

Meeting Date
02/20/2018



AGENDA	
Section	New Business
Item No.	VI.A.2

REVISED AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Viera Development of Regional Impact (Viera DRI) Letter of Credit Relating to Barnes Boulevard Work Due under Resolution No. 14-120; Request to Reduce Amount
DEPT/OFFICE:	Public Works Department

Requested Action:
 Approve reduction of the Letter of Credit to the amount of \$21,986.10 and authorize the Chair to execute the letter attached consenting to the reduction.

Summary Explanation & Background:
 The County received a Letter of Credit (LOC) on February 15, 2018, to fulfill the security requirement of Resolution 14-120 which requires The Viera Company (TVC) to reimburse the County \$12,290,000.00 in connection with the widening of Barnes Boulevard. TVC paid \$4,325,738.05 on September 1, 2015 and delivered Wells Fargo Bank NA, Irrevocable Standby Letter of Credit Number IS334466U in the amount of \$7,964,261.95 on September 21, 2015. Since September 2015 based on payments by TVC, multiple requests to reduce the Letter of Credit (LOC) have been submitted and approved.

TVC is now requesting another reduction in the Letter of Credit (LOC) due to timely payments leaving the Letter of Credit (LOC) securing \$21,986.10. The Public Works Department confirms the reduced amount of the Letter of Credit (LOC) is the amount owed. The issuing bank requires consent of the beneficiary (the County) to reduce the amount of the Letter of Credit. The County staff has no objection to the reduction. The letter specifically provides that no other changes will be made in the LOC; only the face amount will be reduced from \$2,269,005.13 to \$21,986.10. Brevard County's letter consenting to reduction is attached as well as TVC's letter dated February 15, 2018, requesting the reduction

Fiscal Impact: FY 2017/2018

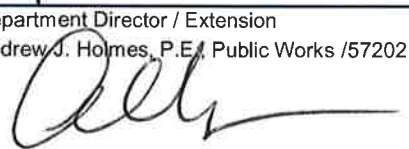
Fund and Account: 1168/3449000 (Transportation Reimbursement) \$0

Contact Persons: Eden Bentley, Deputy County Attorney, eden.bentley@brevardfl.gov, phone 321-633-2090
 Andrew J. Holmes, Director, P.E., Public Works, Andrew.holmes@brevardfl.gov, phone 321-617-7202

Clerk to the Board Instructions: Please return original letter to County Attorney upon signature by the Chair immediately following the meeting.

Exhibits Attached: TVC letter dated 02/13/18
 Brevard County's letter consenting to reduction

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

County Manager Frank Abbate 	Interim Assistant County Manager Jim Liesenfelt 	Department Director / Extension Andrew J. Holmes, P.E., Public Works /57202 
	Assistant County Manager John P. Denninghoff	



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

March 21, 2018

MEMORANDUM

TO: Eden Bentley, Deputy County Attorney

RE: Item VI.A.2., Request to Reduce Amount for Viera Development of Regional Impact (Viera DRI) Letter of Credit for Barnes Boulevard Work Due Under Resolution No. 14-120

This is to correct the memorandum of February 21, 2018. The Board of County Commissioners, in regular session on February 20, 2018, executed and approved Letter of Credit reduction to the amount of \$21,986.10 for Viera DRI of the Barnes Boulevard work due under Resolution No. 14-120. Enclosed is the original Letter of Credit for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Assistant County Manager Denninghoff
Public Works Director
Finance
Budget



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Tammy.Rowe@brevardclerk.us

February 21, 2018

MEMORANDUM

TO: Eden Bentley, Deputy County Attorney

RE: Item VI.A.2., Request to Reduce Amount for Viera Development of Regional Impact (Viera DRI) Letter of Credit for Barnes Boulevard Work Due Under Resolution No. 14-120

The Board of County Commissioners, in regular session on February 20, 2018, executed and approved Letter of Credit reduction in the amount of \$21,986.10 for Viera DRI of the Barnes Boulevard work due under Resolution No. 14-120. Enclosed is the original Letter of Credit for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Assistant County Manager Denninghoff
Public Works Director
Finance
Budget



BOARD OF COUNTY COMMISSIONERS

Rita Pritchett, District 1 Commissioner

2000 S. Washington Avenue, Suite 2
Titusville, FL 32780
(321) 607-6901
www.brevardfl.gov

February 20, 2018

Wells Fargo Bank, N.A.
U.S. Trade Services
Standby Letters of Credit
401 N. Research Pkwy, 1st Floor
Winston-Salem, NC 27101-4157

Re: Irrevocable Standby Letter of Credit
Number: ISO334466U
Issue Amount: USD 7,964,261.95
Issue Date: September 17, 2015
Expiry Date: September 17, 2018
Applicant: The Viera Company
Beneficiary: Board of County Commissioners of Brevard County, Florida

Dear Sir or Madam:

The Applicant under the above-referenced Letter of Credit has proposed a fifth amendment to the Letter of Credit to further reduce its "Issue Amount" from \$2,269,005.13 to \$21,986.10. This letter will confirm that the Board of County Commissioners of Brevard County, Florida, as the Beneficiary under the Letter of Credit, consents to amending the Letter of Credit to reduce its Issue Amount to \$21,986.10.

Except with respect to reducing the Letter of Credit's Issue Amount as specified above, this letter shall not be construed as the Beneficiary's consent to any other change or modification of the Letter of Credit's provisions. If you have any questions regarding this letter or the Beneficiary's consent to the proposed Amendment as described herein, please telephone Mr. Frank Abbate, County Manager, at 321-633-2004.

Sincerely,

Rita Pritchett, Chair
Board of County Commissioners of Brevard County

Cc: Frank Abbate, County Manager
Eden Bentley, Deputy County Attorney
John P. Denninghoff, P.E., Assistant County Manager
Andrew J. Holmes, P.E., Director, Public Works
Todd J. Pokrywa



THE VIERA COMPANY

7380 Murrell Road, Suite 201 | Viera, Florida 32940
P: 321.242.1200 | F: 321.253.1800 | VIERA.com

February 15, 2018

VIA EMAIL: Frank.abbate@brevardfl.gov

Mr. Frank Abbate, County Manager
Brevard County Government Center
Building C, Room 301
2725 Judge Fran Jamieson Way
Viera, FL 32940

Re: Viera Development of Regional Impact ("Viera DRI") – Letter of Credit Relating to Barnes Boulevard Widening Work Due Under Resolution No. 14-120 adopted by Brevard County ("County") on July 22, 2014;

REVISED Request to Reduce Amount.

Dear Mr. Abbate:

As you'll recall, the Viera Development Order obligates The Viera Company ("TVC") to reimburse the County \$12,290,000 in connection with widening Barnes Boulevard as part of TVC's overall traffic mitigation. On September 1, 2015, TVC paid the County's initial invoice in the amount of \$4,325,738.05, leaving a remaining balance due of \$7,964,261.95. The outstanding balance was secured by Wells Fargo Bank N.A. Irrevocable Standby Letter of Credit Number IS0334466U in the amount of \$7,964,261.95 (the "LOC"), which was delivered to the County on September 21, 2015.

On April 19, 2016, Brevard County consented to TVC's request to reduce the amount of the LOC and Wells Fargo amended the LOC, reducing it to \$5,070,546.71.

On August 10, 2016, Brevard County consented to TVC's request to reduce of the amount of the LOC and Wells Fargo amended the LOC, reducing it to \$3,881,987.48.

On January 24, 2017, Brevard County consented to TVC's request to reduce the amount of the LOC and Wells Fargo amended the LOC, reducing it to \$3,023,326.27.

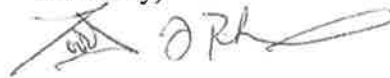
On May 9, 2017, Brevard County consented to TVC's request to reduce the amount of the LOC and Wells Fargo amended the LOC, reducing it to \$2,269,005.13. It should be noted this amount was incorrect. It should have been \$2,269,005.12. The error was not detected so the amended LOC was issued in the amount of \$2,269,005.13.

Mr. Frank Abbate, Brevard County Manager
February 15, 2018
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Since last amending the LOC, TVC has timely made additional payments totaling \$2,247,019.02 reducing the remaining balance owing on this obligation from \$2,269,005.12 to \$21,986.10. Therefore, TVC requests the County's consent to further reduce the amount of the LOC to \$21,986.10. To accomplish this additional amendment, Wells Fargo (the issuing bank) requires a letter from the County, as the beneficiary under the LOC, consenting to the reduction. A form of "consent" letter satisfactory to Wells Fargo is attached for the County's consideration.

I sincerely appreciate the County's consideration of TVC's request. Please let me know if you have any questions or require additional information regarding this request.

Sincerely,



Todd J. Pokrywa
Senior Vice President

TJP/crs

Enclosure

C: Eden Bentley, Esq. (via email w/enclosure)
John P. Denninghoff, P.E. (via email w/enclosure)
Andrew J. Holmes, P.E. (via email w/enclosure)