

INTERLOCAL SERVICE AGREEMENT

THIS INTERLOCAL SERVICE AGREEMENT ("Agreement") made and entered into this 23rd day of May 2013, by and between the City of Panama City Beach ("Panama City Beach") and Bay County ("the County").

WHEREAS, there are approximately 19 miles of beach located between the west end of St. Andrews State Park to the east end of Camp Helen State Park ("the "Beach"); and

WHEREAS, the Panama City Beach fronts on approximately 8 miles of the Beach, and approximately 11 miles of the Beach are in the unincorporated areas of the County; and

WHEREAS, the Beach is used and enjoyed by residents and tourists, and sea turtles use the Beach to lay eggs and to hatch; and

WHEREAS, items of personal property left on the Beach overnight are obstacles for maintenance crews, security, and beach patrols, interfere with the public's access, use and enjoyment of the Beach, pose safety hazards, adversely affect aesthetic beauty, tourism, economic interests, and can be an obstruction for sea turtles; and

WHEREAS, during the summer season especially, hundreds of beach tents, canopies, cabanas, shading devices, chairs, and other items of personal property have been left overnight on the Beach; and

WHEREAS, in order to protect and maintain the use of the Beach for residents, visitors, tourists, wildlife, sea turtles, maintenance crews, security, and beach patrols both the County and Panama City Beach have adopted regulations prohibiting overnight

placement of items of personal property on the Beach, commonly known as the "Leave No Trace" ordinances;ⁱ and

WHEREAS, currently Panama City Beach has employed the staff and has established a program to enforce its Leave No Trace ordinance; the County contracts this service with a private vendor; and

WHEREAS, the County currently pays for the implementation of the Leave No Trace ordinances with tourist development tax revenues; and

WHEREAS, the use of tourist development tax revenues to implement the Leave No Trace ordinances and this Agreement furthers the purpose of the attraction of tourists, and the promotion of beach park facilities, beach improvement, maintenance, shoreline protection, enhancement, cleanup, and the physical preservation of the Beach; and

WHEREAS, the County and Panama City Beach desire to coordinate implementation of the Leave No Trace ordinances to achieve the purposes of the ordinances in a cost efficient manner through this Interlocal Service Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms, covenants and conditions of this Interlocal Service Agreement, the parties contract and agree as follows:

SECTION 1. AUTHORITY. This Agreement is entered into pursuant to the provisions of Chapter 163, Part I, Florida Statutes, which authorize public agencies to enter into agreements to provide services and jointly exercise the power, privileges, or authority that they share in common and which each might exercise separately.

SECTION 2. PURPOSE. The purpose of this Agreement is to implement the County's Leave No Trace ordinance by removing the items from the Beach, in order to attract tourists, enhance the visitors' experiences, and promote the image of the community as a resort destination. This Agreement is also intended to support beach park facilities, beach improvement, maintenance, shoreline protection, enhancement, cleanup, and the physical preservation of the Beach.

SECTION 3. PANAMA CITY BEACH TO IMPLEMENT THE LEAVE NO TRACE ORDINANCES. The County delegates to and authorizes Panama City Beach to enforce the County's Leave No Trace ordinance along with its own within the unincorporated and incorporated areas of the Beach. Panama City Beach agrees to implement the County's Leave No Trace ordinance in the same manner as its own and shall provide such personnel and equipment as are, in the opinion of the City, reasonably adequate for such purposes. As part of the implementation, Panama City Beach shall conduct a person-to-person tourist information program on the sand Beach to inform residents and visitors about the "Leave No Trace" ordinance.

SECTION 4. COSTS. The total cost to the County for Panama City Beach to implement the Leave No Trace ordinances shall not exceed \$102,000.00. Panama City Beach shall submit an invoice no more frequently than monthly to the Director of the Bay County Tourist Development Council ("TDC"), who shall review it for approval and forward the invoice to the County for payment out of Tourist Development Tax Fund 125.

SECTION 5. TERM. The initial term of this Agreement shall be from the effective date of this Agreement through September 30, 2013. The County Manager and the City Manager may jointly agree to extend this Agreement for one (1) year commencing June 1, 2014 through September 30, 2014 at a cost not to exceed \$102,000.00.

SECTION 6. TERMINATION. This Agreement may be terminated by either party with or without cause upon (14) fourteen days written notice to the other. Payment of invoices shall be made for services rendered through the date of termination.

SECTION 7. INDEMNIFICATION. To the extent specified in Sec. 768.28, *Florida Statutes (2013)*, Panama City Beach shall indemnify and hold harmless the County from any and all liability and shall defend all claims, actions, and suits against the County resulting from the City's implementation of the County's Leave No Tract Ordinance, except for liability resulting from the negligent, reckless, knowing, or intentional acts or conduct of the County. Nothing herein shall be construed as a waiver of any entity's sovereign immunity under Florida law.

SECTION. 8. INSURANCE. Panama City Beach shall add the County as a named insured to all policies of insurance covering the City's activities on the Beach and its implementation of the County's Leave No Trace ordinance.

SECTION 9. NOTICE. Pursuant to this agreement, notice shall be in writing by email or by U. S. Mail, certified return receipt requested, addressed as follows:

The County:	The City
County Manager	City Manager
840 West 11th Street	110 South Arnold Road
Panama City, FL 32401	Panama City Beach, FL

SECTION. 10. ENFORCEMENT. This Agreement shall not obligate Panama City Beach to seek administrative, civil or criminal enforcement of the County's Leave No Trace ordinance.

SECTION. 11. AMENDMENT. This Agreement may be amended only by the mutual written consent of the parties.

SECTION 12. SEVERABILITY. If any provisions, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, and shall not be affected and remain in full force and effect.


SECTION 13. FILING AND EFFECTIVE DATE. This Agreement shall become effective immediately upon the execution by Panama City Beach and the County as of the date set forth above, and upon filing as required by Section 163.01(11), Florida Statutes.

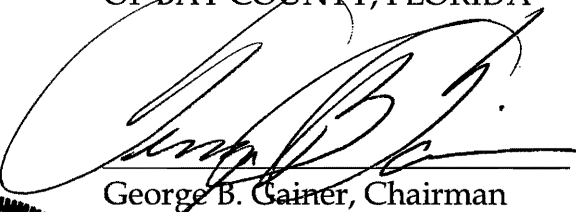
(Signatures on the following page]

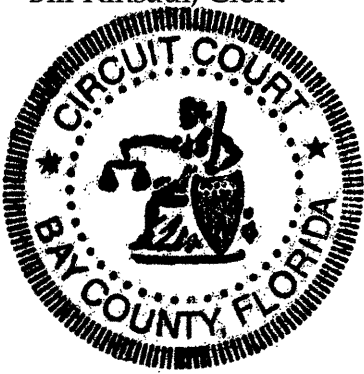
SECTION 13. EXECUTION.

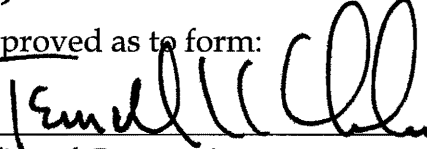
BOARD OF COUNTY COMMISSIONERS
OF BAY COUNTY, FLORIDA

ATTEST:


Bill Kinsaul, Clerk



George B. Gainer, Chairman




Approved as to form:

Office of County Attorney

CITY OF PANAMA CITY BEACH

ATTEST:


Holly White, City Clerk


Mario Gisbert, City Manager

ⁱ Article VI, Section 5-122, Obstructions on the Beach and Beach Access Areas Prohibited, Bay County Code of Ordinance No. 12-14 as amended by Ordinance No. 12-37 and Chapter 7, Beaches, Boats, and Water Safety, Article VIII, Obstructions on the Beach and Beach Access Areas Prohibited, Panama City Beach Code of Ordinances, by Ordinance No. 1162E and Ordinance No. 1242.

Bay County Board of County Commissioners Agenda Item Summary

1. DEPARTMENT MAKING REQUEST/NAME:

Office of County Attorney
Terrell K. Arline, County Attorney

2. MEETING DATE:

May 21, 2013

3. REQUESTED MOTION/ACTION:

Board to consider and adopt an inter-local agreement with Panama City Beach for enforcement of the County's Leave No Trace ordinance, along with its own, within the unincorporated and incorporated area of the Beach.

4. AGENDA

PRESENTATION
PUBLIC HEARING
CONSENT
REGULAR

5. IS THIS ITEM BUDGETED (IF APPLICABLE)?: Yes No IF No, STATE ACTION REQUIRED

BUDGET ACTION: BUDGET AMENDMENT NEEDED.
FINANCIAL IMPACT SUMMARY STATEMENT:

DETAILED ANALYSIS ATTACHED?: Yes No

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT ACTION WILL BE ACCOMPLISHED, (WHO, WHERE, WHEN & HOW))

In 2012, Bay County adopted Article VI, Section 5-122, of the Bay County Code entitled "Obstructions on the Beach and Beach Access Areas Prohibited", commonly known as the "Leave No Trace" ordinance. (See Ordinance No. 12-14 as amended by Ordinance No. 12-37).

Last year, the Tourist Development Council implemented the Leave No Trace ordinance. Panama City Beach has and enforces a similar ordinance within the incorporated area of the beach.

The Tourist Development Council recommends that the County utilize the services of Panama City Beach to enforce the ordinance, which would be accomplished through an interlocal agreement between Panama City Beach and the County. The initial term would run through September 30, 2013, at a cost not to exceed \$102,000.00, billed monthly. The TDC provided the following statement to explain its position:

The purpose of this Agreement is to conduct a person-to-person tourist information program directly on the sandy Panama City Beaches to inform visitors about the "leave no trace" ordinances of the County and the City (the "Ordinances"), and when necessary to enforce the Ordinances by removing the items from the beach. Although it recognizes the necessity of the Ordinances, the Bay County Tourist Development Council ("TDC") has found that enforcement without explanation is detrimental to visitors' experiences and the image of the community as a resort destination. Therefore, the TDC has recommended that the County conduct a tourist information program on the sand beach to help "get out the word," inform and remind visitors of the need to share the beach with others (and with turtles during nesting season) and respect the rights of others using the beach, beginning fresh each day, by removing each night their tents, coolers and other items that visitors bring to the sand beach, and when needed, to physically remove and dispose of items left, at the expense of the Tourist Development Tax Fund 125.

Staff recommends the Board consider the findings and recommendation of the TDC, and authorize the County Attorney to negotiate and the Chairman to execute an Interlocal Agreement substantially in the form attached. **Exhibit 1.**