

RESOLUTION NO. 04- 46

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MARCO ISLAND, FLORIDA, AND THE HIDEAWAY BEACH DISTRICT TO IMPLEMENT THE FINANCING OF BEACH RENOURISHMENT WITHIN THE DISTRICT WHICH WILL BE PAYABLE FROM AD VALOREM TAXATION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. AUTHORIZATION OF INTERLOCAL AGREEMENT. The Interlocal Agreement, in substantially the form attached hereto as Exhibit A, with such changes, alterations and corrections as may be approved by the Chairwoman (the "Chairwoman") of the City Council (the "City Council") of the City of Marco Island, Florida (the "City"), such approval to be presumed by the Chairwoman's execution thereof, is hereby approved by the City, and the City hereby authorizes and directs the Chairwoman to execute, and the City Clerk to attest under seal of the City, the Interlocal Agreement, all of the provisions of which, when executed and delivered by the City as authorized herein, and by the other parties thereto as duly authorized, shall be deemed to be a part of this instrument as fully and to the same extent as if incorporated verbatim herein.

SECTION 2. NO PERSONAL LIABILITY. No covenant, stipulation, obligation or agreement herein contained or contained in the Interlocal Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any member, agent or employee of the City or its governing body in his or her individual capacity, and neither the members of the governing body of the City nor any official executing the Interlocal Agreement shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution thereof.

SECTION 3. FILING OF INTERLOCAL AGREEMENT. The Interlocal Agreement shall be filed of record by the City, or its respective authorized agents or representatives, with the Clerk of the Circuit Court of Collier County, Florida, in accordance with Chapter 163, Part I, Florida Statutes.

SECTION 4. AUTHORIZATION OF ALL OTHER NECESSARY ACTION. The Chairwoman and the Clerk of the City and its attorney are designated agents of the City in connection with the execution and delivery of the Interlocal Agreement and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents or contracts on behalf of the City which are necessary or

desirable in connection with the execution and delivery of the Interlocal Agreement and which are not inconsistent with the terms and provisions of this resolution.

SECTION 5. REPEALING CLAUSE. All resolutions or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 6. EFFECTIVE DATE. This instrument shall take effect immediately upon its passage.

INTERLOCAL AGREEMENT

By and Between

CITY OF MARCO ISLAND, FLORIDA

and

HIDEAWAY BEACH DISTRICT

Dated as of _____, 2004

HIDEAWAY BEACH DISTRICT
LIMITED GENERAL OBLIGATION BONDS, SERIES 2004

This Instrument Prepared By:

Randall W. Hanna, Esq.
Bryant Miller & Olive P.A.
201 South Monroe Street, Suite 500
Tallahassee, Florida 32301

Return To:

Richard H. Agster, Esq.
Bryant Miller & Olive P.A.
One Tampa City Center, Suite 2700
Tampa, Florida 33602

and

Richard H. Agster, Esq.
Bryant Miller & Olive P.A.
One Tampa City Center, Suite 2700
Tampa, Florida 33602

INTERLOCAL AGREEMENT

This INTERLOCAL AGREEMENT, dated as of _____, 2004, among the CITY OF MARCO ISLAND, FLORIDA (the "City") and the HIDEAWAY BEACH DISTRICT (the "District").

WITNESSETH:

WHEREAS, the City has created the District by ordinance to effectuate its purpose to improve, renourish, preserve, maintain, monitor and provide public access to the beach property located within the boundaries of the District, and such other improvements and appurtenances within the District as may be necessary for the improvement, renourishment, preservation, maintenance, monitoring and providing of access to such beach lands; and

WHEREAS, the City adopted Resolution No. 04-36, adopted by the City Council of the City (the "City Council") on June 21, 2004, calling for a bond referendum (the "Bond Referendum") to approve (i) the issuance by the District of not exceeding \$2,900,000 Limited General Obligation Bonds (the "Bonds") by the District for the purpose of financing beach renourishment within the District; and (ii) the levy by the City of a special ad valorem tax not to exceed 2.6 mills on all taxable property within the District (the "Limited Tax"); and

WHEREAS, the District adopted Resolution No. 04-01, adopted by the Board of Supervisors of the District (the "District Board") on July 16, 2004, calling for the Bond Referendum; and

WHEREAS, the Bond Referendum was held and approved by a majority of the qualified electors in the District on August 31, 2004; and

WHEREAS, the District adopted Resolution No. 04-02 (the "Bond Resolution"), adopted by the District Board on September 1, 2004, (i) providing for the issuance of the Bonds; and (ii) providing for the execution and delivery of this Interlocal Agreement;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

SECTION 1. DEFINITIONS. All capitalized terms herein not specifically defined shall have the meanings specified in the Bond Resolution.

SECTION 2. CITY OBLIGATIONS. In consideration of the District's undertaking of the Project, the City agrees to contribute the Limited Tax revenues which secure the Bonds to the District to be used first for the payment of the Bonds issued to finance the cost of the Project and then for payment of operation and maintenance expenses of the District. The City hereby agrees to calculate the annual millages to be levied and assessed in the District and to assess, levy and collect ad valorem taxes upon all taxable property in the District annually, such that annual Limited Tax levies shall always be sufficient to pay all principal of and interest coming due with respect to the Bonds in the ensuing year; provided, that the annual millage rate to be

levied upon the taxable property in the District shall not exceed 2.6 mills. To secure its obligations hereunder, the City hereby pledges a direct annual tax, for a period not to exceed 10 years (beginning January 1, 2005) in an amount not to exceed 2.6 mills, on all taxable property which existed within the District at the time of the Bond Referendum (excluding homestead exemptions and other exemptions as heretofore or hereafter provided by applicable law), in an amount which will be sufficient to pay the principal of and interest on the Bonds as they become due (the "Limited Tax"). The City is not obligated to levy any ad valorem taxes other than the Limited Tax for the payment of the Bonds.

SECTION 3. DISTRICT OBLIGATIONS. The District agrees to issue, execute and deliver the Bonds in accordance with its Bond Resolution, as may be supplemented from time to time; and to undertake and complete with due diligence the construction of the Project.

SECTION 4. FILING AND EFFECTIVE DATE. This Agreement shall become effective upon the occurrence of both of (a) the execution of this Agreement by the proper officers of the City and the District as of the date set forth above; and (b) the filing with the Collier County, Florida, Clerk of the Circuit Court as required by Section 163.01(11), Florida Statutes.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement by and through their duly authorized officers, as of the date first above written.

CITY OF MARCO ISLAND, FLORIDA

(SEAL)

By: _____
Terri DiSciullo, Council Chairwoman

Attest:

By: _____
Laura Litzan, City Clerk

HIDEAWAY BEACH DISTRICT

(SEAL)

By: _____
Richard F. Freeman, Chairman

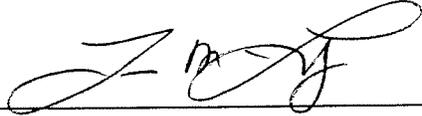
Attest:

By: _____
Harold F. Boardman, Secretary

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 20th day of September, 2004.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

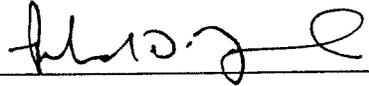


Laura M. Litzan, City Clerk

By: 

Terri DiSciullo, Council Chairwoman

Approved as to Form:



Richard D. Yovanovich, City Attorney

EXHIBIT A

FORM OF INTERLOCAL AGREEMENT