Felda Community Center Facility from the list of facilities dedicated to the Board, to add street addresses for those parks and facilities that have street addresses, and to make various other wording changes to the agreement.

NOW, THEREFORE CITY AND COUNTY AGREE AS FOLLOWS:

Section One: Hendry-LaBelle Recreation Board

- 1.1 The parties hereto acknowledge and agree that the recitals are incorporated in and made a part of this Agreement.
- 1.2 The Hendry-LaBelle Recreation Board (hereinafter "Board") consisting of five voting members is established to carry out the programs authorized by this Agreement. The Board shall have the powers and responsibilities set forth herein, plus all powers and duties reasonably implied and incident to the express powers set forth herein.
- 1.3 The Board's membership shall consist of two Commissioners of the City so designated by City Commission, the two County Commissioners whose districts are most coexistent with the West Hendry County Recreational Municipal Services Benefit Unit, and a member designee of the Hendry County School Board. Except for the County Commissioner members, Board members serve at the will of the respective designating bodies.
- 1.4 The Board may employ necessary persons; enter into contracts for and purchase services, supplies, and goods; incur debts, liabilities or obligations; and construct, manage, maintain and operate the parks, recreational facilities and lands specifically identified in this Agreement. Notwithstanding the forgoing, no debt, liability, or obligation of the Board shall constitute the debts, liabilities or obligations of the City or the County without their express agreement.
- 1.5 The Board shall employ a Recreation Director to carry out all aspects of the recreational programs, including maintenance of the recreational facilities. The Board shall have hiring, supervisory, disciplinary and termination authority over the Recreation Director, who shall serve at the will of the Board. The Recreation Director shall have hiring, supervisory, disciplinary and termination authority over all other persons employed by the Board, subject to the provisions hereinafter. The Board shall have no hiring, supervisory, disciplinary or termination authority over persons subordinate to the Recreation Director.
- 1.6 All persons employed shall be County employees for the following purposes and the Board shall reimburse the County for any costs incurred for employing such persons, including salary, the employer portion of federal taxes, fringe benefits and indirect costs attributable to such employment. County personnel policies shall generally govern the hiring, discipline and termination of the employees subordinate to the Recreation Director, subject to modification by vote of the Board based upon a determination that a particular policy needs to be different. County personnel policies include, but are not limited to, the County human resources manual, County pay scales and County leave and furlough practices. The Board shall reimburse the County for the value of County Human Resources Department services provided to the Board.
- 1.7 Where the Board finds it is inefficient for the Board to have its own employees, the Board may utilize the services of the County or the City for certain functions. Such functions include, but are not limited to, vehicle repair, skilled trades work (e.g., air conditioning, plumbing), legal, information technology, purchasing, budgeting/finance and audit. The Board shall reimburse the County or the City, as applicable, for the value of such services.

- 1.8 The Board shall expend and contract to expend only such amounts and for such purposes as set forth in an annual budget jointly appropriated by the City and the County, and amendments thereto.

#### Section Two: Special Assessments

- 2.1 The City shall assess and collect a special assessment of \$100.00 from each residence within the City of LaBelle. Similarly, the County shall assess and collect a special assessment of \$100.00 from each residence within the West Hendry County Recreation Municipal Service Benefit Unit. The proceeds from such special assessments shall be jointly appropriated each year, along with such other moneys as determined by City and County, for recreational expenditures consistent with this Agreement except as provided in Section 2.3.
- 2.2 These special assessments may be amended from year to year by subsequent agreement of the City and County, provided, however, that the special assessments adopted by the City and County shall be of an equal amount and shall be adequate to fund the operations of the Board. Operations of the Board shall include scheduled payment of debt, liabilities or other obligations incurred for those purposes set forth in Section 1.4 above. Nothing in this agreement shall preclude either the City or the County from appropriating funds (in addition to the special assessment) to the Board for any recreational facility included in this Agreement.
- 2.3 Each party retains the right to increase its special assessment relative to and independent of the other for their own purposes provided, however, that the other party does not match the increase. Specifically, "own purposes" means that each party may utilize the incremental increase not mirrored by the other for recreational purposes outside of this Agreement. However, any subsequent increase or match by the other party shall require the first increasing party to appropriate funds for use by the Board consistent with this Agreement in equal proportion to the matching increase.

#### Section Three: Recreational Facilities

- 3.1 All lands and real property owned or leased in conjunction with programs and facilities operated by the Board shall be titled or leased to the City or the County or both rather than to the Board.
- 3.2 Approval for the purchase or lease of lands and real property with funds from special assessments levied pursuant to this Agreement or with moneys appropriated to the Board shall require the written consent of both the City and the County.
- 3.3 The Board may purchase and own personal property consistent with its annual appropriations, however upon termination of this Agreement such personal property shall be distributed to the City and the County on a basis consistent with the proportion of assessments levied and other contributions to the programs conducted hereunder. Any personal property purchase which becomes affixed, installed or connected to the facility or the real property shall be distributed to the

entity which owns that facility or real property so long as such meets the equitable distribution requirement of this paragraph.

3.4 The following lands, parks, and facilities owned or leased by the City shall be committed to the Board for the duration of this agreement:

- a. Nature Park, 440 Fraser Ave.
- b. James Singleton Community Center, 870 Caloosahatchee Ave.
- c. Alton Jones Kid Park, 450 Withlacoochee Ave.
- d. Joe Culiver Park, W. Lincoln Ave.
- e. LaBelle Community Civic Park – Soccer, 800 Jaycee-Lions Dr.
- f. LaBelle Sports Complex, 1100 Forrey Dr.

3.5 The following lands, parks, and facilities owned or leased by the County shall be committed to the Board for the duration of this agreement:

- a. Lions Park, 497 CR 78
- b. Bob Mason Park, 363 CR 78
- c. Boat Ramp Facilities, 497 CR 78
- d. Davis Pratt Park, 1287 Lillian St.
- e. Felda Community Park, 100 Willis Ranch Rd., Felda
- f. LaBelle Rodeo Grounds, 100 Rodeo Dr.
- g. LaBelle Community Civic Park – Soccer, 800 Jaycee-Lions Dr.
- h. Hendry-LaBelle Community Sports Park, 1105 Pratt Blvd.
- i. Recreation Office, 310 W. Cowboy Way
- j. LaBelle Sports Complex, 1100 Forrey Dr.

#### Section Four: Tort Liability And Sovereign Immunity

- 4.1 The Board shall be an agency of the City for activities occurring on City owned property and an agency of the County for activities occurring on County owned property for purposes of tort liability. From funds appropriated pursuant to this Agreement, City and County shall be reimbursed for their insurance costs relating to Board activities and Board controlled facilities.
- 4.2 As permitted by law, to the extent that an award or settlement exceeds available insurance coverage, each party, City and County, agrees to hold harmless, indemnify, and contribute to awards for tort against the other party as may be required so that each party pays 50% of all such awards or settlements, provided, however, that neither party shall be required to contribute more than 50% of the amount for which it would be liable under the provisions of Section 768.28, Florida Statutes, were that party to be a sole defendant in conjunction with the subject occurrence.
- 4.3 Notwithstanding the above, no settlement of a claim against the Board requiring contribution by both City and County may be entered into without the consent of the governing bodies of both.

#### Section Five: Scope Of The Agreement

This Agreement embodies the whole understanding between the parties on the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written.

#### Section Six: Amendments To The Agreement

This Agreement may only be amended by a written document signed by both parties and filed with the Clerk of the Circuit Court of Hendry County, Florida.

#### Section Seven: Term

This Agreement shall remain in effect until at least September 30, 2031. This Agreement shall continue thereafter on a year-to-year basis (October 1 - September 30) unless either party's governing body adopts a resolution expressing a desire not to renew the agreement for another year and provides such resolution to the other party by June 15th prior to the desired date of termination.

#### Section Eight: Effective Date

This Agreement shall become effective upon its filing with the Clerk of the Circuit Court of Hendry County, Florida.

#### Section Nine: Miscellaneous

- 9.1 The parties represent and warrant that they have full authority to enter into and sign this Agreement.
- 9.2 The drafting of this Agreement has been a joint endeavor between the parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one party than the other.
- 9.3 This Agreement shall not be severable. A determination and judgment by any Court of competent jurisdiction adjudging any part hereof invalid or unenforceable shall be deemed to make the entire Agreement voidable, and this Agreement shall become void and be deemed to be of no further effect thereafter unless within 60 days of such judgment the governing bodies of both parties shall resolve to amend any legally invalid provisions and continue the Agreement as to its remaining portions.
- 9.4 Venue for any disputes between the parties requiring adjudication shall be the Circuit Court for Hendry County, Florida. All disputes arising under this Agreement shall be governed by the laws of the State of Florida.

[SIGNATURE PAGE TO FOLLOW]

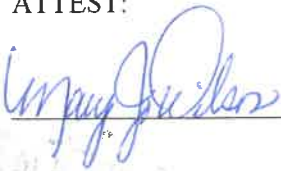
In witness whereof, this Agreement is executed and sealed on the date first written above.

ATTEST:



Barbara Butler, Clerk

ATTEST:




Clerk

HENDRY COUNTY BOARD  
OF COUNTY COMMISSIONERS

  
Mitchell Wills, Chair

CITY OF LABELLE

  
David Lyons, Mayor