

Meeting Date
July 12, 2016



AGENDA	
Section	Consent
Item No.	II.B.3

**AGENDA REPORT**  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval, RE: Interlocal Agreements (2) with the City of Titusville (1) for fiscal participation in the construction of a splash park at Sand Point Park and (2) permission to construct a BMX track at Marina Park– District 1  Fiscal Impact: Payment to the City of Titusville in the amount of \$35,000.
DEPT/OFFICE:	Community Services Group / Parks and Recreation Department

Requested Action:  
It is requested the Board of County Commissioners approve and authorize the Chairman to execute two Interlocal Agreements with the City of Titusville and execute all necessary budgetary documents related to this action.

Summary Explanation & Background:

On May 26, 2016 the Board approved two Interlocals with the City of Titusville for fiscal participation in the construction of a splash park at Sand Point Park and granted permission to construct a BMX track at Marina Park. Staff requests the Board approve the updated Interlocals, with the intent that these updated Interlocals supersede and replace the previously approved Interlocals.

The updated language in the Interlocals provides a more specific location of the splash park and the BMX track in the respective parks. The language in the Interlocal for the construction of a splash park at Sand Point Park provides that in the event the City has not awarded a contract for the construction of the splash park on or before July 1, 2017, the City shall return the funds to the County on or before August 1, 2017.

The City will be responsible for the design, construction and all future operation and maintenance of the splash park and BMX track. The City of Titusville approved both Interlocals at their regularly scheduled meeting on June 12, 2016.

Both projects will provide additional leisure opportunities to the residents and visitors of the City of Titusville and North Brevard County.

Clerk to the Board Instructions:

Exhibits Attached: Interlocal for Splash Park at Sand Point Park and Interlocal for BMX track at Marina Park

Contract /Agreement (If attached): Reviewed by County Attorney    Yes        No        PR   

County Manager	Assistant County Manager	Jack Masson, Parks & Recreation Department Director jack.masson@brevardparks.com; 633-2046
Stockton Whitten	Assistant County Manager, Venetta Valdengo <i>Venetta Valdengo</i>	<i>Jack Masson</i>



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

July 13, 2016

**M E M O R A N D U M**

**TO:** Jack Masson, Parks and Recreation Director

**RE:** Item II.B.3., Interlocal Agreements with City of Titusville for Fiscal Participation in the Construction of a Splash Park at Sand Point Park and Permission to Construct a BMX Track at Marina Park

The Board of Commissioners, in regular session on July 12, 2016, executed Agreements with City of Titusville for fiscal participation in the construction of a Splash Park at Sand Point Park and permission to construct a BMX Track at Marina Park; and approved all necessary budgetary documents related to this action. Enclosed is a fully-executed Agreement for each Project.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK**

**Tammy Rowe, Deputy Clerk**

Encls. (2)

**cc:** Contracts Administration  
Finance  
Budget

## INTERLOCAL AGREEMENT

This Interlocal Agreement entered into this 12 day of July, 2016, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County", and THE CITY OF TITUSVILLE, a municipality incorporated under the Laws of Florida, hereinafter referred to as "City".

### RECITALS:

**WHEREAS**, the parties entered into an Interlocal Agreement, dated July 21, 1992, hereinafter referred to as the "1992 Interlocal," to set forth the terms and conditions by which the District One Brevard County Recreation Municipal Service Taxing Unit would fund, operate, maintain, and program public recreational activities at certain parks and recreational facilities located within the boundaries of said District One Brevard County Recreation Municipal Service Taxing Unit; and

**WHEREAS**, the County has, as a condition of the 1992 Interlocal, operated and maintained all of Sandpoint Park; and

**WHEREAS**, the City desires to construct, operate, and maintain a Splash Park on a portion of Sandpoint Park; and

**WHEREAS**, the location of the Splash Park is approximated in Exhibit "A." Said location and improvements thereon is hereinafter referred to as the "Splash Park"; and

**WHEREAS**; the County desires to provide funds towards the construction of the Splash Park;

**NOW, THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. **RECITALS**. The recitals set forth hereinabove are true and correct in all respects and are incorporated herein by reference as if set forth herein verbatim.
2. **EXCLUSION OF PROPERTY**. The Splash Park shall be withdrawn as a recreational facility subject to the terms of the 1992 Interlocal, said Interlocal Agreement is incorporated herein as Exhibit "B". The County shall have no obligation to maintain or operate the Splash Park.
3. **COUNTY CONTRIBUTION OF FUNDS**. The County shall contribute \$35,000.00 towards the construction of the Splash Park. These funds shall be delivered to the City on or before July 1, 2016, and shall only be used for the construction of the Splash Park. In the event the City has not awarded a contract for the construction of the Splash Park on or before July 1, 2017, the City shall return the funds to the County on or before August 1, 2017.

4. **MAINTENANCE OF PROPERTY.** All maintenance and operational expenses, and any and all other expenses related to the Splash Park shall be the responsibility of the City.

5. **ATTORNEY'S FEES.** In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fee and cost.

6. **GOVERNING LAW.** This Interlocal Agreement shall be deemed to have been executed and entered into within the State of Florida and this Interlocal Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

7. **VENUE.** Venue for any legal action brought by any party to this Interlocal Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

8. **MODIFICATION.** No modification of this Interlocal Agreement shall be binding on the County or City unless reduced to writing and signed by a duly authorized representative of the County and the City.

9. **ENTIRETY CLAUSE.** This Interlocal Agreement embodies the entire Interlocal Agreement and understanding between the parties hereto and there are no other agreements or understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

10. **SEVERABILITY.** If any provision of this Interlocal Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

11. **NOTICE.** Notice under this Interlocal Agreement shall be given to the County by mailing written notice, postage prepaid, to the Brevard County Office of the County Manager, or designee, 2725 Judge Fran Jamieson Way, Viera FL 32940, and notice shall be given to the City by mailing written notice, postage prepaid to the City Manager, City of Titusville, P.O. Box 2806, 555 S. Washington Avenue, Titusville, Florida 32796.

12. **EFFECTIVE DATE.** As used herein, the term "Effective Date" shall mean the date on which the last of the parties hereto executes this Agreement and when it is recorded in Public records of Brevard County, Florida, as required by section 163.01(11), Florida Statutes.

13. **INDEMNIFICATION.** Neither party to this Agreement, its officers, employees or agents shall be deemed to assume any liability for the acts, omissions or negligence of the other party, its officers, employee or agents.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:



Scott Ellis

By: Scott Ellis, Clerk of the Court

Reviewed for legal form and content:

Matthew Soss

Matthew Soss, Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

Jim Barfield

By: Jim Barfield, Chairman

Approved by Board July 12, 2016

ATTEST:

Wanda Wells

Wanda Wells, City Clerk

Reviewed for legal form:

Richard Broome

Richard Broome, City Attorney

THE CITY OF TITUSVILLE

James H. Tulley, Jr.

By: James H. Tulley, Jr., Mayor



# Sand Point Park

## EXHIBIT A

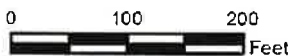
### Splashpad



**Brevard County Parks and Recreation**

2725 Judge Fran Jamieson Way  
Viera, FL 32940

2015 Aerial



DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation.

EXHIBIT B

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT made and entered into this 21st day of July, 1992, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County," and the CITY COUNCIL OF THE CITY OF TITUSVILLE, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "City," which said Interlocal Agreement terminates and supersedes that prior Agreement between the parties hereto dated February 3, 1987.

W I T N E S S E T H :

WHEREAS, the County and the City have previously entered into an Agreement dated February 3, 1987, concerning the joint funding, as well as maintenance, operation, and programming of recreational activities at certain parks and facilities located within the City of Titusville, Florida; and

WHEREAS, the County and City have previously entered into an Agreement involving Rotary Park dated August 2, 1988; and

WHEREAS, the City has determined that a public purpose exists in the establishment, maintenance, and operation of municipal recreational services within the boundaries of the City of Titusville, Florida; and

WHEREAS, the City and the County presently own various parks and recreational facilities used and operated for the purpose of public recreation services, which are more particularly described below; and

WHEREAS, pursuant to the provisions of Section 125.01(1)(q), Florida Statutes, the County established the District One Brevard County Recreation Municipal Service Taxing Unit, through the adoption of Brevard County Ordinance No. 76-29, codified in Article VI, Chapter 18, Code of Brevard County, Florida; and

WHEREAS, pursuant to Section 125.01(1)(q), Florida Statutes, the boundaries of a municipal service taxing unit may include all or part of the boundaries of a municipality located within the boundaries of the municipal service taxing unit, subject to the

consent by ordinance of the governing body of the affected municipality given either annually or for a term of years; and

WHEREAS, the City has indicated a desire to have the incorporated areas of the City of Titusville, Florida, included within the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit; and

WHEREAS, the County has amended Article VI, Chapter 18, Code of Brevard County, Florida, to reflect the expansion of the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit to include the incorporated areas of the City of Titusville, Florida, through the adoption of Brevard County Ordinance No. 92-012; and

WHEREAS, the City has consented to the expansion of the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit to include the incorporated areas of the City of Titusville, Florida, through the adoption of City of Titusville Ordinance No. 11-1992; and

WHEREAS, the City has previously provided funding to the County for recreational services in the City of Titusville; and

WHEREAS, the taxable value of real property in the unincorporated areas of District One County Commission District for 1991 was \$927,419,656 and the taxable value of real property in the corporate limits of the City of Titusville for 1991 was \$974,507,170; and

WHEREAS, the City and County desire to provide for an equitable basis for recreation service in District One; and

WHEREAS, the parties hereto desire to enter into this Interlocal Agreement, terminating and superseding that prior Agreement between the parties dated February 3, 1987, and amendments thereto, including Rotary Park Agreement dated August 2, 1988, to set forth the terms and conditions by which the District One Brevard County Recreation Municipal Service Taxing Unit shall fund, operate, maintain, and program public recreational activities at the parks and recreational facilities located within the

boundaries of said District One Brevard County Recreation Municipal Service Taxing Unit.

NOW, **THEREFORE**, in consideration of the mutual premises, promises, and covenants hereinafter contained, the parties hereto hereby agree as follows:

**SECTION 1.** That the prior Agreement between the parties, dated February 3, 1987, and amendments thereto, a copy of which is attached hereto as Exhibit "A", is hereby terminated and superseded by the provisions of this Interlocal Agreement, effective September 30, 1992. The Rotary Park Agreement dated August 2, 1988 is hereby terminated as of September 30, 1992.

**SECTION 2.** The term of this Agreement shall commence upon the date of execution of this Interlocal Agreement by the parties hereto, and shall continue until such date as the City of Titusville rescinds by ordinance its consent to the inclusion of the incorporated areas of the City of Titusville, Florida, within the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit, or until otherwise terminated by mutual assent of the parties.

**SECTION 3.** The various parks and recreational facilities subject to this Agreement are listed in Exhibit "B", which is attached hereto and made a part hereof by this reference. The parties hereby agree that additional properties of the City may be added to the subject property from time to time, upon mutual agreement of the parties. The City may withdraw certain parks from this Agreement upon ninety (90) days prior written notice to the County, which notice must be received by the County on or before July 1 of any given year. The terms and conditions for any withdrawal of parks by the City shall be determined at the time of withdrawal upon mutual agreement of the parties.

**SECTION 4.** The City hereby grants to the County exclusive use, jurisdiction, and control of those properties listed in Exhibit "B" attached hereto; provided, however, that the County shall not use nor occupy said property, nor any part thereof, nor

permit the same or any part thereof, to be used or occupied, for any purpose other than as herein specified, and shall not assign any rights provided under this Agreement, nor delegate any duties or obligations specified herein to any other agency, public or private, without the prior written consent of the City; provided, however, that the County shall be permitted to enter into separate agreements with sanctioned groups, to include, but not be limited to, little league baseball, youth softball, little league football, youth soccer, square dance groups, and senior citizens' organizations. It is recognized by the County that the City is currently engaged in developing long range development plans for various areas within the municipal boundaries of the City of Titusville, which plans may affect one or more of the various parks and recreational facilities listed in Exhibit "B". The County agrees to take no action in regard to the various parks and recreational facilities listed in Exhibit "B", which are contrary to the City's above referenced planning, without prior consultation with, and consent by, the City.

SECTION 5. The City's share of the funding for the operation, maintenance, and programming of public recreational activities at the parks and recreational facilities located within the boundaries of the City shall be provided through those funds generated by the District One Brevard County Recreation Municipal Service Taxing Unit, on an annual basis. Further, the County is hereby authorized to expend such other funds as may be available for the provision of recreational services and facilities within the boundaries of the City, during the term of this Agreement.

SECTION 6. The County shall maintain the property as listed in Exhibit "B", and all improvements thereon, in good repair and appearance, at all times during the term of this Agreement. Whenever the term "Park" is used in Exhibit "B", it shall include all facilities at that location. The County shall maintain, install improvements on, including capital improvements, and provide recreational programs for the various City-owned parks on a par or

similar basis as County-owned parks within the District One Brevard County Recreation Municipal Service Taxing Unit. Upon termination of this Agreement, or any extension thereof, the County shall return the subject property to the City in as good a state and condition as reasonable use and wear would permit.

SECTION 7. The County shall pay all costs for gas, electricity, fuel, light, heat, power, water, garbage, and trash disposal, and other utilities, for those properties listed in Exhibit "B", utilized by the County, or others under the authority of the County, under the provisions of this Agreement. The City shall be responsible for payment of any and all stormwater assessments or charges levied against those properties listed in Exhibit "B", during the term of this Agreement.

SECTION 8. All personal property placed upon the properties listed in Exhibit "B" shall be at the risk of the County, or other owner thereof, and the City shall not be held liable for any damage thereto or to the County or any other person, which liability arises from any condition of the premises or act of negligence, carelessness, or improper conduct of any person whosoever. The County hereby agrees to hold the City harmless from any accident which may occur on those properties listed in Exhibit "B", while being utilized by the County under the provisions of this Agreement, or any act, condition, or occurrence from which any liability may arise.

SECTION 9. The County shall maintain a system of self-insurance, which shall maintain a cash reserve in said self-insurance system sufficient to provide coverage in the amount of not less than \$100,000.00 for one injury, \$300,000.00 for one accident, and \$100,000.00 for property damage. The City may request that the County present to the City specific documentation confirming the level of fiscal responsibility required by this section.

SECTION 10. The City shall retain the underlying fee simple title to the properties described in Exhibit "B" and any permanent

improvements constructed thereon, subject to any subsequent agreement between the parties entered into pursuant to Section 3 above. It is recognized that improvements will be installed on City-owned and County-owned parks without distinction as to ownership. The City hereby assigns all other rights and responsibilities for said properties to the County under this Agreement.

SECTION 11. The County shall operate, maintain, and administer municipal recreation and park services and activities on the properties listed in Exhibits "B", within its budget limitations, consistent with those levels of activities and programming set forth in Exhibit "C" attached hereto and incorporated herein by this reference. The County shall also maintain the same or similar services, activities, and programming as presently offered at Sylvan Park, and its Community Center, and at Rotary Park. All funds generated through the Brevard County District One Recreation Municipal Service Taxing Unit shall be utilized for the provision of the above referenced services and activities within the boundaries of said Brevard County District One Recreation Municipal Service Taxing Unit, pursuant to the provisions of Section 125.01, Florida Statutes.

SECTION 12. The County may construct permanent improvements to the premises of those properties listed in Exhibit "B"; provided, however, that the County shall not construct any facilities for which costs exceed \$5,000.00, except upon submission of applicable plans and specifications to the City Manager for review and approval by the City.

SECTION 13. The County shall maintain, for the term of this Agreement, a system of records and accounts, in a format approved by the County for general funding subject to audit, and shall furnish to the City Manager reports on an annual basis, reflecting disbursement of funds expended for municipal recreation and parks activities under the Brevard County District One Recreation Municipal Service Taxing Unit.

SECTION 14. It is hereby agreed between the parties that the employment of personnel, agents, and any other employees by the County conducting activities governed by this Agreement shall not be construed as the employment of personnel, agents, or employees of the City.

SECTION 15. Notice, where applicable, shall be provided to the City and County as follows:

CITY

City of Titusville, Florida  
c/o City Manager  
Post Office Box 2806  
Titusville, Florida 32781-2806

COUNTY

Board of County Commissioners of Brevard County, Florida  
c/o County Administrator  
2725 St. Johns Street  
Building C, 3rd Floor  
Melbourne, Florida 32940

SECTION 16. Prior to June 15 of each year during the term of this Agreement, the County shall submit to the City a proposed, preliminary budget, reflecting the maintenance, capital improvements, programs, and other services to be offered on the properties listed on Exhibit "B", as well as the other County parks and recreational facilities located within the District One Brevard County Recreation Municipal Service Taxing Unit. The County's proposed, preliminary budget shall reflect the proposed allocation or distribution of MSTU funds. The City Council shall review the proposed preliminary budget and distribution of MSTU funds on or before August 1 of each year, and provide its input and recommendations to the County and the North Brevard Commission on Parks and Recreation, or its subsequent functional equivalent.

SECTION 17. No funds received or generated by the District One Brevard County Recreation Municipal Service Taxing Unit shall be diverted or transferred to the County's General Fund or any other parks and recreation district within the County.

SECTION 18. The County agrees to annually consult with the North Brevard Commission on Parks and Recreation in the development of the annual budget for the District One Brevard County Recreation

Municipal Service Taxing Unit. The County shall give consideration to the input and recommendation of the North Brevard Commission on Parks and Recreation. Once the budget is adopted, except in an emergency situation, no funds in excess of \$5,000.00 shall be transferred or reallocated from one park or recreational program to another without first being reviewed and receiving the input from the North Brevard Commission on Parks and Recreation. If an emergency occurs, input shall be sought by the County, after-the-fact, from the North Brevard Commission on Parks and Recreation. In the budgeting process, the North Brevard Commission on Parks and Recreation and the County agrees to give consideration to the source of the funds generated and the delivery of the services to the area from which the funds were generated. The City recognizes that the final decision rests with the County after giving consideration to the input from the City and the North Brevard Commission on Parks and Recreation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

  
 R. C. Winstead, Jr., Clerk

BOARD OF COUNTY COMMISSIONERS  
 OF BREVARD COUNTY, FLORIDA

By:   
 Thad Altman, Chairman

ATTEST:

  
 Janet R. Camacho, City Clerk

CITY COUNCIL OF THE CITY OF  
 TITUSVILLE, FLORIDA

By:   
 Thomas R. Mariani, Mayor

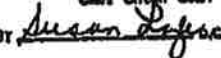
STATE OF FLORIDA  
 COUNTY OF BREVARD  
 This is to certify that the foregoing is a  
 true & correct copy of Agreement  
 \_\_\_\_\_ witness my hand  
 and official seal this 22nd day of  
July 1992  
 R. C. WINSTEAD, JR.  
 Court Clerk  
 BY 

Exhibit A

Old Agreements  
& Amendments

many pages!

**EXHIBIT "B"**

**Parks and Recreation Facility**

<u>City Owned</u>	<u>Activity/Program</u>
Blanton Park	Category IV
Broad Street	Category IV
Marina Park	Category I, IV, V, VII
Park area along Riverfront Near the Upland Building but excluding the Upland Building	Category IV, VII
Sandpoint Park	Category I, IV, V, VII
Sylvan Park and Community Center	Category I, III, IV, V, VI, VII
Wuestoff Nature Park	Category III, IV
North Brevard Exercise Trail	Category IV

**EXHIBIT "C"**

**ACTIVITY/PROGRAM/CATEGORIES**

**Athletics - Category I**

Softball  
Baseball  
Soccer  
Basketball  
Tennis

Racquetball  
Handball  
Football  
Volleyball

**Aquatics - Category II**

Public Swim  
Instructional/Lessons  
Community Rental for Groups  
School Use  
Competitive Swim Use

**Recreation Centers - Category III**

Socials  
Teen Dances  
Sanctioned Group Use  
Playground Games  
Organized Classes for Groups  
Community Meetings

**General Parks - Category IV**

Picnic Tables/Grill  
Pavilions  
Playground Equipment Areas  
Multi-Purpose Fields  
Building Rentals  
Launching Area  
Multi-Purpose Courts

**Special Interest - Category V**

Elementary Band  
Exercise Classes  
Bridge  
Crafts  
Summer Family Track  
Special Events/Tournaments  
Open Gym

**Summer Recreation - Category VI**

Summer organized youth activities/programs with paid staff at school/recreation centers.

**Sanctioned Groups Usage - Category VII**

Square Dancing  
Round Dancing  
Dancing  
Little League Baseball  
Youth League Softball  
Youth League Football  
Youth Soccer

## INTERLOCAL AGREEMENT

This Interlocal Agreement entered into this 12 day of July, 2016, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County", and THE CITY OF TITUSVILLE, a municipality incorporated under the Laws of Florida, hereinafter referred to as "City".

### RECITALS:

**WHEREAS**, the parties entered into an Interlocal Agreement, dated July 21, 1992, hereinafter referred to as the "1992 Interlocal," to set forth the terms and conditions by which the District One Brevard County Recreation Municipal Service Taxing Unit would fund, operate, maintain, and program public recreational activities at certain parks and recreational facilities located within the boundaries of said District One Brevard County Recreation Municipal Service Taxing Unit; and

**WHEREAS**, the County has, as a condition of the 1992 Interlocal, operated and maintained all of Marina Point Park; and

**WHEREAS**, the City desires to construct, operate, and maintain a Bicycle Motor Cross (BMX) Track on a portion of Marina Park; and

**WHEREAS**, the location of the Bicycle Motor Cross (BMX) Track is approximated in Exhibit "A." Said location and improvements thereon is hereinafter referred to as the "BMX Track";

**NOW, THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

1. **RECITALS**. The recitals set forth hereinabove are true and correct in all respects and are incorporated herein by reference as if set forth herein verbatim.
2. **EXCLUSION OF PROPERTY**. The BMX Track shall be withdrawn as a recreational facility subject to the terms of the 1992 Interlocal, said Interlocal Agreement is incorporated herein as Exhibit "B". The County shall have no further obligation to maintain or operate the BMX Track.
3. **MAINTENANCE OF PROPERTY**. All maintenance and operational expenses, and any and all other expenses related to the BMX Track shall be the responsibility of the City.
4. **ATTORNEY'S FEES**. In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fee and cost.
5. **GOVERNING LAW**. This Interlocal Agreement shall be deemed to have been executed and entered into within the State of Florida and this Interlocal Agreement, and any

dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

6. **VENUE.** Venue for any legal action brought by any party to this Interlocal Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

7. **MODIFICATION.** No modification of this Interlocal Agreement shall be binding on the County or City unless reduced to writing and signed by a duly authorized representative of the County and the City.

8. **ENTIRETY CLAUSE.** This Interlocal Agreement embodies the entire Interlocal Agreement and understanding between the parties hereto and there are no other agreements or understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

9. **SEVERABILITY.** If any provision of this Interlocal Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

10. **NOTICE.** Notice under this Interlocal Agreement shall be given to the County by mailing written notice, postage prepaid, to the Brevard County Office of the County Manager, or designee, 2725 Judge Fran Jamieson Way, Viera FL 32940, and notice shall be given to the City by mailing written notice, postage prepaid to the City Manager, City of Titusville, P.O. Box 2806, 555 S. Washington Avenue, Titusville, Florida 32796.

11. **EFFECTIVE DATE.** As used herein, the term "Effective Date" shall mean the date on which the last of the parties hereto executes this Agreement and when it is recorded in Public records of Brevard County, Florida, as required by section 163.01(11), Florida Statutes.

12. **INDEMNIFICATION.** Neither party to this Agreement, its officers, employees or agents shall be deemed to assume any liability for the acts, omissions or negligence of the other party, its officers, employee or agents.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first above written.

ATTEST:



A handwritten signature in blue ink, appearing to read "Scott Ellis", written over a faint circular seal.

By: Scott Ellis, Clerk of the Court

Reviewed for legal form and content:



A handwritten signature in blue ink, appearing to read "Matthew Soss", written over a faint circular seal.

Matthew Soss, Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



A handwritten signature in blue ink, appearing to read "Jim Barfield", written over a faint circular seal.

By: Jim Barfield, Chairman

Approved by the Board July 12, 2016

ATTEST:



A handwritten signature in blue ink, appearing to read "Wanda Wells", written over a faint circular seal.

Wanda Wells, City Clerk

Reviewed for legal form:



A handwritten signature in blue ink, appearing to read "Richard Broome", written over a faint circular seal.

Richard Broome, City Attorney

THE CITY OF TITUSVILLE



A handwritten signature in blue ink, appearing to read "James H. Tulley, Jr.", written over a faint circular seal.

By: James H. Tulley, Jr., Mayor



# Marina Park

## EXHIBIT A

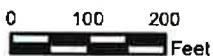
### BMX Track



**Brevard County Parks and Recreation**

2725 Judge Fran Jamieson Way  
Viera, FL 32940

2015 Aerial



DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation.

EXHIBIT B

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WHEREAS, the County and City have previously entered into an Agreement involving Rotary Park dated August 2, 1988; and

WHEREAS, the City has determined that a public purpose exists in the establishment, maintenance, and operation of municipal recreational services within the boundaries of the City of Titusville, Florida; and

WHEREAS, the City and the County presently own various parks and recreational facilities used and operated for the purpose of public recreation services, which are more particularly described below; and

WHEREAS, pursuant to the provisions of Section 125.01(1)(q), Florida Statutes, the County established the District One Brevard County Recreation Municipal Service Taxing Unit, through the adoption of Brevard County Ordinance No. 76-29, codified in Article VI, Chapter 18, Code of Brevard County, Florida; and

WHEREAS, pursuant to Section 125.01(1)(q), Florida Statutes, the boundaries of a municipal service taxing unit may include all or part of the boundaries of a municipality located within the boundaries of the municipal service taxing unit, subject to the

consent by ordinance of the governing body of the affected municipality given either annually or for a term of years; and

WHEREAS, the City has indicated a desire to have the incorporated areas of the City of Titusville, Florida, included within the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit; and

WHEREAS, the County has amended Article VI, Chapter 18, Code of Brevard County, Florida, to reflect the expansion of the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit to include the incorporated areas of the City of Titusville, Florida, through the adoption of Brevard County Ordinance No. 92-012; and

WHEREAS, the City has consented to the expansion of the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit to include the incorporated areas of the City of Titusville, Florida, through the adoption of City of Titusville Ordinance No. 11-1992; and

WHEREAS, the City has previously provided funding to the County for recreational services in the City of Titusville; and

WHEREAS, the taxable value of real property in the unincorporated areas of District One County Commission District for 1991 was \$927,419,656 and the taxable value of real property in the corporate limits of the City of Titusville for 1991 was \$974,507,170; and

WHEREAS, the City and County desire to provide for an equitable basis for recreation service in District One; and

WHEREAS, the parties hereto desire to enter into this Interlocal Agreement, terminating and superseding that prior Agreement between the parties dated February 3, 1987, and amendments thereto, including Rotary Park Agreement dated August 2, 1988, to set forth the terms and conditions by which the District One Brevard County Recreation Municipal Service Taxing Unit shall fund, operate, maintain, and program public recreational activities at the parks and recreational facilities located within the

boundaries of said District One Brevard County Recreation Municipal Service Taxing Unit.

NOW, THEREFORE, in consideration of the mutual premises, promises, and covenants hereinafter contained, the parties hereto hereby agree as follows:

SECTION 1. That the prior Agreement between the parties, dated February 3, 1987, and amendments thereto, a copy of which is attached hereto as Exhibit "A", is hereby terminated and superseded by the provisions of this Interlocal Agreement, effective September 30, 1992. The Rotary Park Agreement dated August 2, 1988 is hereby terminated as of September 30, 1992.

SECTION 2. The term of this Agreement shall commence upon the date of execution of this Interlocal Agreement by the parties hereto, and shall continue until such date as the City of Titusville rescinds by ordinance its consent to the inclusion of the incorporated areas of the City of Titusville, Florida, within the boundaries of the District One Brevard County Recreation Municipal Service Taxing Unit, or until otherwise terminated by mutual assent of the parties.

SECTION 3. The various parks and recreational facilities subject to this Agreement are listed in Exhibit "B", which is attached hereto and made a part hereof by this reference. The parties hereby agree that additional properties of the City may be added to the subject property from time to time, upon mutual agreement of the parties. The City may withdraw certain parks from this Agreement upon ninety (90) days prior written notice to the County, which notice must be received by the County on or before July 1 of any given year. The terms and conditions for any withdrawal of parks by the City shall be determined at the time of withdrawal upon mutual agreement of the parties.

SECTION 4. The City hereby grants to the County exclusive use, jurisdiction, and control of those properties listed in Exhibit "B" attached hereto; provided, however, that the County shall not use nor occupy said property, nor any part thereof, nor

permit the same or any part thereof, to be used or occupied, for any purpose other than as herein specified, and shall not assign any rights provided under this Agreement, nor delegate any duties or obligations specified herein to any other agency, public or private, without the prior written consent of the City; provided, however, that the County shall be permitted to enter into separate agreements with sanctioned groups, to include, but not be limited to, little league baseball, youth softball, little league football, youth soccer, square dance groups, and senior citizens' organizations. It is recognized by the County that the City is currently engaged in developing long range development plans for various areas within the municipal boundaries of the City of Titusville, which plans may affect one or more of the various parks and recreational facilities listed in Exhibit "B". The County agrees to take no action in regard to the various parks and recreational facilities listed in Exhibit "B", which are contrary to the City's above referenced planning, without prior consultation with, and consent by, the City.

SECTION 5. The City's share of the funding for the operation, maintenance, and programming of public recreational activities at the parks and recreational facilities located within the boundaries of the City shall be provided through those funds generated by the District One Brevard County Recreation Municipal Service Taxing Unit, on an annual basis. Further, the County is hereby authorized to expend such other funds as may be available for the provision of recreational services and facilities within the boundaries of the City, during the term of this Agreement.

SECTION 6. The County shall maintain the property as listed in Exhibit "B", and all improvements thereon, in good repair and appearance, at all times during the term of this Agreement. Whenever the term "Park" is used in Exhibit "B", it shall include all facilities at that location. The County shall maintain, install improvements on, including capital improvements, and provide recreational programs for the various City-owned parks on a par or

similar basis as County-owned parks within the District One Brevard County Recreation Municipal Service Taxing Unit. Upon termination of this Agreement, or any extension thereof, the County shall return the subject property to the City in as good a state and condition as reasonable use and wear would permit.

SECTION 7. The County shall pay all costs for gas, electricity, fuel, light, heat, power, water, garbage, and trash disposal, and other utilities, for those properties listed in Exhibit "B", utilized by the County, or others under the authority of the County, under the provisions of this Agreement. The City shall be responsible for payment of any and all stormwater assessments or charges levied against those properties listed in Exhibit "B", during the term of this Agreement.

SECTION 8. All personal property placed upon the properties listed in Exhibit "B" shall be at the risk of the County, or other owner thereof, and the City shall not be held liable for any damage thereto or to the County or any other person, which liability arises from any condition of the premises or act of negligence, carelessness, or improper conduct of any person whatsoever. The County hereby agrees to hold the City harmless from any accident which may occur on those properties listed in Exhibit "B", while being utilized by the County under the provisions of this Agreement, or any act, condition, or occurrence from which any liability may arise.

SECTION 9. The County shall maintain a system of self-insurance, which shall maintain a cash reserve in said self-insurance system sufficient to provide coverage in the amount of not less than \$100,000.00 for one injury, \$300,000.00 for one accident, and \$100,000.00 for property damage. The City may request that the County present to the City specific documentation confirming the level of fiscal responsibility required by this section.

SECTION 10. The City shall retain the underlying fee simple title to the properties described in Exhibit "B" and any permanent

improvements constructed thereon, subject to any subsequent agreement between the parties entered into pursuant to Section 3 above. It is recognized that improvements will be installed on City-owned and County-owned parks without distinction as to ownership. The City hereby assigns all other rights and responsibilities for said properties to the County under this Agreement.

SECTION 11. The County shall operate, maintain, and administer municipal recreation and park services and activities on the properties listed in Exhibits "B", within its budget limitations, consistent with those levels of activities and programming set forth in Exhibit "C" attached hereto and incorporated herein by this reference. The County shall also maintain the same or similar services, activities, and programming as presently offered at Sylvan Park, and its Community Center, and at Rotary Park. All funds generated through the Brevard County District One Recreation Municipal Service Taxing Unit shall be utilized for the provision of the above referenced services and activities within the boundaries of said Brevard County District One Recreation Municipal Service Taxing Unit, pursuant to the provisions of Section 125.01, Florida Statutes.

SECTION 12. The County may construct permanent improvements to the premises of those properties listed in Exhibit "B"; provided, however, that the County shall not construct any facilities for which costs exceed \$5,000.00, except upon submission of applicable plans and specifications to the City Manager for review and approval by the City.

SECTION 13. The County shall maintain, for the term of this Agreement, a system of records and accounts, in a format approved by the County for general funding subject to audit, and shall furnish to the City Manager reports on an annual basis, reflecting disbursement of funds expended for municipal recreation and parks activities under the Brevard County District One Recreation Municipal Service Taxing Unit.

SECTION 14. It is hereby agreed between the parties that the employment of personnel, agents, and any other employees by the County conducting activities governed by this Agreement shall not be construed as the employment of personnel, agents, or employees of the City.

SECTION 15. Notice, where applicable, shall be provided to the City and County as follows:

CITY

City of Titusville, Florida  
c/o City Manager  
Post Office Box 2806  
Titusville, Florida 32781-2806

COUNTY

Board of County Commissioners of Brevard County, Florida  
c/o County Administrator  
2725 St. Johns Street  
Building C, 3rd Floor  
Melbourne, Florida 32940

SECTION 16. Prior to June 15 of each year during the term of this Agreement, the County shall submit to the City a proposed, preliminary budget, reflecting the maintenance, capital improvements, programs, and other services to be offered on the properties listed on Exhibit "B", as well as the other County parks and recreational facilities located within the District One Brevard County Recreation Municipal Service Taxing Unit. The County's proposed, preliminary budget shall reflect the proposed allocation or distribution of MSTU funds. The City Council shall review the proposed preliminary budget and distribution of MSTU funds on or before August 1 of each year, and provide its input and recommendations to the County and the North Brevard Commission on Parks and Recreation, or its subsequent functional equivalent.

SECTION 17. No funds received or generated by the District One Brevard County Recreation Municipal Service Taxing Unit shall be diverted or transferred to the County's General Fund or any other parks and recreation district within the County.

SECTION 18. The County agrees to annually consult with the North Brevard Commission on Parks and Recreation in the development of the annual budget for the District One Brevard County Recreation

Municipal Service Taxing Unit. The County shall give consideration to the input and recommendation of the North Brevard Commission on Parks and Recreation. Once the budget is adopted, except in an emergency situation, no funds in excess of \$5,000.00 shall be transferred or reallocated from one park or recreational program to another without first being reviewed and receiving the input from the North Brevard Commission on Parks and Recreation. If an emergency occurs, input shall be sought by the County, after-the-fact, from the North Brevard Commission on Parks and Recreation. In the budgeting process, the North Brevard Commission on Parks and Recreation and the County agrees to give consideration to the source of the funds generated and the delivery of the services to the area from which the funds were generated. The City recognizes that the final decision rests with the County after giving consideration to the input from the City and the North Brevard Commission on Parks and Recreation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

*R. C. Winstead, Jr.*  
R. C. Winstead, Jr., Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By: *Thad Altman*  
Thad Altman, Chairman

ATTEST:

*Janet R. Camacho*  
Janet R. Camacho, City Clerk

CITY COUNCIL OF THE CITY OF  
TITUSVILLE, FLORIDA

By: *Thomas R. Mariani*  
Thomas R. Mariani, Mayor

STATE OF FLORIDA  
COUNTY OF BREVARD  
This is to certify that the foregoing is a  
true & correct copy of Agreement  
unless my hand  
and official seal this 22nd day of  
July 19 92  
R. C. WINSTEAD, JR.  
Clerk Circuit Court  
By: *Susan DeFina*

Agree\Titusvill.cit

Exhibit A

Old Agreements  
& Amendments

—  
many pages!

**EXHIBIT "B"**

**Parks and Recreation Facility**

<u>City Owned</u>	<u>Activity/Program</u>
Blanton Park	Category IV
Broad Street	Category IV
Marina Park	Category I, IV, V, VII
Park area along Riverfront Near the Upland Building but excluding the Upland Building	Category IV, VII
Sandpoint Park	Category I, IV, V, VII
Sylvan Park and Community Center	Category I, III, IV, V, VI, VII
Wuestoff Nature Park	Category III, IV
North Brevard Exercise Trail	Category IV

**EXHIBIT "C"**

**ACTIVITY/PROGRAM/CATEGORIES**

**Athletics - Category I**

Softball  
Baseball  
Soccer  
Basketball  
Tennis

Racquetball  
Handball  
Football  
Volleyball

**Aquatics - Category II**

Public Swim  
Instructional/Lessons  
Community Rental for Groups  
School Use  
Competitive Swim Use

**Recreation Centers - Category III**

Socials  
Teen Dances  
Sanctioned Group Use  
Playground Games  
Organized Classes for Groups  
Community Meetings

**General Parks - Category IV**

Picnic Tables/Grill  
Pavilions  
Playground Equipment Areas  
Multi-Purpose Fields  
Building Rentals  
Launching Area  
Multi-Purpose Courts

**Special Interest - Category V**

Elementary Band  
Exercise Classes  
Bridge  
Crafts  
Summer Family Track  
Special Events/Tournaments  
Open Gym

**Summer Recreation - Category VI**

Summer organized youth activities/programs with paid staff at school/recreation centers.

**Sanctioned Groups Usage - Category VII**

Square Dancing  
Round Dancing  
Dancing  
Little League Baseball  
Youth League Softball  
Youth League Football  
Youth Soccer