

PARTNERSHIP AGREEMENT
BETWEEN THE CITY OF SARASOTA AND
THE BAY PARK CONSERVANCY, INC.

This Partnership Agreement ("Agreement") dated this 24th day of April, 2019 ("Effective Date") is between the City of Sarasota, Florida and the Bay Park Conservancy, Inc. ("BPC"). These entities are referred to collectively herein as "the parties."

WHEREAS, City is a municipal corporation of the State of Florida; and,

WHEREAS, City is the owner of a parcel of real property approximately fifty three (53) acres in size which is bounded on the west by the waters of Sarasota Bay; on the east by the North Tamiami Trail (U.S. 41); on the south by the Boulevard of the Arts and on the north by properties owned by Florida Power & Light Co. and International Barter Exchange; and,

WHEREAS, BPC is a charitable non-profit organization dedicated to working with the City to re-develop, improve and maintain the above described City owned 53 acre parcel (the "site") as a world class signature park that will enrich the quality of life for all residents of and visitors to the City and the region; and,

WHEREAS, on September 6, 2018, the City Commission of City approved a Master Plan for the re-development of the site (the "Master Plan"); and,

WHEREAS, the Master Plan is intended to guide the transformation of the site into an iconic city park to be known as The Bay Park with development to occur over a period of fifteen to twenty years in a series of distinct phases; and,

WHEREAS, on September 6, 2018, the City Commission of City also approved a conceptual design for Phase I of The Bay Park which will be developed on ten (10) acres at the southern end of the site along the north side of the Boulevard of the Arts; and,

WHEREAS, the catalyst for the creation the Master Plan for The Bay Park was a coalition of citizens known as the Bayfront 20:20 who came together in November of 2013 and who led a process of community engagement and dialogue that resulted in the formulation of a statement of Vision and Guiding Principles for

the transformation of the site into The Bay Park, a copy of which is appended to this Agreement as Exhibit "A"; and,

WHEREAS, the Vision and Guiding Principles for the re-development of the site was endorsed by the City Commission of City in February 2015; and,

WHEREAS, in July 2016 the City Commission agreed to the formation of a planning board, the Sarasota Bayfront Planning Organization (the "SBPO"), to create a plan for re-development of the site; and,

WHEREAS, the SBPO Board engaged the services of a renown urban design and planning partner, Sasaki Associates, Inc., at its own expense, and has led a deliberate, disciplined, open and transparent process over the past two years which has resulted in the Master Plan that was presented to and adopted by the Sarasota City Commission on September 6, 2018; and,

WHEREAS, the SBPO has transitioned into The Bay Park Conservancy.

NOW THEREFORE, in consideration of the foregoing and of the mutual promises and covenants contained herein and other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Purpose of Agreement: The purpose of this Agreement is to lay the foundation for a lasting cooperative working relationship between the parties and to commence the process of establishing and defining the role of each of the parties in that relationship as the parties continue to work together to further their common goal of transforming the subject City owned 53 acre site into a signature park in accordance with the Master Plan. A further purpose of this Agreement is to outline a general framework for the process by which The Bay Park will be planned, designed, funded, built, operated and maintained.

2. BPC organizational structure: BPC shall maintain its current status under the U.S. Internal Revenue Code as a 501(c)(3) not for profit organization at all times when this Partnership Agreement is in effect. BPC shall have a Board of Directors consisting of not less than seven (7) and not more than fifteen (15) members. The Board of Directors shall include three (3) non-voting *ex officio* members. Two *ex officio* directors shall be appointed by the City, with one director appointed by majority vote of the City Commission and the other director appointed by the City Manager. The third *ex officio* director shall be a representative of

Sarasota County Government and may be appointed as determined by the Board of County Commissioners.

3. General Responsibilities of BPC:

A. Prior to and during the time that The Bay Park is under construction, BPC shall have the exclusive responsibility for undertaking the following obligations in order to implement the Master Plan.

(1) BPC has prepared a Financial Plan for The Bay Park which outlines proposed public and private funding sources for capital improvements and for the ongoing operational expenses of the park which is available on the BPC website. A copy of a document entitled "The Bay Park Phase I Capital Funding Sources - 4/02/19" is appended to this Agreement as Exhibit "B". The BPC shall update the Financial Plan on an annual basis. The updated Financial Plans shall reflect BPC's goals, projections and proposals and therefore shall not bind the City or require City approval. BPC shall also prepare an Implementation Plan for each phase of The Bay Park in accordance with subsection 3.A.(6) of this Agreement to implement the Master Plan. The City Commission must approve a proposed Implementation Plan submitted by BPC for each phase of The Bay Park before any applications for development approvals within that phase are filed with the City.

(2) BPC shall actively pursue and engage in fundraising and shall solicit contributions from private donors with all funds raised to be utilized in a manner that is consistent with The Bay Park Financial Plan. Such efforts may include solicitation of private philanthropic donations, conducting fundraising campaigns, holding public and private fund raising events, establishing sponsorship programs and conducting special events in Phase I of the park upon its completion consistent with Section 8 of this Agreement.

(3) BPC shall prepare a proposed Naming Rights Policy for The Bay Park and submit such policy to the City Commission for consideration and approval. The Naming Rights Policy will specify how future components of the park, including but not necessarily limited to new buildings, shall be named and who shall have the final authority to approve a name. However, the Naming Rights Policy shall not include the new Performing Arts Center proposed in the Master Plan and shall not include existing buildings. The proposed Naming Rights Policy shall also address issues related to donations and their influence on the design of The Bay Park. The Policy may take into account such other factors that BPC decides merit consideration.

However, the Naming Rights Policy shall not become effective unless and until it has been approved by a Resolution of the City Commission.

(4) BPC shall establish an endowment for the benefit of The Bay Park. The corpus of and all income from the endowment shall be used exclusively in furtherance of the Master Plan consistent with the mission and purpose of BPC. In the event of the termination of the BPC, these funds shall be given to a non-profit foundation mutually agreeable to the parties to be used for The Bay Park. Alternatively, these funds shall be expended in accordance with private donor or City imposed restrictions, if applicable.

(5) BPC shall take the lead role in all lobbying efforts for The Bay Park.

(6) BPC shall prepare an Implementation Plan for each phase of the park. The Implementation Plan for each phase shall include a proposed environmentally friendly and sustainable design; shall identify any required approvals from governmental agencies other than the City and state the preferred means to secure such approvals; shall specify any requirements or restrictions desired by donors of which BPC is aware at the time; and shall outline proposed funding sources and proposed funding responsibilities of the parties. The Implementation Plan shall further specify administrative responsibilities proposed to be undertaken by BPC within the subject phase and may address other operational matters as BPC determines to be necessary or appropriate. An Implementation Plan for each Phase shall be submitted to the City Commission for approval. The City Commission may require the Implementation Plan to address other matters not specifically enumerated above. Subsequent to approval of the Implementation Plan for each phase, the City and BPC may enter into an Implementation Agreement, which may be proposed by either party, to govern the implementation of that phase and to address post implementation activation stage administrative and managerial issues. If entered into by the parties, an Implementation Agreement for a particular phase shall be based upon and shall be consistent with the approved Implementation Plan for that phase. However, nothing in this Agreement shall require the City Commission to approve an Implementation Plan or Implementation Agreement proposed by BPC.

(7) BPC shall prepare all applications for development approvals required to construct The Bay Park (except for building permit applications which may be prepared by the City or by contractors) and shall file such applications with the City. Such applications for development approvals shall include, but are not necessarily limited to, applications for site plan approvals and applications for major conditional use permits. At the discretion of BPC, a proposed site plan may encompass an entire

phase or a portion of a phase. No applications for development approvals in a particular phase shall be filed by BPC or accepted for filing by the City until after an Implementation Plan for that phase has been approved by the City Commission, except for any applications that are required to be filed in order to accomplish the proposed mangrove bayou restoration project and associated improvements (e.g. sidewalks, benches, landscaping) in Phase I.

(8) BPC shall determine the sequence in which the Implementation Plans for each phase of the park are prepared and submitted to the City Commission for approval. BPC shall determine the improvements to be proposed for construction within each phase and describe such proposed improvements in the Implementation Plan. The availability of funds and the preferences of donors shall be factors considered by BPC in the determination of the sequence of phases to be proposed for development.

(9) BPC shall evaluate the future use and management of all existing buildings within The Bay Park, excluding the Van Wezel Performing Arts Hall and excluding the building presently utilized by the Sarasota Orchestra for as long as the Orchestra occupies the building. BPC may take such evaluation into account as a factor in the preparation of the Implementation Plan for the phase of the park in which an existing building is located.

B. Subsequent to the completion of construction of each phase of The Bay Park, BPC shall undertake the following general duties:

(1) BPC shall design, organize and implement programming for recreational or community activities within the completed phase of The Bay Park.

(2) BPC shall have administrative responsibilities for the day-to-day operations of Phase I of The Bay Park and for each subsequent phase. Such responsibilities shall be further described in the Implementation Plan for each phase and may be further outlined in an Implementation Agreement between the parties.

(3) BPC shall submit completed "as built" drawings for each phase of The Bay Park to the City Development Services Department and to the City Engineer.

C. At any time this Agreement is in effect, BPC may also undertake the following activities in furtherance of the Master Plan:

(1) BPC may propose adoption of rules, regulations or ordinances to be applied within The Bay Park to the City Commission for approval. Such proposals may include, but shall not necessarily be limited to, hours of operation, parking regulations, food and beverage policies and rules intended to promote safety or efficiency of operations.

(2) BPC may develop construction standards and specifications to be utilized in the construction of capital improvements that are funded by BPC.

(3) BPC may apply for any available grant funds to be utilized to implement the Master Plan for The Bay Park. BPC may pursue grants either on its own or jointly with the City in accordance with Section 5, subsection (6) of this Agreement.

(4) BPC may provide enhanced security within The Bay Park at its own expense after consultation and coordination with the City Manager and the City Police Department.

(5) BPC may provide enhanced maintenance which exceeds routine maintenance performed by either the City or the BPC, as the case may be, if deemed warranted by BPC after consultation and coordination with the City Manager and the City Parks Department.

(6) BPC may formulate a proposed written strategy or policy for incorporating public art into The Bay Park. BPC shall be authorized to submit such written strategy or policy to the Public Art Committee for its review and recommendation and to thereafter submit the proposal to the City Commission for approval by Resolution.

(7) BPC may negotiate the terms of proposed concession agreements and leases with third parties who desire to operate business establishments within Phase I of The Bay Park and may prepare and draft proposed concession agreements and lease agreements; provided that no such agreement shall become effective until the lease or concession agreement has been considered and approved by the City Commission; and further provided that no occupancy by third parties under any such lease or concession agreement shall commence until all applicable development approvals have been obtained in accordance with Section 6 of this Agreement.

(8) BPC may hire employees as BPC deems warranted to perform its obligations under this Agreement and to implement the Master Plan and may in its

discretion, assign particular duties to its employees. BPC may likewise utilize the services of unpaid volunteers to perform its obligations under this Agreement and to implement the Master Plan. BPC shall not hire City employees to function simultaneously as BPC employees. However, this prohibition shall not prevent BPC from hiring City employees for temporary assistance, such as off-duty police officers and for assistance with special events. BPC shall be responsible for the training, management, supervision and salaries of all BPC employees. BPC shall maintain a Worker's Compensation policy that includes a waiver of subrogation in favor of the City.

4. **Funding:** The parties anticipate that funds for the construction and operation of The Bay Park in accordance with the Master Plan shall include, but not be limited to, the following sources: (1) Charitable donations made to and received by BPC; (2) Net revenues generated from leases and concessions to third parties to operate businesses in the park; (3) Net revenues generated by permitted special events conducted in the park; (4) Funds budgeted by the City or by the City Parks District; (5) Federal, State and Regional funding (Grants/Appropriations, MPO/FDOT funding, etc.); (6) Future Tourist Development Tax/Penny Sales Tax; (7) Other Local/Regional sources (WCIND funding, future Stormwater Utility, Community Benefit Revenues, etc.) and (8) Tax increment funds generated within a district the parties aspire to create in accordance with Section 7 of this Agreement. Tax increment funds shall be used solely to provide or to construct capital improvements within The Bay Park TIF district. Funding for capital improvements may be derived from any one of the revenue sources enumerated in this paragraph or from a combination of two or more revenue sources. Funding for non-capital items, including operational expenses, may be derived from any one or more of the enumerated revenue sources, excluding tax increment funds.

Although BPC shall undertake fundraising efforts and shall solicit donations to implement the Master Plan for Bay Park in accordance with the terms of this Agreement, this Agreement shall not obligate BPC to raise a specific sum of money within a specific period of time. This Agreement shall not obligate the City to undertake any financial obligations, except for the direct or the indirect costs of the obligations enumerated in Section 5 below. The financial obligations of City with respect to each phase of The Bay Park shall be specified in the approved Implementation Plan for each phase and in any Implementation Agreements that may be entered into by the parties as provided in Section 3.A.(6) of this Agreement.

5. General Responsibilities of City:

Prior to and during the time that The Bay Park is under construction, the City shall undertake the following obligations in order to implement the Master Plan.

(1) City shall make City staff available to BPC at reasonable times upon request after reasonable advance notice for pre-application conferences so that staff might become familiar with and discuss proposed applications for development approvals with BPC.

(2) City shall consider all applications for development approval filed by BPC to be City initiated applications not included in the City's Billable Fee System. Additionally, the City shall not charge pre-application conference fees to BPC for meetings with City staff associated with BPC applications for development approvals in The Bay Park.

(3) In the event that the City Commission votes affirmatively to construct a parking garage for the convenience of visitors to The Bay Park at some future date, City shall fund the cost of constructing the garage.

(4) City shall grant BPC the use of on-site space for offices and operations at no cost to BPC, except that BPC shall be responsible for routine maintenance and for obtaining tenant's insurance covering personal property and insuring BPC against claims for damages.

(5) City shall make the City's federal lobbyist available to perform services for BPC as reasonably needed by BPC to discharge its obligations under this Agreement to implement the Master Plan for The Bay Park.

(6) City shall make the City's Grants Coordinator available to perform services for BPC as reasonably needed by BPC to discharge its obligations under this Agreement to implement the Master Plan for The Bay Park.

(7) City shall cause its staff to make every reasonable effort to respond to inquiries received from BPC regarding implementation of the Master Plan and regarding City codes, procedures and requirements in an expeditious, complete and accurate manner.

(8) City shall transfer responsibility for the permitting and conduct of special events within The Bay Park at the completion of each phase in accordance with Section 8 of this Agreement.

(9) City shall maintain its existing responsibility to provide all basic infrastructure to the site, including by way of example and not limitation, streets, sidewalks and infrastructure for water and sanitary sewer services. City shall undertake funding responsibility for construction and maintenance of new infrastructure in The Bay Park as may be provided in approved Implementation Plans for each phase of the park or as may be provided in future Implementation Agreements. However, nothing in this Agreement shall require the City to approve an Implementation Plan as presented by BPC or to enter into an Implementation Agreement.

(10) City shall maintain its existing responsibility to provide municipal services and routine maintenance to the site, including by way of example and not limitation, trash pick up, security, utilities, landscaping maintenance and litter control. City shall undertake funding responsibility for municipal services and maintenance in The Bay Park as may be provided in approved Implementation Plans for each phase of the park or as may be provided in future Implementation Agreements. However, nothing in this Agreement shall require the City to approve an Implementation Plan as presented by BPC or to enter into an Implementation Agreement.

6. Phased Development Review: BPC is hereby authorized by City as the property owner to commence preparation of an Implementation Plan and a site plan for each phase of The Bay Park commencing with Phase I. Each Implementation Plan shall conform to the requirements of Section 3.A.(6) of this Agreement. BPC shall not be permitted to file an application for site plan approval or applications for major conditional use approvals or other applications for development approvals in any phase until such time as the City Commission has approved the Implementation Plan for that phase. However, BPC may file applications for development approvals (other than applications for building permits) pertaining to any phase prior to the time that the City Commission has approved an (optional) Implementation Agreement for that phase. Any Implementation Agreement entered into by the parties may be approved simultaneously with approval of a site plan if a single site plan is submitted for the entire phase or simultaneously with the first site plan submitted if multiple site plans are submitted sequentially for the phase. Upon request, BPC shall be provided with a reasonable level of City staff assistance, as determined by the City Manager, in the

preparation of Implementation Plans and of applications for development approvals. The applications for development approvals filed by BPC shall be treated and processed by City as though they were City initiated applications consistent with Section 5, subsection (2) of this Agreement.

The fifty-three (53) acres on which The Bay Park will be developed are presently zoned Governmental (G). Consistent with the zone district regulations currently in effect for the G zone district, all applications for major conditional use approval require a community workshop. All applications for site plan approval or for major conditional use approval shall be initially reviewed by the City Planning Board at a public hearing. The Planning Board shall make recommendations to the City Commission regarding the applications. The applications shall then be considered by the City Commission at a second public hearing at which a final decision on the applications shall be made by the City Commission. All applications for development approvals within The Bay Park shall be filed and processed in accordance with whatever applicable Zoning Code regulations are in effect at the time an application is filed.

7. **Tax Increment Financing:** The parties agree that tax increment financing is a potentially viable means of funding for capital improvements in The Bay Park. Utilization of tax increment funds (TIF) will require the creation of a district from which tax increment revenues will be collected. The tax increment revenues collected will be deposited into a trust fund and used only for the purposes specified in the documents creating the district. The type of tax increment financing envisioned by the parties is a "home rule" TIF district and not a district created pursuant to the Community Redevelopment Act predicated on a finding that the district is characterized by slum and blight. The parties further agree that tax increment funding would be a more effective funding mechanism with the participation of Sarasota County. Accordingly, the parties shall work together with the objective of obtaining the consent of the Board of County Commissioners to participate in the establishment of a TIF district with the use of tax increment funds restricted to approved capital improvements in The Bay Park TIF district. Creation and operation of a TIF district may require the approval and execution of an Inter-Local Agreement between the City and Sarasota County.

8. **Special Events:** City shall continue to exercise its authority to permit special events which may take place on the site that is to be transformed into The Bay Park until such authority is delegated to BPC at the completion of each phase of The Bay Park by means of a future Implementation Agreement for a particular phase or by other lawful means.

9. Leases and Concessions: BPC shall have the exclusive responsibility to negotiate and present proposed leases and concession agreements with third parties desirous of operating businesses in Phase I to serve park visitors. The effectiveness of any such leases or concession agreements shall be conditioned on City Commission approval. BPC may acquire certain responsibilities with respect to the negotiation, drafting and presentation of lease and concession agreements in subsequent phases, which responsibilities shall be further specified in approved Implementation Plans or in Implementation Agreements for the subsequent phases. All net revenues generated by any such leases or concessions shall be applied to operational and maintenance expenses at The Bay Park or applied to the cost of capital improvements at The Bay Park.

10. Construction Contracts: The City Commission of City may permit BPC to enter into contracts with third party general contractors for the construction of capital improvements and landscaping or other features at The Bay Park in accordance with an approved Implementation Plan for any phase. BPC shall comply with the applicable provisions of the City's Procurement Code regarding the process for competitive selection of qualified contractors. However, alternatively, BPC is authorized to develop a proposed written process for procurement and competitive selection of qualified contractors for the construction of capital improvements in The Bay Park. BPC shall not be authorized to utilize this procurement process unless and until it has received written approval from the City Manager, City Purchasing Manager and the City Attorney. Any construction contracts entered into by BPC with third party contractors shall contain an Indemnification and Hold Harmless Clause in favor of the City in substantially the form reflected in Exhibit "C" appended to this Agreement.

The parties shall strive to achieve and shall diligently pursue minority contractor participation in construction contracts for The Bay Park to the maximum extent allowed by law. The parties shall also implement local hiring preference policies to the extent allowed by law. BPC, in consultation with City staff, shall develop a policy for review and consideration for approval by the City Commission to encourage the use of local vendors and contractors (as defined by City ordinance) for work performed at The Bay Park. This policy shall also include a strategy to encourage the diligent pursuit of the hiring of MBE/WBE contractors and employees for work performed within each phase. This policy will outline targeted demographics and reporting methodology.

11. Insurance Requirements:

A. Applicable to BPC: BPC shall maintain a general liability insurance policy in the amount of One Million Dollars (\$1,000,000.00) bodily injury and property damage combined single limit to cover losses that may be sustained by third parties in connection with any work performed at The Bay Park (including but not limited to demolition and construction work) by BPC or its contractors. The City shall be named as an additional insured under the general liability policy. The general liability policy shall be primary with respect to the additional insured. BPC shall provide the City's Risk Manager with a Certificate of Insurance and with an Endorsement to the policy indicating that the City is an additional insured. Insurance requirements applicable to third party lessees or concessionaires shall be described in the applicable lease agreement or concession agreement.

B. Applicable to General Contractors: Any contracts with general contractors procured by BPC in accordance with Section 10 shall be reviewed by City prior to execution to determine the adequacy of insurance coverage protecting the City and to determine that the hold harmless and indemnity provision required by Section 10 is included. In the event City determines that the proposed coverage is inadequate for any reason or determines that the required hold harmless and indemnity provision is not included, then the contract shall not be executed. If a contract deemed deficient under this subsection is executed, City will not permit work under the contract to commence on its property. The City shall be covered as an additional insured under any general contractor liability insurance policy in effect during construction (excluding Worker's Compensation) and such insurance shall be primary with respect to the additional insured. BPC or its general contractor shall provide the City's Risk Manager with a Certificate of Insurance and with an Endorsement to the policy indicating that the City is an additional insured. Additionally, every contractor and subcontractor who performs work related to the development of The Bay Park pursuant to a contract with BPC or a contract with a general contractor of BPC shall obtain and maintain Worker's Compensation insurance in accordance with applicable Florida Statutes, including a waiver of subrogation in favor of the City.

12. Florida Government in the Sunshine Law: Because the primary goal of BPC is to assist the City, which is a public agency subject to the requirements of Florida's Government in the Sunshine Law (the "Sunshine Law"); because BPC will be carrying out its functions and responsibilities on public City owned property; and because BPC will play an important role in the decision making process of the City with respect to implementation of the Master Plan for The Bay Park, the parties

agree that BPC, its Board of Directors and any committees created by BPC shall function subject to the Sunshine Law and shall comply with the requirements of the Sunshine Law.

Meetings of the BPC Board of Directors shall be noticed to the general public a reasonable time in advance of the meeting by posting on the BPC website and by such other means as may be appropriate under the circumstances taking into account the items under consideration and the matters to be decided. Minutes of such meetings shall be taken and the minutes shall be public records in accordance with Section 13 below. All BPC Board of Directors meetings shall be open to the public. BPC shall comply with the requirements of Sec. 286. 0114 *Florida Statutes* regarding a reasonable opportunity for members of the public to be heard on a "proposition" before the Board.

Communications among members of the BPC Board of Directors concerning any matters reasonably foreseeable to come before the Board of Directors shall be confined to open public meetings, duly noticed to the public in advance for which minutes are taken and transcribed. BPC shall advise its directors and the City shall advise the two *ex officio* directors the City appoints pursuant to Section 2 above that the *ex officio* directors are also subject to this limitation on their communications with other directors.

13. Florida Public Records Act: BPC shall maintain records and accounts in connection with the performance of its duties under this Agreement that accurately reflect and document the source and amount of all funds received by BPC. BPC shall likewise maintain records and accounts that accurately reflect and document all costs incurred by BPC, including salaries and operational expenses. Such records of costs incurred shall include the nature of the expenditure, shall identify to whom the funds were paid and the date of payment. All records made or received by the BPC in connection with the performance of the functions specified herein, including but not limited to the above described records of income, donations and expenditures shall be kept and maintained by BPC and shall be considered public records subject to disclosure upon request from the City or a member of the general public.

BPC may, but shall not be required to, respond directly to public records requests from the general public. In accordance with Sec. 119.0701(3)(a) *Florida Statutes*, a request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency (i.e. to the City). If the City does not possess the requested records, the City shall immediately notify

BPC of the public records request and BPC shall provide the records to the City or allow the records to be inspected and copied within a reasonable period of time at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*, the Public Records Act.

BPC shall ensure that public records that are exempt from disclosure or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following the termination or expiration of this Agreement if BPC does not turn over and transfer possession of the public records to the City.

Upon the completion, termination or expiration of this Agreement, BPC shall transfer, at no cost, to the City all public records in its possession or keep and maintain the public records required by this Agreement to perform the services described herein. If BPC transfers all public records to the City, BPC shall destroy any duplicate records that are exempt or confidential and exempt from public records disclosure requirements. If BPC keeps and maintains public records upon the termination or expiration of this Agreement, then BPC shall meet all applicable requirements for retaining public records.

All records stored electronically shall be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF BPC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PARTNERSHIP AGREEMENT, BPC SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS USING THE CONTACT INFORMATION BELOW:

Shayla Griggs, Interim City Auditor and Clerk
Sarasota City Hall, 1565 1st St., Sarasota, Florida 34236
Phone (941) 954-4160
Email address: Shayla.Griggs@sarasotafl.gov

Notwithstanding the Alternative Dispute Resolution requirements in Section 21 of this Agreement, City shall have the right to enforce the terms of this Section 13 by an action for specific performance and/or by an action for mandatory injunctive relief.

14. Conflicts of Interest: The members of the BPC Board of Directors shall comply with Article IX of the BPC By-Laws, entitled "Conflict of Interest Policy," a copy of which is appended to this Agreement as Exhibit "D." Article IX of the BPC By-Laws shall not be removed from the By-Laws while this Agreement is in effect. Article IX of the BPC By-Laws shall not be amended without the prior consent of the City Commission.

15. Annual Audit: BPC shall cause an independent audit of its operations and records to be performed on an annual basis by an independent Certified Public Accountant. When completed the audit report shall become a public record subject to disclosure in accordance with Section 13 of this Agreement.

16. General Relationship Between the Parties: The parties agree to work together at all times in good faith to implement the Master Plan for The Bay Park, to communicate on a regular basis, to keep each other fully informed as to the activities of the other and to maintain at all times a formal representative who shall serve as a point of contact for communications. The parties will operate and interact in the spirit of good faith and cooperation, with certain authority and responsibilities delegated to BPC as more fully specified herein, to avoid duplication of costs, redundancy and to promote the most efficient and sustainable use of resources for The Bay Park. However the City shall remain the sole and exclusive owner of all of the real property comprising The Bay Park and shall become the owner of all improvements constructed within the park.

As an inducement to the City to enter into this Partnership Agreement and as partial consideration for the execution hereof, BPC makes the following specific representations.

(1) BPC shall operate as the exclusive design, planning, development, funding, operating and sustainability partner entrusted by the City, through a public/not for profit partnership of coordinated collaboration to implement the Master Plan.

(2) BPC shall design and implement the phases of The Bay Park approved by the City in accordance with the principles of accessibility, diversity and inclusion and environmental and financial sustainability.

(3) BPC shall incorporate sustainable best design practices, including softening the shoreline, meeting or exceeding current FEMA standards and applying effective renewable energy and storm water treatment strategies for The Bay Park.

(4) BPC shall continue the proven community outreach engagement process that allows for community/stakeholder collaboration and input and includes working groups, community/master plan advisory committee(s) and other groups as appropriate.

(5) BPC shall continue a long term branding and marketing strategy for The Bay Park to include communications to the public and to neighbors, donors and stakeholders.

(6) BPC will activate each phase of The Bay Park in the way that most benefits the community and provides access for all people in Sarasota.

17. Term of Agreement: The term of this Agreement shall be fifteen (15) years from the date this Agreement is executed by both parties. (the "Initial Term") The Initial Term is intended to coincide with the estimated time required to transform the site into The Bay Park in accordance with the Master Plan. This Agreement shall automatically renew for successive fifteen (15) year terms (each a Renewal Term) unless either party delivers written notice to the other party of its intention to terminate this Agreement prior to the commencement of a Renewal Term in accordance with Section 18 below or unless the City delivers written notice to BPC that it desires to terminate this Agreement in accordance with Section 19 below; or unless this Agreement is terminated in accordance with Section 21 below.

18. Termination of Agreement: Either party may terminate this Agreement prior to the commencement of a renewal term after majority vote of the City Commission to terminate in the case of the City or majority vote of the Board of Directors to terminate in the case of BPC; by providing written notice to the other party of its intention to terminate no later than ten (10) months prior to the commencement of the fiscal year in which the expiration date of the initial term or renewal term will occur. For purposes of this section the commencement of the fiscal year shall mean October 1 of each calendar year. If notice is timely provided, the termination shall become effective at the end of the initial term or the renewal term, as applicable.

19. Termination Events: In addition to the right to terminate this Agreement following an unsuccessful Alternative Dispute Resolution process as provided in Section 21 below, City shall have the right to terminate this Agreement in accordance with this Section. City shall terminate this Agreement at any time during the initial term or the Renewal Terms in the event that BPC fails to maintain

its status as a Section 501(c)(3) organization; however such termination shall occur only after thirty (30) days advance written notice to BPC with an opportunity to cure. City may, but is not required to, terminate this Agreement at any time during the Initial Term or the Renewal Terms in the event that BPC or any of its directors fail to comply with the requirements of Section 12 of this Agreement pertaining to the Sunshine Law; in the event that BPC or any of its directors fail to comply with the requirements of Section 13 of this Agreement pertaining to public records; or in the event that a director of the BPC fails to comply with Section 14 pertaining to voting conflicts. Termination in accordance with this Section for failure or alleged failure to comply with Sections 12, 13 or 14 shall require placement of the proposed termination on an agenda of a regular City Commission meeting for a vote as an item of New Business. A minimum of thirty (30) days advance written notice of the meeting and agenda item to be considered shall be provided to BPC.

20. Discrimination Prohibited: The City and BPC shall not discriminate based upon race, color, creed, religion, sex, national origin, marital status, age, physical disability, sexual orientation, gender identity or based upon any other classification which may be hereafter added to City's Human Relations ordinance while performing the functions described in this Agreement and throughout the implementation of the Master Plan.

21. Alternative Dispute Resolution: In acknowledgement of the relationship of trust and cooperation between the parties, the parties agree that any dispute or disagreement arising under this Agreement that is not able to be resolved after good faith collaborative efforts to do so shall be submitted to an alternative dispute resolution process. The parties further agree that such process shall be the sole and exclusive means of resolving disputes between them in any way related to this Partnership Agreement. The Alternative Dispute Resolution process shall be initiated by way of a written communication from the initiating party to the other party. For purposes of this Agreement, alternative dispute resolution (ADR) shall mean adherence to the following process: Step One shall be a meeting between the City Manager and the Executive Director of BPC, which shall be convened as soon as practicable. Follow up meetings may also be scheduled as agreed and shall be deemed a part of Step One. If there is no resolution either during Step One or during the ninety (90) day period from the date that ADR was first invoked, the parties shall be deemed at impasse and the ADR process shall progress to Step Two.

Step Two shall be placement of the subject matter of the dispute on the agenda of the next available City Commission meeting. At such meeting the City Commission shall do one of the following: (1) make a decision as to how to resolve

the dispute; (2) delegate the task of resolving the dispute to a qualified and willing designee for a recommendation; or (3) determine that it is unable to resolve the dispute and therefore terminate this Agreement. In the event that BPC disagrees with the decision of the City Commission as to how to resolve the dispute, whether made initially or after referral to a designee for recommendation; or in the event that the City Commission fails or refuses to undertake any of the three alternatives specified above; then in any of these events, BPC shall have the right to terminate this Agreement. In the event of termination in accordance with this Section, thirty (30) days advance written notice of termination shall be provided by the terminating party to the non-terminating party.

For purposes of this Section 21, the phrase "dispute or disagreement arising under this Agreement" shall include, but shall not be limited to, disputes arising from the factual or alleged failure or refusal of the City to budget and appropriate sufficient funds to construct improvements, to fund construction contracts or to conduct other activities in furtherance of the Master Plan. However, the term "dispute or disagreement arising under this Agreement" shall not include disputes over the final decisions of the City Commission on any site plan, conditional use or other development application.

22. Notices to Parties: Notices and other correspondences required by or pertaining to this Agreement shall be sent to the respective parties at the following addresses:

To the City of Sarasota at:

City of Sarasota
1565 First Street, Sarasota, FL 34236
Attention: Thomas W. Barwin, City Manager

With a copy to:

Robert M. Fournier, City Attorney
1 So. School Avenue, Suite 700
Sarasota, FL 34237

To The Bay Park Conservancy, Inc. at:

The Bay Park Conservancy, Inc.
655 N. Tamiami Trail, Sarasota, FL 34236
Attention: Chair of the Board of Directors

With a copy to:

The Bay Park Conservancy, Inc.
655 N. Tamiami Trail, Sarasota, FL 34236
Attention: Executive Director

IN WITNESS WHEREOF, the City of Sarasota and The Bay Park Conservancy, Inc. have caused this Partnership Agreement to be executed, in duplicate, by their respective duly authorized officials on the dates set forth below.

DATED this 24th day of April, 2019 by the City of Sarasota, Florida.

DATED this 24th day of April, 2019 by The Bay Park Conservancy, Inc.

CITY OF SARASOTA, FLORIDA

By: Liz Alpert
Liz Alpert, Mayor

ATTEST:

Shayla Griggs
Shayla Griggs
Interim City Auditor and Clerk

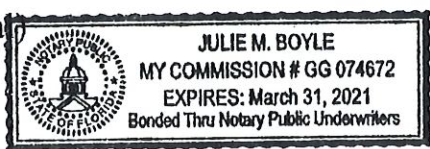
THE BAY PARK CONSERVANCY, INC.
a Florida not for profit corporation

By: Cathy Layton
Cathy Layton, ~~President~~
Chair, Board of Directors

STATE OF FLORIDA
COUNTY OF SARASOTA

THE FOREGOING INSTRUMENT was acknowledged before me this 24th
day of April, 2019 by Cathy Layton, as ~~President~~ Chair, Board of
Directors, of The Bay Park Conservancy, Inc., a Florida not for profit corporation.
She is personally known to me or has produced _____ as
identification.

(Seal)



Julie M Boyle
Notary Public

Agreement approved as to form and correctness:

Robert M. Fournier
Robert M. Fournier
City Attorney

EXHIBIT A TO PARTNERSHIP AGREEMENT



SARASOTA BAYFRONT
PLANNING ORGANIZATION

Mission

The mission of The Bay is to present a vibrant, comprehensive, long-term master plan for the City of Sarasota and its community that is financially feasible, operationally viable and environmentally sustainable.

Vision Statement

We support the creation of a long-term master plan for the Sarasota bayfront area that will establish a cultural and economic legacy for the region while ensuring open, public access to the bayfront.

Implementation Guiding Principles in Support of the Vision Statement:

Aspiration: Sarasota's bayfront will be an iconic, public destination that welcomes the diversity of Sarasota, enhances our status as a cultural capital and serves as a venue for multi-generational, inter-neighborhood, broad-based enjoyment of our bayfront.

Cultural Heritage: The bayfront's identity as a cultural, arts and educational destination will be strengthened, anchored by some of the region's most important institutions and rooted in Sarasota's diverse cultural legacy.

Bayfront/Natural Assets: Welcoming, attractive, publicly accessible, safe, fun and family friendly open space celebrating the bayfront's natural heritage will be developed along the bayfront for future generations. Views of the Bay will be enhanced.

Activation: Outdoor cultural programming, aquatic and onshore recreational programming, educational programming, urban amenities, plentiful shade, adequate lighting and alternatives to surface parking will support the active and passive usage of the bayfront throughout the day and evening and in all seasons.

Connectivity: Greatly improved connectivity among the bayfront, adjacent neighborhoods and the wider region is necessary to achieve our aspirations. Improved connectivity will be accomplished via safe, convenient pedestrian, bicycle, and water transit connections to the north, south, east and across the Bay. Convenient automobile access to the site should be accommodated with the smallest practicable footprint.

Sustainability: Ecological, economic and financial sustainability are fundamental to the long-term success of Sarasota's bayfront and critical to the realization of our aspirations. Achieving a sustainable future for the bayfront will require continuous cooperation among the public, private and non-profit sectors.

Vision and Guiding Principles Adopted by Sarasota City Commission February 17, 2015

EXHIBIT B TO PARTNERSHIP AGREEMENT
[REFERENCED IN AGREEMENT SECTION 3A(1)]

The Bay Park Phase 1 Capital Funding Sources – 4/02/19

Phase 1 – Estimated Capital Funding Sources

Sources	Minimum Base Funding	Aspirational Funding (up to) ⁽²⁾
State and Federal Sources	\$1-2M	\$2-5M
Development Impact Fees	\$1M	\$2M
City Capital Support	\$1-2M	\$2-3M
Tax Increment Financing ⁽¹⁾	\$1-2M	\$2-3M
Philanthropy	\$10-15M	\$15-20M
Total Revenues	\$14-22M	\$23-33M

⁽¹⁾ Depending on the pace of redevelopment and property value growth

⁽²⁾ Obtaining "aspirational level" of funding for some sources will likely lead to a reduction in funding need from other sources.

Proportional Funding Sources

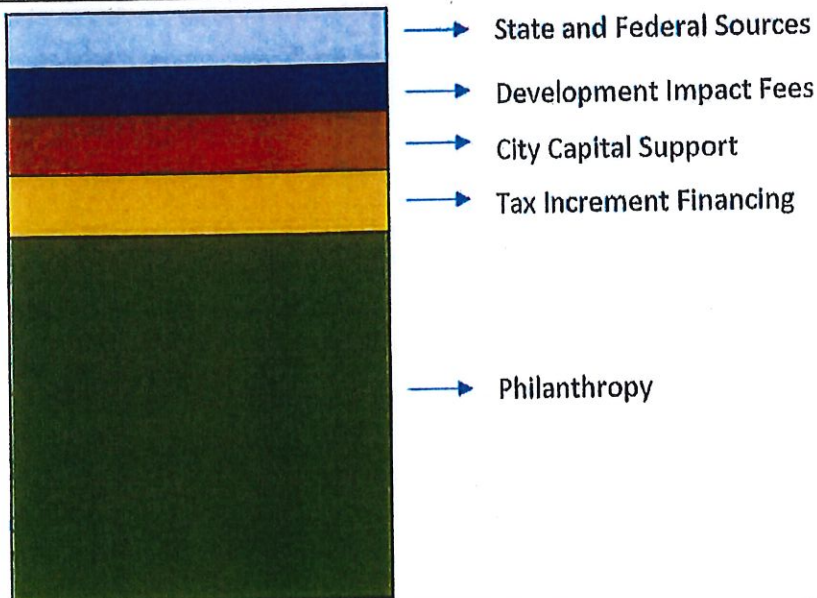


EXHIBIT C TO PARTNERSHIP AGREEMENT
[REFERENCED IN AGREEMENT SECTION 10]

Contractor (Name) hereby releases and shall indemnify, defend and hold harmless the City of Sarasota, its elected officials; its officers, employees, agents, authorized representatives, successors and assigns from and against any and all suits, actions, legal or administrative proceedings, claims, debts, demands, damages, liabilities, injuries, obligations, losses, judgments, charges, interest, attorneys' fees, costs, causes of action of every kind and character, whether in law or equity, and expenses of every kind or nature, whether arising before or after the termination of this Construction Contract and in any manner directly or indirectly caused, occasioned or contributed to in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence, whether active or passive, of Contractor, its officers, employees, agents, subcontractors or of anyone acting under its direction or control or on its behalf in connection with or incidental to this Construction Contract.

Contractor's aforesaid release, indemnity and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified or held harmless. Contractor specifically waives any immunity provided against this indemnity by any industrial insurance or worker's compensation statute. Contractor further agrees that this covenant to indemnify, defend and hold harmless the parties released shall not be limited to the limits or terms of insurance required under the terms of this Construction Contract. This indemnification and hold harmless provision shall survive the expiration of this Construction Contract or any termination hereof.

EXHIBIT D TO PARTNERSHIP AGREEMENT
[REFERENCED IN AGREEMENT SECTION 14]

ARTICLE IX
Conflict of Interest Policy

A. Purpose. The purpose of the conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit, directly or indirectly, the private interest of an Officer or Director of the Corporation or result in an excess benefit transaction as defined in Internal Revenue Code Section 4958. This policy is intended to supplement but not replace any applicable federal or state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

B. Definitions.

(1) Interested Person. Any Director, Officer, or member of a committee with Board delegated powers who has a direct or indirect financial interest, as defined below, is an interested person.

(2) Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment or family:

(a) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, or

(b) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or

(c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A financial interest is not necessarily a conflict of interest. Under paragraph C(2) of this Article IX, a person who has a financial interest has a conflict of interest only if the Board of Directors or appropriate committee decides that a conflict of interest exists.

C. Procedures.

(1) Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence and nature and all material facts to the Board of Directors or committee members considering the proposed transaction or arrangement.

(2) Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after discussion with the interested person, he or she shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.

(3) Procedures for Addressing Conflicts of Interest.

(a) An interested person may make a presentation at the Board or committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.

(b) The Chairperson or committee chair shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(c) After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

(d) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested Directors or committee members whether the transaction or arrangement is in the Corporation's best interest, for its own benefit and whether the transaction or arrangement is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

(4) Violations of the Conflicts of Interest Policy.

(a) If the Board or committee has reasonable cause to believe that an interested person has failed to disclose an actual or potential conflict of interest, it shall inform the interested person of the basis for such belief and afford the interested person an opportunity to explain the alleged failure to disclose.

(b) If, after hearing the response of the interested person and making such further investigation as may be warranted in the circumstances, the Board or committee determines that the interested person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

D. Records of Proceedings. The minutes of the Board, all committees, and advisory committees with Board-delegated powers shall contain:

(1) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.

(2) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed action or arrangement, and a record of any votes taken in connection therewith.

E. Annual Statements. Each Director, Officer or member of a committee with Board-delegated powers shall annually sign a statement which affirms that such person

- (1) has received a copy of the conflict of interest policy;
- (2) has read and understands the policy;
- (3) has agreed to comply with the policy; and

(4) understands that the Corporation is a charitable organization and that in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

F. Periodic Reviews. To ensure that the Corporation operates in a manner consistent with its charitable purposes and does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

(1) whether compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining; and

(2) whether partnerships, joint ventures, and arrangements with management service organizations conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further the Corporation's charitable purposes and do not result in private inurement, impermissible private benefit or in an excess benefit transaction.

G. Use of Outside Experts. In conducting periodic reviews provided for herein, the Corporation may, but need not, use outside advisors as approved by the Board of Directors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.