



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

11/15/2022

Subject:

Board Approval RE: Transportation Impact Fee Credit Reimbursement Agreement Regarding Viera Boulevard (4-Lane Widening to US-1)

Fiscal Impact:

FY2023 - No reimbursements for the Viera Boulevard Widening project are expected to occur in FY2023. Reimbursements will be made on a quarterly basis using transportation impact fees collected in the Viera DRI in the preceding quarter. Reimbursements related to this agreement will begin after the Barnes Boulevard agreement is fully satisfied.

Dept/Office:

Planning and Development Department

Requested Action:

It is requested that the Board of County Commissioners consider approval of the Transportation Impact Fee Reimbursement Agreement regarding the widening of Viera Boulevard between the County and The Viera Company; authorize the Chair to execute the agreement; and authorize the Budget Office to execute any budget changes necessary to implement the proportionate share payment.

Summary Explanation and Background:

The Amended and Restated Development Order for the Viera Development of Regional Impact requires the Viera Company to widen Viera Boulevard from the DRI boundary to US1. The actual improvement costs paid by the developer for this project were \$2,585,890.77. Based on the attached technical memorandum, the portion of Viera project trips on the roadway segment is projected to utilize 53.54% of the capacity that was created by the additional lanes. Chapter 380.06 (5), Florida Statute mandates that developers that are subject to development exactions must receive impact fee credits to offset of the financial impacts of such exactions. Based on the excess capacity created and under the terms of the attached agreement, the development within the Viera DRI will pay transportation impact fees to the County and the County will reimburse the Viera Company for financial contributions for the Viera Boulevard Widening project using the transportation impact fees are they collected. The total credit will be \$1,201,404.85.

Currently, there is an existing Transportation Impact Fee Reimbursement Agreement for the Barnes Boulevard project. Reimbursements for the Viera Boulevard agreement would begin after the previously approved Barnes agreement is fully satisfied which is not expected to occur during FY22/23.

Clerk to the Board Instructions:

Chair to Execute two originals and return one to the Department for The Viera Company.

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: The Viera Company		2. Amount: \$1,201,404.85
3. Fund/Account #: 1212/269120/5820000	4. Department Name: Planning & Development	
5. Contract Description: Impact Fee Credit Agreement - Viera Boulevard		
6. Contract Monitor: Keith Neterer	8. Contract Type: Select from pull-down:	
7. Dept/Office Director: Tad Calkins		
9. Type of Procurement: Other		

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Calkins, Tad <small>Digitally signed by Calkins, Tad Date: 2022.10.13 15:45:26 -04'00'</small>
Purchasing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bowers, Mary <small>Digitally signed by Bowers, Mary Date: 2022.10.13 15:26:40 -04'00'</small>
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Sumner, J. (Typed) Date</i> <small>Digitally signed by Wylie-Vol. Sumner Date: 2022.10.13 16:01:44 -04'00'</small>
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Caron, Justin <small>Digitally signed by Caron, Justin Date: 2022.10.06 14:38:35 -04'00'</small>

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored Items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

November 16, 2022

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

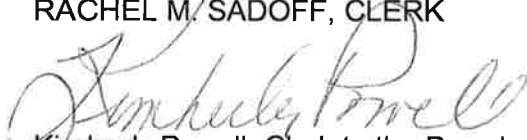
RE: Item F.4., Transportation Impact Fee Credit Reimbursement Agreement Regarding Viera Boulevard (Four-Lane Widening to US 1)

The Board of County Commissioners, in regular session on November 15, 2022, approved and authorized the Chair to execute Transportation Impact Fee Reimbursement Agreement regarding the widening of Viera Boulevard between the County and The Viera Company; and authorized the Budget Office to execute any budget changes necessary to implement the proportionate share payment. Enclosed are two fully-executed Agreements.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK**


Kimberly Powell, Clerk to the Board

/tr

Encls. (2)

cc: Contracts Administration
Finance
Budget

TRANSPORTATION IMPACT
FEE CREDIT REIMBURSEMENT AGREEMENT REGARDING
VIERA BOULEVARD (4-LANE WIDENING TO US-1)

THIS TRANSPORTATION IMPACT FEE CREDIT REIMBURSEMENT AGREEMENT REGARDING VIERA BOULEVARD (4-LANE WIDENING TO US-1) (hereinafter referred to as this "**Agreement**") is made and entered into as of the _____ day of _____, 2022 by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as the "**County**"), and THE VIERA COMPANY, a Florida corporation (hereinafter referred to as "**TVC**").

RECITALS:

- A. TVC is the master developer of the mixed-use development of regional impact located in Brevard County, Florida known as the Viera Development of Regional Impact (hereinafter referred to as the "**Viera DRI**").
- B. Pursuant to Chapter 380.06, Florida Statutes, the Viera DRI is the subject of a development order initially approved by Brevard County under that certain Resolution 90-432, adopted by the County on November 13, 1990, and last amended and restated pursuant to that certain Resolution 19-134, adopted by the County on August 20, 2019, as described in that certain Notice of Modification of a Development Order dated September 23, 2019, and recorded in Official Records Book 8545, at page 418, Public Records of Brevard County, Florida (hereinafter collectively referred to as the "**Development Order**").
- C. Part III of the Development Order sets forth various "**Conditions**" which TVC is required to satisfy as a condition of obtaining approval of the Development Order and continuing the development of the Viera DRI, including without limitation conditions 85 through 94 pertaining to the mitigation of transportation impacts associated with the Viera DRI.
- D. Pursuant to condition 92 of the Development Order (hereinafter referred to as "**Condition 92**"), TVC is required to construct, or fund the construction, of specific off-site roadway and related improvements to mitigate the Viera DRI's transportation impacts including the requirement that TVC widen Viera Boulevard to four (4) lanes from the easterly boundary of the Viera DRI to US-1 as provided in footnote 2 of Condition 92.
- E. TVC has constructed road improvements widening Viera Boulevard from two (2) to four (4) lanes in accordance with Condition 92 at TVC's sole cost and expense pursuant to construction plans and specifications approved by the County, which transportation capital improvements were the subject of a certificate of completion issued by the County and have been accepted by the County for maintenance (hereinafter referred to as the "**Viera Boulevard Off-Site Widening Project**").

F. Condition 92 expressly provides that TVC is eligible for impact fee credits for all improvements required to be constructed or funded by TVC under Condition 92 as provided by state law and the County's Code of Ordinances. Section 163.3180, Florida Statutes, additionally provides that where an applicant for a development-of-regional-impact development order enters into a binding agreement to pay for or construct its proportionate share of required improvements, such applicant shall receive a credit on a "dollar-for-dollar" basis for impact fees payable in the future for the subject development as provided therein or in the amount specified by local ordinance.

G. Section 62-801 et seq. of the County's Code of Ordinances (hereinafter referred to as the "**Transportation Impact Fee Ordinance**") provides for the imposition of transportation impact fees by the County and allows credits and reimbursements to be granted where capital improvements to arterial and collector roads are required of a developer under a County approved development order.

H. The Transportation Impact Fee Ordinance further provides that the costs of a required transportation capital improvement eligible for credit or reimbursement shall be determined by calculating the percentage of the total costs that corresponds to the ratio of excess capacity to total capacity as determined by generally accepted traffic engineering practices.

I. In lieu of transportation impact fee credits, TVC has requested reimbursement of the funds it expended to engineer, permit and construct the Viera Boulevard Off-Site Widening Project and TVC and the County desire to enter into this Agreement for the purpose of memorializing the calculation and administration of such reimbursement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree 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. Reimbursement in Lieu of a Transportation Impact Fee Credit. Pursuant to the Transportation Impact Fee Ordinance, in lieu of providing a transportation impact fee credit, TVC shall be entitled to reimbursement for the Viera Boulevard Off-Site Widening Project in the amount determined as follows:

(a) Eligible Costs. The cost of the Viera Boulevard Off-Site Widening Project eligible for reimbursement under this Agreement in lieu of a transportation impact fee credit shall include all out of pocket costs and expenses incurred by TVC in connection with engineering, permitting and constructing such project; which costs total \$2,585,890.77 and are enumerated on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "**Eligible Costs**").

(b) Calculation of Reimbursement Due TVC in Lieu of a Transportation Impact Fee Credit. Based on the Technical Memorandum prepared by LTG, Inc., a transportation engineering and planning firm retained by TVC, dated June

15, 2022 and revised September 2022, attached hereto as Exhibit "B" and made a part hereof (hereinafter referred to as the "**Technical Memorandum**"), the ratio of excess capacity to total capacity for the Viera Boulevard Off-Site Widening Project is 46.46%, as determined by generally accepted traffic engineering practices, with "project trips" associated with the Viera DRI utilizing 53.54% of the new capacity added by the Viera Boulevard Off-Site Widening Project. Pursuant to the Transportation Impact Fee Ordinance, in lieu of a transportation impact fee credit, the County shall reimburse TVC in an amount equal to 46.46% of the Eligible Costs, which equals \$1,201,404.85 calculated as follows: \$2,585,890.77 (Eligible Costs) x 46.46% (excess capacity) = \$1,201,404.85 (hereinafter referred to as the "**Viera Blvd Widening Reimbursement**").

3. Payment of the Viera Blvd Widening Credit Reimbursement. So long as the County is assessing transportation impact fees within the Viera DRI under the Transportation Impact Fee Ordinance (or any succeeding provision of the County's code of ordinances), the County shall hereafter pay the Viera Blvd Widening Reimbursement to TVC from transportation impact fees collected by the County on new development within the boundaries of the Viera DRI as hereafter provided. Such payments with respect to the Viera Blvd Widening Reimbursement shall be pursuant to section 62-815(c)(1) of the Transportation Impact Fee Ordinance (or any succeeding provision of the County's code of ordinances), which reimbursement payments shall commence on the first calendar quarter following the effective date of this Agreement. Such payments shall be made up to, but not exceeding, the total amount of the Viera Blvd Widening Reimbursement. The parties acknowledge that transportation impact fees collected by the County on new development within the boundaries of the Viera DRI are currently subject to the following pre-existing agreement between the parties regarding reimbursement for a prior project constructed or funded by TVC in accordance with Condition 92: the Barnes Boulevard Widening Project as provided in that certain Transportation Impact Fee Reimbursement Agreement Regarding Barnes Boulevard dated as of November 1, 2016 (hereinafter referred to as the "**Barnes Blvd Agreement**"). Pursuant to the Barnes Blvd Agreement, revenues from transportation impact fees collected by the County within the Viera DRI shall be first applied in payment of the Barnes Blvd Agreement until the creditable amount due thereunder is fully reimbursed to TVC, then to the Viera Boulevard Off-Site Widening Project pursuant to this Agreement until the Viera Blvd Widening Reimbursement is fully paid to TVC, and then to any subsequent projects for which reimbursement may be hereafter payable under the Transportation Impact Fee Ordinance to TVC in the order in which they are completed until TVC is fully reimbursed for all such projects.

5. Miscellaneous Provisions.

(c) Notices. Any notices or other communications which may be required or desired to be given under the terms of this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, if sent by facsimile transmission, if sent by overnight courier service (e.g. Federal Express) or if mailed by United States certified mail, return receipt requested, postage prepaid, addressed to the respective party at the addresses set forth below:

To County Commission: Board of County Commissioners of Brevard County
2725 Judge Fran Jamieson Way
Viera, Florida 32940
Attn: County Manager

To Viera: The Viera Company
7380 Murrell, Suite 201
Viera, FL 32940
Attn: Todd J. Pokrywa and General Counsel

Any notice so given, delivered or made shall be deemed to have been duly given, delivered or made (i) on the date the same is sent by facsimile transmission or deposited in the United States mail in the manner specified hereinabove (ii) the date of receipt if sent by overnight courier service as evidenced by the courier service airbill or (iii) if hand delivered, the date of actual receipt of the same by the addressee. Any notice which is not given, delivered or made by United States mail in the manner specified above shall be deemed to have been duly given, delivered or made upon actual receipt of the same by the party to whom the same is to be given, delivered or made. Either party may change the address to which notices are to be sent to such party by written notice to the other party specifying such change of address.

(d) Attorneys' Fees. In connection with any litigation, including appellate proceedings, arising out of or under this Agreement, each party shall bear its own out-of-pocket costs and attorneys' fees.

(e) Venue. The venue of any litigation arising out of this Agreement shall be Brevard County, Florida.

(f) Paragraph Headings. The paragraph headings herein contained are inserted for convenience of reference only and shall not be deemed to be a part of this Agreement; the paragraph headings shall be ignored in construing and interpreting this Agreement.

(g) Singular and Plural Usages. Whenever used herein, the singular number includes the plural, the plural the singular, and the use of any gender includes all genders.

(h) Construction of Agreement. The fact that one of the parties to this Agreement may be deemed to have drafted or structured any provision of this Agreement shall not be considered in construing or interpreting any particular provision of this Agreement, either in favor of or against such party.

(i) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(j) Successors and Assigns. The terms and provisions of this Agreement shall bind, and inure to the benefit of, the parties hereto and their respective successors and assigns.

(k) Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements, whether written or oral. No covenants, agreements, terms, provisions, undertakings, statements, representations or warranties, whether written or oral, made or executed by any party hereto or any employee or agent thereof, shall be binding upon any party hereto unless specifically set forth in this Agreement.

(l) Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement, or the application thereof, to any person or circumstance shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent possible.

(m) Modification and Waiver. This Agreement may not be changed, amended or modified in any respect whatsoever, nor may any covenant, agreement, condition, requirement, provision, warranty or obligation contained herein be waived, except in writing signed by both parties.

(n) Governing Law. This Agreement and the interpretation and enforcement thereof shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly qualified as of the day and year first above written.

ATTEST:


Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

KRISTINE ZONKA, Chairperson

As approved by Board on November 15, 2022

THE VIERA COMPANY, a Florida
corporation

ATTEST:

By:


Jay A. Decator III, Secretary

By:


Todd J. Pokrywa, President

(CORPORATE SEAL)



Exhibit "A"

Enumerated Eligible Costs

VIERA BOULEVARD OFF-SITE WIDENING PROJECT - ELIGIBLE COSTS

Jr. Davis Widening Contract	2,525,331.59	
Brevard County Reimbursement of Holiday Signal Cost	(250,000.00)	
Engineering	146,465.38	
Environmental Inspection	9,155.00	
Bond Cost	30,665.00	
Transportation Soft Costs	59,240.88	
Other Utility Costs	2,906.79	
UES Material Testing	20,695.13	
Legal Fees	153.00	
Bus Stop	4,754.15	
Local Fees	36,523.85	2,585,890.77
TOTAL COST	\$	2,585,890.77

**LTG**

Exhibit "B"
Technical Memorandum
Engineering
& Planning

Via Email: Todd.Pokrywa@viera.com

Ref: 5640.02

TECHNICAL MEMORANDUM

To: Todd Pokrywa
The Viera Company

From: Crystal Mercedes, PTP, RSP

Date: June 15, 2022

Subject: Viera Boulevard Improvement Proportionate Share (PS) – Revised September 2022
Brevard County, Florida

INTRODUCTION

LTG, Inc. has been retained by The Viera Company to research Proportionate Share (PS) costs related to the Viera Blvd four-laning improvement between Heron's Landing and US 1 and determine the value of excess capacity to total capacity that has been mitigated. The Viera development is generally located in Central Brevard County, both east and west of I-95 and consists of the following land uses:

Table 1
Viera Phases 1-4 Development
Viera Boulevard Improvement PS Research

ITE Code	Land Use Category	Phase 1 to 3 Development	Phase 4 Development	Build-out	Unit of Measure
110	Light Industry	37,112	327,482	364,594	Sq. Ft
150	Office / Warehouse	22,418	-	22,418	Sq. Ft
151	Mini warehouse	135,488	-	135,488	Sq. Ft
210	Single Family Residential	9,240	12,781	22,021	Dwelling Unit
220	Apartments	752	2,918	3,670	Dwelling Unit
230	Townhome / Condo	778	150	928	Dwelling Unit
251	Senior Housing Detached	2,386	1,207	3,593	Dwelling Unit
252	Senior Housing Attached	900	213	1,113	Dwelling Unit
253	Senior Housing Multifamily	294	-	294	Dwelling Unit
254	Assisted Living Facility	956	104	1,060	Beds
310	Hotel	128	622	750	Rooms
430	Golf Course	54	18	72	Golf Holes
445	Theatre	16	-	16	Screens
610	Hospital	322	-	322	Beds
710	General Office	1,772,409	1,732,058	3,504,467	Sq. Ft
720	VA Clinic	137,500	-	137,500	Sq. Ft
820	Shopping Center	2,256,030	1,182,097	3,438,127	Sq. Ft

TECHNICAL MEMORANDUM

Todd Pokrywa

June 15, 2022

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PROPORTIONATE SHARE (PS) COSTS

A review of available documents pertaining to the Viera development was conducted and, as documented in the *Viera DRI Development Order* (see excerpt attached as Exhibit A), the estimated cost associated with the four-laning of the subject segment of Viera Boulevard, which was completed in 2019, was \$4,010,000. Based on this cost, a comparison between what would have been due as a Proportionate Share amount and the total amount the Developer took responsibility for was made.

Proportionate Share Calculation

Based on the Florida Statutes, the proportionate share contribution is to be calculated based on the ratio of project trips anticipated along the deficient segment and the change in capacity resulting from the improvement required to remain within the adopted LOS. The percentage of the total estimated cost associated with the improvement to be fulfilled by the applicant/developer is determined by the following equation:

$$\left(\frac{Demand_{Project}}{Capacity_{Improved} - Capacity_{Existing}} \right) * 100$$

Where:

- Demand_{Project} = Two-Way Peak-Hour Traffic Volumes generated by the Project
- Capacity_{Existing} = Two-Way Peak-Hour Capacity of the Existing Road Segment
- Capacity_{Improved} = Two-Way Peak-Hour Capacity of the Improved Road Segment

Using the above calculation, the portion of Viera project trips on the roadway segment (see excerpt from *Sufficiency Response # 2, Viera DRI Substantial Deviation # 2* report, Exhibit 21-21 attached as Exhibit B) was utilized to determine the appropriate PS share. As indicated in Table 2, the 1,060 project trips (644 peak+416 off-peak) are projected to utilize approximately 53.54 % of the capacity that was added by the four-laning.

The Developer covered the complete cost of the subject widening. Documentation provided by the Developer's accountant indicates that the total cost of the widening paid by the Developer was \$2,585,890.77 (see Exhibit C). Based on this figure, the resultant PS cost of \$1,384,485.92 that the Developer would have been responsible for is shown in Table 2. Consistent with this logic, the Developer exceeded their PS responsibility by \$1,201,404.85.

TECHNICAL MEMORANDUM

Todd Pokrywka
June 16, 2022
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Table 2
Proportionate Share Cost Estimate
Viera Boulevard Improvement PS Research

SEGMENTS		Estimated Length (miles)	Proportionate Share Determination					Project Volume (e)	Unimproved Lane Group Capacity (b)	Improved Lane Capacity (c)	Project Share (d=(c-b))	Proportionate Share
Location	From		Improvement 4-Lane	Actual Improvement Cost Paid by Developer ^a	Project Volume (e)	Unimproved Lane Group Capacity (b)	Improved Lane Capacity (c)					
Viera Boulevard	US 1	East ORI Boundary/Heron's Landing	1.18	\$2,585,890.77	1,060	1,600	3,580	53.54%				\$1,384,485.92
Segment PS Subtotal:												\$1,384,485.92
Difference Between Developer Actual Cost and PS												\$1,207,494.38

^aCost obtained from records provided by the Accountant for the Viera development

CONCLUSION

The appropriate PS responsibility for the proposed development has been determined as follows:

- Viera project trips are projected to utilize approximately 53.54 percent of the capacity that was added by the four-laning.
- The Developer of Viera would have been responsible for approximately \$1,384,485.92, based on the project trip percentage of the capacity created by the four-laning.
- Based on the calculated PS and the improvement total cost of \$2,585,890.77, the estimated overpayment amount is approximately \$1,201,404.85.

Based on these calculations, the Developer requests a credit in the amount of \$1,201,404.85.

Attachments:

Exhibit A – Development Order Excerpt

Exhibit B – Substantial Deviation # 2 Excerpt – Project Trips

Exhibit C – Summary of Construction Costs

I affirm, by affixing my signature below, that the findings contained herein are, to my knowledge, accurate and truthful and were developed using current procedures standard to the practice of professional planning.

Name: Crystal Mercedes, PTP, RSP1

Signature:

Crystal Mercedes

Digitally signed by Crystal Mercedes
DN: cn=Crystal Mercedes, o=LTG, ou=Crystal Mercedes
Location: 1450 West Granada Blvd, Suite 2,
Ormond Beach, FL 32174
Reason: I agree to the terms defined by the
placement of my signature on this document
Contact: 407-270-2571
Date: 2022.09.14 11:13:09-0400

Date: September 14, 2022

Proportionate Share Agreement was entered into by and between the Developer and FDOT on or about March 16, 2010 and was subsequently amended on or about October 31, 2014.)

92. The following Improvements shall be the Mitigation for Phase 3 and the Developer is authorized to commence Phase 3 provided the Developer complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements as provided by state law and Brevard County Ordinance.

ROADWAY	LIMITS	IMPROVEMENT	ESTIMATED COST (IN MILLIONS)
Viera Blvd./I-95 ¹	Interchange	Construct interchange ramps	\$8.76
Viera Blvd ²	DRI boundary to US 1	Widen to 4 lanes	\$4.01
Wickham Road ³	Lake Andrew Dr. to Lake Washington Rd., including intersections	Roadway and intersection Improvements	\$16.43
Brevard County Intersection Improvements ⁴	Murrell/Eyster and Murrell/Barnes	Intersection Improvements	\$0.86
FDOT Intersection Improvements ⁵	1 st priority: I-95/Fiske Blvd. 2 nd priority: US1/Viera Blvd. 3 rd priority: US1/Barnes	Add NB left turn lane along Fiske Blvd Add NB left turn lane along US1 Add NB left turn lane along US1	\$2.223
Wickham Road ⁶	Murrell Road to Lake Andrew Drive	Widen to six lanes	\$9.4
Total Estimated Cost			\$41.683

DETAILED MITIGATION PROJECT REQUIREMENTS FOR ROADWAY SEGMENTS AND INTERSECTIONS DESCRIBED ABOVE:

¹Assumes Developer will provide right of way required to support interchange. If IIR is not approved, Developer will conduct an additional assessment to identify an appropriate plan to mitigate Fiske Boulevard within six months of the IIR decision. Within 30 days after conclusion of the appeal period or the conclusion of all appeals of this Development Order, but in no event earlier than July 15, 2010, Developer will pay FDOT \$500,000 for preparation of the IIR and PD&E. (Required payment has been made) Within 30 days after the later of approval of both the IIR and PD&E or July 16, 2013 Developer will pay FDOT \$870,000 for design and permitting of the interchange. (this required payment has been made). Construction shall commence no later than 12/29/2018. Additionally, Developer shall pay \$380,000.00 for Construction Management and Inspection services and Post Design Services simultaneously with commencement of construction if funding is not included in Five-Year Work Program.

²This improvement and the Viera Blvd./I95 Interchange are alternative mitigation for cumulative Phase 3 impacts on Fiske Blvd. between the DRI boundary and Barnes Boulevard, including intersections. Construction shall begin the later of December 29, 2018 or 180 days after completion of the Viera Interchange.

³Funds for mitigation of traffic impacts paid by Developer to Brevard County are to be pipelined for improvements to Washington Boulevard from the southern boundary of the DRI to Ellis Road in the amount of \$5,000,000. The funds shall be used to reimburse Brevard County for acquisition of the road right of way as well as planning and engineering design of the roadway. The funds for Washington Boulevard shall be paid to Brevard County prior to October 23, 2032. In addition, Developer shall mitigate impacts to Wickham Road and Murrell Road intersections by paying Brevard County a total of \$12,290,000 to reimburse Brevard County for the cost of widening Barnes Boulevard from two lanes to four lanes from Fiske Road to Murrell Road intersection and intersection improvements. Developer shall begin reimbursing the County for these