

City of Palm Coast, Florida Agenda Item

Agenda Date: September 1, 2026

Agenda Item: G.2

Department	COMMUNITY DEVELOPMENT	Amount
Division	PLANNING	Org/Account #
Subject: RESOLUTION 2026-XX APPROVING PROPORTIONATE SHARE AND IMPACT FEE CREDIT AGREEMENT WITH FLAGLER PINES PROPERTIES FOR IMPROVEMENTS TO SR-100		
Presenter: Phong Nguyen, PTP, Planning Manager		
Attachments: 1. Resolution 2. Proportionate Share Agreement		
Background: This resolution enables the City Council to approve the attached Proportionate Share and Impact Fee Credit Agreement with Flagler Pines Properties, LLC., for their off-site improvements to SR-100 as a result of the Flagler Landings project impacts that will cause SR-100 to exceed the existing four lane capacity based on the City's adopted level of service. The Flagler Landings project is required to mitigate for the project's impact pursuant to Florida Statutes Chapter 163.3180 and LDC Chapter 7. The total proportionate share mitigation is \$4,103,686.59. This is a quasi judicial item, please disclose any ex parte communication.		
Recommended Action: ADOPT RESOLUTION 2026-XX APPROVING PROPORTIONATE SHARE AND IMPACT FEE CREDIT AGREEMENT WITH FLAGLER PINES PROPERTIES FOR IMPROVEMENTS TO SR-100		

RESOLUTION 2026-_____
CONCURRENCY AND IMPACT FEE CREDIT AGREEMENT

A RESOLUTION OF THE CITY OF PALM COAST, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF THE CONCURRENCY AND IMPACT FEE CREDIT AGREEMENT BETWEEN THE CITY OF PALM COAST, FLORIDA AND FLAGLER PINES PROPERTIES, LLC; AUTHORIZING THE CITY MANAGER OR DESIGNEE, AND EXECUTE SAID CONTRACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Flagler Pines Properties is the applicant developing approximately ±38.81 acres of property, which is zoned COM-2 General Commercial and is known as the **Flagler Landings** project; and

WHEREAS, the City has adopted a Proportionate Fair Share Program, as defined in Section 7.07 of the City of Palm Coast Land Development Code (“**LDC**” or “**Code**”), that establishes a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors; and

WHEREAS, the Applicant desires to enter into this Agreement to obtain a final development order, as required in Section 7.04 and mitigate for impacts from the development of the mixed commercial/retail uses and intensities to satisfy the concurrency requirements; and

WHEREAS, the Applicant seeks by this Agreement to set forth its obligations regarding a contribution of funds for construction of improvements to the regional roadway network, pursuant to Section 163.3180, Florida Statutes (the “**Applicant’s Transportation Contributions**”), to mitigate for the Concurrency Development’s transportation impacts; and

WHEREAS, the Applicant’s Transportation Contributions will provide a significant benefit to the impacted transportation system and advance implementation of the City’s adopted Traffic Circulation Element; and

WHEREAS, the Applicant, the City and the Florida Department of Transportation (“**FDOT**”), District Five, have coordinated regarding certain improvements to the State Road

100 corridor consisting of a thru-cut and related pavement and traffic-signal modifications at SR 100 and McCormick Drive and traffic signals at the Applicant's western entrance and at the adjacent Gibbs Auto-Import site (collectively, the "Corridor Improvements"), which Corridor Improvements FDOT will require to be designed and constructed as a condition of the State Access Permit for the Concurrency Development, subject to local government development approval; and

WHEREAS, the Corridor Improvements are offsite improvements to the State Highway System that are not among the capacity improvements necessary to maintain the adopted level of service on the impacted roadways after accounting for the transportation impacts of the Concurrency Development, and are therefore not part of the Project Proportionate Share; the Applicant shall design and construct the Corridor Improvements at its initial cost and expense, and, upon their completion and a true-up of the actual design and construction costs, the Applicant shall be entitled to Road Impact Fee Credits equal to such actual costs, all as further provided in Section 6 of this Agreement; and

WHEREAS, the City of Palm Coast Road Transportation Impact Fees Ordinance 2025-12, as amended, allows impact fee credits to be granted for proportionate fair share payments, right-of-way dedication and transportation facility construction, and, as to credits for proportionate fair-share payments, Section 163.3180(5)(h)2.e., Florida Statutes, provides for a dollar-for-dollar credit for impact fees and other transportation concurrency mitigation requirements paid or payable for the project ("**Road Impact Fee Credits**"); and

WHEREAS, the City deems it to be in the public interest to recognize the Applicant's Transportation Contributions described in this Agreement in improving the transportation system in the portion of the City in which the Property is located; and

WHEREAS, the City has determined that Applicant is making commitments binding it and its successors and assigns to City of Palm Coast to provide the Applicant's Transportation Contributions to City transportation facilities to mitigate the impacts of the Concurrency Development pursuant to LDC Section 7.07; and

WHEREAS, the Code, as amended from time to time, allows the City's execution of this Agreement; and

WHEREAS, this Agreement strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate

capital facilities for the development, encourages private participation and comprehensive planning and reduces the costs of development; and

WHEREAS, the Applicant or its successors and assigns will be required to pay Road Impact Fees for roads in connection with the Concurrency Development and, as a result, the Applicant is a “**Feepayer**” as defined in Ordinance 2025-12, as amended, which establishes the existence of Road Impact Fees and provides a procedure for awarding Road Impact Fee credits to Feepayers under certain circumstances.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

SECTION 2. APPROVAL OF THE CONTRACT. The City Council hereby approves the terms and conditions of the Impact Fee Credit Contract between the City of Palm Coast, Florida and Flagler Pines Properties, LLC, as attached hereto and incorporated herein by reference as Exhibit “A.”

SECTION 3. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the agreement as depicted in Exhibit "A."

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Resolution are severable, and if any phrase, clause, sentence, paragraph or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution.

SECTION 5. CONFLICTS. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

SECTION 6. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 7. EFFECTIVE DATE. This Resolution shall become effective

immediately upon its passage and adoption.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 1st day of September 2026.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

MICHAEL NORRIS, MAYOR

APPROVED AS TO FORM AND LEGALITY:

MARCUS DUFFY, CITY ATTORNEY

Attachment: Exhibit "A" - Impact Fee Credit Contract

CONCURRENCY AND IMPACT FEE CREDIT AGREEMENT

(Proportionate Fair Share Methodology, LDC Section 7.07)

THIS CONCURRENCY AND IMPACT FEE CREDIT AGREEMENT (“Agreement”) is made as of this ____ day of _____, 20__, by and between **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company (“**Applicant**”), whose address is 4 Lambert Cove, Flagler Beach, Florida 32136 and **CITY OF PALM COAST**, a Florida municipal corporation of the State of Florida (“**City**”), whose address is 160 Lake Avenue, Palm Coast, Florida, 32164.

WITNESSETH:

WHEREAS, Applicant is developing approximately ±38.81 acres of property described in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “**Property**”), which is zoned COM-2 General Commercial and is known as the **Flagler Landings** project.

WHEREAS, the City has adopted a Proportionate Fair Share Program, as defined in Section 7.07 of the City of Palm Coast Land Development Code (“**LDC**” or “**Code**”), that establishes a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors.

WHEREAS, the Applicant desires to enter into this Agreement to obtain a final development order, as required in LDC Section 7.04 and mitigate for impacts from the development of the mixed commercial/retail uses and intensities set forth in **Exhibit “B”** on the Property (ITE Land Use Codes 813, 812, 945, 948, 712, 932, 720, 640, 934, 912 & 930) (the “**Concurrency Development**”) to satisfy the concurrency requirements.

WHEREAS, the Applicant seeks by this Agreement to set forth its obligations regarding a contribution of funds for construction of improvements to the regional roadway network, pursuant to Section 163.3180, Florida Statutes (the “**Applicant’s Transportation Contributions**”), to mitigate for the Concurrency Development’s transportation impacts.

WHEREAS, the Applicant’s Transportation Contributions will provide a significant benefit to the impacted transportation system and advance implementation of the Transportation Element of the City’s adopted Comprehensive Plan.

WHEREAS, the Applicant, the City and the Florida Department of Transportation (“**FDOT**”), District Five, have coordinated regarding certain improvements to the State Road 100 corridor consisting of a thru-cut and related pavement and traffic-signal modifications at SR 100 and McCormick Drive and traffic signals at the Applicant’s western entrance and at the adjacent Gibbs Auto-Import site (collectively, the “**Corridor Improvements**”), which Corridor Improvements FDOT will require to be designed and constructed as a condition of the State

Access Permit for the Concurrency Development, subject to local government development approval, as generally depicted on **Exhibit “E”** and estimated in **Exhibit “F”** attached hereto and incorporated herein by this reference.

WHEREAS, the Corridor Improvements are offsite improvements to the State Highway System that are not among the capacity improvements necessary to maintain the adopted level of service on the impacted roadways after accounting for the transportation impacts of the Concurrency Development, and are therefore not part of the Project Proportionate Share; the Applicant shall design and construct the Corridor Improvements at its initial cost and expense, and, upon their completion and a true-up of the actual design and construction costs, the Applicant shall be entitled to Road Impact Fee Credits equal to such actual costs, all as further provided in Section 6 of this Agreement.

WHEREAS, the City of Palm Coast Road Transportation Impact Fees Ordinance No. 2025-12, as amended, allows impact fee credits to be granted for proportionate fair share payments, right-of-way dedication and transportation facility construction, and, as to credits for proportionate fair-share payments, Section 163.3180(5)(h)2.e., Florida Statutes, provides for a dollar-for-dollar credit for impact fees and other transportation concurrency mitigation requirements paid or payable for the project (“**Road Impact Fee Credits**”).

WHEREAS, the City deems it to be in the public interest to recognize the Applicant’s Transportation Contributions described in this Agreement in improving the transportation system in the portion of the City in which the Property is located.

WHEREAS, the City has determined that Applicant is making commitments binding it and its successors and assigns to City of Palm Coast to provide the Applicant’s Transportation Contributions to City transportation facilities to mitigate the impacts of the Concurrency Development pursuant to LDC Section 7.07.

WHEREAS, the Code, as amended from time to time, allows the City’s execution of this Agreement.

WHEREAS, this Agreement strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation and comprehensive planning and reduces the costs of development.

WHEREAS, the Applicant or its successors and assigns will be required to pay Road Impact Fees for roads in connection with the Concurrency Development and, as a result, the Applicant is a “**Feepayer**” as defined in Ordinance 2025-12, as amended, which establishes the existence of

Road Impact Fees and provides a procedure for awarding Road Impact Fee credits to Fee payers under certain circumstances.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Findings of Fact. The foregoing statements are true and correct and incorporated herein by reference as Findings of Fact.

2. Purpose. The Purpose of this Agreement is:

- a. To grant any owner of the Property, or any portion thereof, traffic concurrency as provided for in Concurrency Certificate NO. _____ as required for the construction of the Concurrency Development authorized by this Agreement at any time during the term of this Agreement, as this Agreement may be amended or extended from time to time, subject to compliance with the terms and conditions of this Agreement and the Concurrency Certificate, as appropriate; and
- b. To recognize the Applicant's Transportation Contributions as a significant benefit to the impacted transportation system in the area of the Property.

3. Uses and Intensities Statement. The Property is to be developed pursuant to its existing zoning classification with the mixed commercial/retail uses and intensities set forth in **Exhibit "B"** (no residential dwelling units), ITE Land Use Codes 813, 812, 945, 948, 712, 932, 720, 640, 934, 912 & 930. Amendments to the zoning classification and/or the proposed Concurrency Development from time to time, which do not increase the transportation impacts beyond the development intensities proposed or allowed therein or the equivalent thereof as identified in traffic impact analysis report submitted in support of any such ordinance and the request for concurrency, shall not affect the validity or vary the terms of this Agreement. If a zoning and/or Concurrency Development change is made that in any way increases such transportation impacts as set forth herein, this Agreement shall not be effective only as to the incremental development causing the increased impacts, but such incremental development shall not limit or impair any rights, privileges and benefits afforded by this Agreement.

4. Total Proportionate Share Obligation and Payment Schedule.

- a. The opinion of probable construction costs estimate to improve all deficient roadways within the Concurrency Development's Traffic Impact Area equate to a total cost of **Nine Million One Hundred Eighty-One Thousand Two Hundred Seventy-Eight and 48/100 Dollars (\$9,181,278.48)**, of which the proportionate fair share for the Concurrency Development impacts is calculated to be Four Million One Hundred Three Thousand Six Hundred Eighty-Six and 59/100

Dollars (\$4,103,686.59) as detailed in **Exhibit “C”** attached hereto and incorporated herein by this reference (the “**Project Proportionate Share**”).

- b. The Project’s Proportionate Share cash payment shall occur within two (2) years of the Effective Date of this Agreement; however, payment is required as a condition of, and prior to the issuance of, the first Site Development Permit that authorizes Vertical Development within the Property. Notwithstanding the foregoing, if the Road Impact Fee due for the first Vertical Development within the Property equals or exceeds the Project Proportionate Share and is paid within the above time period, no separate or advance cash payment of the Project Proportionate Share shall be required; instead, the City shall apply an amount equal to the Project Proportionate Share from the Road Impact Fee paid for that first development in full satisfaction of the Applicant’s Proportionate Share obligation. In that event, because the Project Proportionate Share is satisfied from Road Impact Fees and not by a separate cash payment, no Road Impact Fee Credits shall be created or awarded under Sections 5 or 11 on account of the Project Proportionate Share; provided, however, that this sentence addresses only Road Impact Fee Credits arising from the Project Proportionate Share and does not limit or affect the separate Road Impact Fee Credits to which the Applicant is entitled for its design and construction of the Corridor Improvements under Section 6, which Credits shall be awarded upon completion and true-up as provided therein and may be recovered through the mechanism in Section 11. Except as so provided in Sections 6 and 11 with respect to recovery of the Corridor Improvement Credits, all Road Impact Fees for development within the Property shall be paid directly to the City in the ordinary course.
- c. Site Development Permit; Vertical and Horizontal Development; De Minimis Infrastructure. For purposes of this Agreement: (i) “Site Development Permit” means a site development permit or equivalent construction authorization issued by the City for work within the Property; (ii) “Vertical Development” means the construction within the project of one or more occupiable buildings or structures on the Property for occupancy and use by an end user, the operation of which generates new external vehicular trips and the transportation impacts that are the subject of the Project Proportionate Share; and (iii) “Horizontal Infrastructure” means work for the project that does not authorize the vertical construction of any occupiable building or structure and does not, by itself, generate new external vehicular trips, including, without limitation, clearing, grubbing, excavation, filling, grading and earthwork; stormwater management and drainage; water, sewer, and other wet and dry utilities; and the construction of internal roadways, driveways, access connections, and turn lanes, together with the site-access and offsite capacity improvements and the Corridor Improvements described in Section 6 that are required by the City and/or FDOT. Because Horizontal

Infrastructure generates no new external vehicular trips and, in fact, will include the access-related and offsite capacity improvements that mitigate the Concurrency Development's transportation impacts, a Site Development Permit issued solely for Horizontal Infrastructure permits or approves development that creates a de minimis impact, if any, within the meaning of Section 163.3180(6), Florida Statutes, and as applied in LDC Sections 7.04.02.C and 7.07.02, and is exempt from transportation concurrency review for such work. Accordingly, the issuance of a Site Development Permit limited to Horizontal Infrastructure shall not constitute the issuance of a Site Development Permit authorizing Vertical Development and shall not trigger the Project Proportionate Share cash payment under Section 4.b; the Project Proportionate Share cash payment shall be triggered only by the issuance of the first Site Development Permit that authorizes Vertical Development within the Property.

- d. No Vesting Until Payment. Notwithstanding the approval of the Concurrency Development's Technical Site Plan (AR 6587) or the issuance of any Site Development Permit for Horizontal Infrastructure, and consistent with LDC Sections 7.01 and 7.04.03, no development rights arising under or pursuant to the Technical Site Plan for the Concurrency Development shall vest, and no Site Development Permit authorizing Vertical Development shall be issued, until the Project Proportionate Share has been paid or otherwise satisfied in full as provided in Section 4.b. The Applicant acknowledges and agrees that transportation concurrency for Vertical Development within the Property is not vested by approval of the Technical Site Plan and remains subject to satisfaction of the Project Proportionate Share obligation under this Agreement.
- e. The Proportionate Share payment shall be adjusted annually beginning January 1, 2027, and every January 1st thereafter until the date of payment using the average of the annual percentage increases in the Engineering News-Record Annual Construction Cost Index (National 20-city average) over the most recent three (3) calendar years for which data is published.
- f. The Applicant's obligations pursuant to this Section 4 shall not be affected by any subsequent change imposed by any state or local agency to transportation concurrency mitigation; nor shall it be affected by any subsequent interpretation of current regulations relating to transportation concurrency mitigation without the express agreement of the City, in its sole discretion. Upon the Applicant's payment of the Project Proportionate Share, the Concurrency Development's transportation concurrency impacts shall be deemed fully mitigated in accordance with Section 163.3180(5)(h), Florida Statutes, and the City shall not require the Applicant to pay for or construct transportation facilities the cost of which would exceed the Project Proportionate Share.

- g. Cost Cap. Notwithstanding any other provision of this Agreement, the Applicant's aggregate obligation for transportation improvements attributable to the Concurrency Development — including the Project Proportionate Share, the cost of designing and constructing the Corridor Improvements under Section 6, and Road Impact Fees due from the Concurrency Development, and after application of all Road Impact Fee Credits awarded under this Agreement — shall not exceed the greater of (i) the Project Proportionate Share or (ii) the Road Impact Fees due from the Concurrency Development, consistent with Section 163.3180(5)(h), Florida Statutes, and Section 70.45, Florida Statutes.

5. Specific Obligations and Rights of Applicant. The Applicant, its successors and assigns, shall be solely responsible for payment as in Subsection 4b. hereof. The Applicant shall receive Two Million Six Hundred Eighty-Nine Thousand Four Hundred Eighty-Three and 29/100 Dollars (\$2,689,483.29) in road impact fee credits (the "Road Impact Fee Credits") for the cash payment upon the City's receipt of said cash payment, pursuant to Section 163.3180(5)(h), Florida Statutes, and LDC Section 7.07. The Road Impact Fee Credits described in this Section and in Section 11 arise only if and to the extent the Applicant makes a cash payment of the Project Proportionate Share; where the Project Proportionate Share is satisfied from Road Impact Fees under Section 4.b, no Road Impact Fee Credits shall be created or awarded on account of the Project Proportionate Share. The Road Impact Fee Credits addressed in this Section relate to the Project Proportionate Share only; the separate Road Impact Fee Credits for the Applicant's design and construction of the Corridor Improvements (the "**Corridor Improvement Credits**") are addressed in Section 6 and are in addition to any credits under this Section.

- a. By way of further clarification, the total Road Impact Fee Credits available to the Applicant on account of the Project Proportionate Share have been reduced by One Million Four Hundred Fourteen Thousand Two Hundred Three and 30/100 Dollars (\$1,414,203.30) pursuant to Section 163.3180(5)(h)2.e., Florida Statutes, and LDC Section 7.07.

\$4,103,686.59	Proportionate Share Payment
– \$1,414,203.30	Road Impact Fee Credit reduction
\$2,689,483.29	Road Impact Fee Credit (Proportionate Share)

6. SR 100 Corridor Improvements Constructed by Applicant; Impact Fee Credit and True-Up.

- a. Design and Construction Obligation. In coordination with FDOT, District Five, and as a condition of the State Access Permit for the Concurrency Development, the Applicant shall design and construct, at its initial cost and expense, the Corridor Improvements, consisting of (i) two half signals at the SR 100 intersection serving the Applicant's western entrance, with one serving the entrance into the Project site and one serving the entrance into the adjacent Gibbs

Auto-Import site (collectively, the “Western Signals”); and (ii) modifications to the existing traffic signals and pavement modifications at the SR 100/McCormick Drive intersection, all as generally depicted on Exhibit “E”, and as more particularly shown on the FDOT-approved permit plans (collectively, the “McCormick Improvements”).

- b. Not Part of Proportionate Share / Concurrency. The Corridor Improvements are offsite improvements to the State Highway System required by FDOT as a condition of the State Access Permit and are not among the capacity improvements necessary to maintain the adopted level of service on the impacted roadways after accounting for the transportation impacts of the Concurrency Development. Accordingly, the Corridor Improvements are not part of the Project Proportionate Share and are separate from the improvements itemized in Exhibit “C”, and neither the design nor the construction of the Corridor Improvements shall be required to satisfy the Concurrency Development’s transportation concurrency, which is deemed fully mitigated upon satisfaction of the Project Proportionate Share under Section 4.
- c. Onsite/Access Improvements Excluded. The Corridor Improvements do not include, and this Section does not apply to, the onsite and site-access-related improvements that are the sole cost and responsibility of the Applicant and are not creditable against Road Impact Fees, including the Applicant’s right-turn lanes and the extension of the right-turn lane and addition of the left-turn lane serving the adjacent BJ’s site. For the avoidance of doubt, the McCormick Drive westbound left-turn lane extension identified in Exhibit “C” remains a Project Proportionate Share element satisfied through the Project Proportionate Share and is not part of the McCormick Improvements or the Corridor Improvements.
- d. Impact Fee Credit. The Applicant’s design and construction of the Corridor Improvements constitute the construction of transportation facilities eligible for Road Impact Fee Credits. Upon completion of the Corridor Improvements (or any discrete component thereof) and the Applicant’s payment of the actual costs of design and construction, the City shall award the Applicant Road Impact Fee Credits equal to the actual, documented and City-confirmed design and construction costs of the Corridor Improvements (the “Corridor Improvement Credits”), on a dollar-for-dollar basis against Road Impact Fees, pursuant to Section 163.3180(5)(h)2.e., Florida Statutes, and Ordinance 2025-12, as amended. The Corridor Improvement Credits are in addition to, and separate from, any Road Impact Fee Credits for the Project Proportionate Share under Sections 5 and 11. Notwithstanding the foregoing or any other provision of this Agreement, the aggregate Corridor Improvement Credits awarded to the Applicant under this Agreement shall not exceed Three Million and 00/100 Dollars (\$3,000,000.00) (the “Corridor Improvement Credit Cap”), regardless of the actual design and

construction costs of the Corridor Improvements. To the extent the actual, documented and City-confirmed design and construction costs of the Corridor Improvements exceed the Corridor Improvement Credit Cap, such excess shall be the sole cost and responsibility of the Applicant and shall not be creditable against Road Impact Fees.

- e. True-Up of Actual Costs; Issuance of Vouchers. The estimated costs of the Corridor Improvements are set forth in **Exhibit "F"**. Those estimates are for planning purposes only and are neither the measure of the Corridor Improvement Credits nor the Corridor Improvement Credit Cap. Within ninety (90) days after completion of and final payment for the Corridor Improvements (or a discrete component thereof), the Applicant shall submit to the City documentation of the actual design and construction costs incurred and paid (including invoices, paid receipts, lien releases and such other reasonable supporting documentation as the City may require). The City shall promptly review and confirm (true-up) the actual costs and, within thirty (30) days of confirmation, shall issue to the Applicant one or more vouchers evidencing Corridor Improvement Credits equal to the actual costs so confirmed, but not to exceed the Corridor Improvement Credit Cap, in the form and in accordance with the procedures set forth in Section 11.
- f. Recovery; Reduction of Road Impact Fees. Because the Applicant is designing and constructing the Corridor Improvements rather than the City funding them from Road Impact Fees, the Road Impact Fees otherwise payable for development within the Property shall be reduced and offset, on a dollar-for-dollar basis, by the Corridor Improvement Credits. After the Road Impact Fee due for the first Vertical Development within the Property (anticipated to be the discount superstore/Walmart) has been applied in satisfaction of the Project Proportionate Share as provided in Section 4.b, the Applicant may recover the Corridor Improvement Credits from the Road Impact Fees due for subsequent development within the Property through the voucher and direct-payment mechanism set forth in Section 11, until the Corridor Improvement Credits are exhausted or otherwise expire in accordance with this Agreement and applicable law.

7. City Obligations.

- a. By executing this Agreement, the City hereby authorizes this Agreement to be used as a basis for granting traffic or transportation concurrency and public facilities concurrency for the Concurrency Development within the Property as provided for in LDC Chapter VII. This authority extends, however, only to the authority contemplated by LDC Chapter VII and neither expressly nor impliedly relieves any party to this Agreement of the obligation to secure any and all other state, federal and local permits necessary to authorize the Concurrency

Development by this Agreement. The City shall issue a Final Certificate of Concurrency NO. _____ as of the Effective Date, which Final Certificate of Concurrency may precede the approval of this Agreement and be conditioned upon the approval of this Agreement and compliance with the conditions set forth in this Agreement.

- b. The City recognizes that the Applicant's cash payment as significantly benefiting the impacted transportation system.
- c. The City will adopt the Applicant's Transportation Contribution into the City's Five-Year Schedule of Capital Improvements in the City's Capital Improvements Element ("CIE") of its Comprehensive Plan at the next scheduled update.

8. Authority and Duration. This Agreement is made and granted pursuant to the City of Palm Coast Land Development Code and Section 163.3180, Florida Statutes, as they may be amended from time to time, and is effective from the Effective Date through the expiration of the Final Certificate of Concurrency, unless otherwise extended by extension of the Final Certificate of Concurrency or by agreement of the parties to this Agreement. In the event the Final Certificate of Concurrency is extended, the duration of this Agreement shall also be extended.

9. Extension of Agreement: Subsequent Change. The duration of this Agreement may be extended by the City. If the City modifies the Code with respect to the Concurrency Management System subsequent to the execution of this Agreement, or if a change in circumstances warrants, the City may, in its sole discretion, pursue such other method of mitigation so long as the rights granted to Applicant in this Agreement are not adversely impacted and remain unchanged, and the payment obligations of the Applicant do not increase.

10. Necessity to Obtain Permits. The Applicant acknowledges its obligation to obtain all necessary local development permits which may be needed for the Property. The failure of this Agreement to address any particular permit, condition, term or restriction applicable to the Property shall not relieve Applicant or its heirs, successors or assigns of the necessity of complying with federal, state and local permitting requirements, conditions, terms or restrictions as may be applicable. In the event Applicant encounters unanticipated delays in obtaining the required permits, or is unable to obtain the required permits, the City will not unreasonably deny, upon a showing of good cause, a request to extend the timeframes contemplated herein.

11. Impact Fees. Pursuant to Ordinance 2025-12, as amended, the City requires any person who seeks to develop land within City of Palm Coast, as evidenced by such person's application for a building permit or certificate of occupancy, to pay a Road Impact Fee so as to assure that such new development bears a proportional share of the cost of capital expenses necessary to provide roads in the City of Palm Coast.

- a. Amount. Applicant has requested and the City has agreed to provide the Applicant, its successors and assigns, with certain Road Impact Fee Credits equal

to (i) the Road Impact Fee Credits (Proportionate Share) of Two Million Six Hundred Eighty-Nine Thousand Four Hundred Eighty-Three and 29/100 Dollars (\$2,689,483.29), awarded upon the cash payment (if any) as provided in paragraph 4b above, and (ii) the Corridor Improvement Credits awarded under Section 6, in an amount equal to the actual design and construction costs of the Corridor Improvements as trued up and confirmed by the City upon completion, subject to the Corridor Improvement Credit Cap of Three Million and 00/100 Dollars (\$3,000,000.00) set forth in Section 6, estimated as set forth in **Exhibit “F”**. The Road Impact Fee Credits shall be awarded to the Applicant, its successors and assigns as and when they arise under Sections 4b, 5 and 6, and may be applied against Road Impact Fees for development within the Property.

- b. **Method of Issuance.** Road Impact Fees for development within the Property shall be paid directly to the City in the ordinary course under Chapter 29, Article II of the City Code of Ordinances (Transportation Impact Fees). The direct-payment and voucher procedure set forth in this Subsection shall apply to (i) any Project Proportionate Share paid by the Applicant in cash that is not otherwise satisfied from Road Impact Fees under Section 4.b, and (ii) the Corridor Improvement Credits awarded to the Applicant under Section 6. Where the Project Proportionate Share is satisfied from the Road Impact Fee paid for the first development within the Property and no Corridor Improvement Credits remain outstanding, no vouchers shall issue and all Feepayers shall pay Road Impact Fees directly to the City. In the circumstance where the City has issued vouchers/Credits to the Applicant, from and after such issuance, the Feepayers applying for building permits or certificates of occupancy in connection with any construction within the Property shall pay the amount due under the Road Impact Fee Ordinance directly to the Applicant, its successors and assigns. The Applicant, its successors and assigns, shall be fully responsible for notifying all Feepayers of this requirement and shall ensure that such payments are directly paid to the Applicant, its successors and assigns. Then, for so long as the total Road Impact Fee Credits for which the Applicant, its successors and assigns, has issued vouchers under this Agreement is less than the total Road Impact Fee Credits authorized by this Agreement, the Applicant, its successors and assigns, shall issue such Feepayer a voucher evidencing full payment of Road Impact Fees in connection with such Feepayer's application for building permit or certificate of occupancy. The voucher issued by the Applicant, its successors and assigns, shall contain a statement setting forth the amount of Road Impact Fee paid. An example of said voucher is attached hereto as **Exhibit “D”** and incorporated herein by this reference. Upon presentation of such voucher by the Feepayer, the City shall issue a receipt to the Feepayer and deduct the amount of such voucher from the Flagler Landings Road Impact Fee Credit account. In the event that the

City institutes an alternate mechanism to the current vouchers for Road Impact Fee Credits, such as a voucher-less system, the Applicant, its successors and assigns, may use said alternate system.

- c. Sale of Development. In the event Applicant may determine to sell all or part of its Property, Applicant may sell, transfer, assign or convey all or part of its allocation of Road Impact Fee Credits to such purchaser, transferee, assignee or grantee for use only within the Property for such consideration as the Applicant determines. In such event, Applicant shall execute and deliver to the City, a copy of the instrument selling, transferring, assigning or granting its allocation of the Road Impact Fee Credit, or portion thereof, to a Feepayer. Applicant acknowledges that only one Impact Fee Credit account may exist at any given time for the Property.
- d. Limitations on Amount/Assignability/Use. In no event shall Applicant sell, transfer, assign or convey all or part of the Road Impact Credits for use outside the Property, without the approval of the City. Further, Applicant acknowledges the total amount of such Road Impact Fee Credits may be further limited by Ordinance 2025-12, as amended, and in effect at the time this Agreement becomes effective and Applicant covenants and agrees that it will not challenge by a judicial proceeding the interpretation of the City Attorney's Office that the Road Impact Fee Credits identified or granted by this Agreement are limited to the extent and/or amount of Road Impact Fees which are due or become due from the Concurrency Development. Road Impact Fee Credits can be applied to extend the Final Certificate of Concurrency or Development Order.

12. Remedies. If any party hereto fails to carry out any of its covenants or obligations contained herein, all parties shall be entitled to all remedies available at law or in equity, including the remedies of specific performance and all forms of injunctive relief. Notwithstanding anything to the contrary herein, the Applicant's obligations are expressly subject to the Applicant commencing development of the Property and said development requiring payment for concurrency pursuant to applicable Florida law. In addition to other remedies, the City may halt approval of additional plats or construction plans for non-residential construction within the Property until and unless the Applicant complies with the terms and conditions of Sections 4 and 5. The City may withhold building permit approvals for development on property owned by third parties as a result of failure of Applicant to comply with its payment guaranty.

13. Future Impact Fee Assessments, Proportionate Fair Share Refunds.

- a. Nothing in this Agreement shall be deemed to require the City to continue to levy or collect Road Impact Fees, or if levied, to levy them for any certain amount.

- b. Notwithstanding any other provision in this Agreement, no land, except the Concurrency Development within the Property, shall be, implicitly or explicitly, considered approved for concurrency, by virtue of this Agreement.
- c. In the event that the proposed or constructed Concurrency Development is so modified as to create a net reduction of impacts to the impacted transportation or public facilities systems from those outlined in Section 3 herein and its related application for concurrency (Concurrency Application NO. _____), the Applicant, its successors and assigns, shall have the right to obtain a pro rata reduction by modification of this Agreement pursuant to the review and approval of a Concurrency Modification that results in reduced transportation impacts. In the event that the proportionate share obligation described at Section 4 above of this Agreement has already been met, Applicant shall hold a transportation concurrency credit for the Property equal to the pro rata reduction based on reduced transportation impacts.
- d. The impact fee credits to be awarded pursuant to this Agreement shall be honored by the City toward payment of road impact fees for development within the Property or toward payment of any fee which replaces impact fees or connection fees if the City eliminates road impact fees and replaces them with some other road impact payment system for road construction.

14. Binding Effect. The burden of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. The rights and obligations of Applicant may be assigned and delegated to a successor or owner/developer and, in such event, the assignor shall be relieved of further liability under this Agreement. If the Applicant assigns its rights and obligations hereunder to another party, the Applicant must provide a copy of the instrument transferring or assigning the obligation(s) and specifying which obligation is being transferred and to whom.

15. Applicable Law; Jurisdiction of Venue. This Agreement and the rights and obligations of the parties hereto as they may appear herein, shall be governed by, construed under and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Flagler County, Florida. The parties waive trial by jury. If any provision of this Agreement, or application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The fact that this Agreement does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the development contemplated by this Agreement shall not relieve any party, or its successors in interest of the obligations to comply with the law governing such permit requirements, conditions, terms and

restrictions. Notwithstanding the foregoing, the interests of each party may be mortgaged in connection with a mortgage of any portion of the Property.

16. Joint Preparation. Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

17. Exhibits. All exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.

18. Captions or Paragraph Headings. Captions and paragraphs headings contained in this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision hereof.

19. Counterparts. This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Agreement.

20. Effective Date. This Agreement shall become effective the date it is recorded in the Public Records of Flagler County, Florida (the "Effective Date"). If this Agreement is not executed by the Applicant and delivered to the City within thirty (30) days of approval, this Agreement shall become null and void.

21. Amendment. This Agreement may be amended by mutual written consent of the parties so long as the amendment meets the requirements of the Code.

22. Duration of Permits. The Applicant acknowledges that, except for the extension of the concurrency reservation of transportation capacity, this Agreement does not extend the duration of any other permits or approvals.

23. Further Assurances. Each of the parties hereto agrees, to the extent permitted by law, to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts and assurances as shall be reasonable requested by the other party in order to carry out the intent of this Agreement and give effect thereto to the extent allowed and in a manner permitted by law. Without any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the County, the parties hereby declare their intention to cooperate with each other in effecting the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

24. Notices. Any notices or reports required by this Agreement shall be sent to the following:

For the City: City Manager
City of Palm Coast
160 Lake Ave
Palm Coast, Florida 32164

City Attorney
City of Palm Coast
160 Lake Ave
Palm Coast, Florida 32164

For Applicant: Flagler Pines Properties, LLC
C/O Flagler Venture LLC
5851 Timuquana Road, Suite 301
Jacksonville, Florida 32210
INFO@AE-GROUP.COM

Jay W. Livingston, Esq.
Livingston & Sword, P.A.
391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
jay.livingston314@protonmail.com

25. Miscellaneous Provisions.

- a. This Agreement and any Exhibits made a part of this Agreement, constitute the entire Agreement and understanding of the parties and shall not be modified or amended except by written agreement duly executed by the parties.
- b. This Agreement is made for the sole benefit and protection of the parties (their successors and assigns) and no other persons shall have any right of action under this Agreement.
- c. All covenants, agreements, representations and warranties made in this Agreement shall be deemed to be material and relied on by each party to this Agreement.
- d. If the Applicant has met all of its obligations under this Agreement, then, the rights granted to Applicant under this Agreement shall survive the termination of this Agreement and shall continue for so long as there remain any unused Road Impact Fee Credits.
- e. Nothing in this Agreement shall act to allow Applicant to receive Road Impact Fee Credits for contributions provided by a government entity, including, but not limited to a Community Development District, but if a Community Development District makes such payments on behalf of a party, then it shall be entitled to the Road Impact Fee Credits.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

WITNESS:

CITY OF PALM COAST, FLORIDA

Print Name: _____

By: _____
Michael Norris, Mayor

Date: _____

Print Name: _____

STATE OF FLORIDA

COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2026, by Michael Norris, as Mayor of the City of Palm Coast.

Notary Public, State of Florida
Print Name _____
My Commission Expires _____
My Commission Number is _____

Personally Known ____ OR Produced Identification ____
Type of Identification Produced _____

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

WITNESS:

FLAGLER PINES PROPERTIES, LLC

_____ By: _____

Print Name: _____ Print Name: _____

Its: _____

_____ Date: _____

Print Name: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2026, by _____ as _____ for FLAGLER PINES PROPERTIES, LLC.

Notary Public, State of Florida
Print Name _____
My Commission Expires _____
My Commission Number is _____

Personally Known ____ OR Produced Identification ____
Type of Identification Produced _____

EXHIBIT "A"

The Property (Legal Description)

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1387, PAGE 1869 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100' (A 200' RIGHT-OF-WAY) S89°09'05"W A DISTANCE OF 1223.50' FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE S02°27'01"E A DISTANCE OF 593.68 FEET; THENCE S38°32'07"W A DISTANCE OF 410.00 FEET; THENCE S00°50'03"E A DISTANCE OF 150.01 FEET; THENCE S89°09'52"W A DISTANCE OF 1414.74 FEET; THENCE N00°50'55"W A DISTANCE OF 1060.02 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY) N89°09'05"E A DISTANCE OF 1658.33 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

CONTAINING 38.811 ACRES, MORE OR LESS.

EXHIBIT “B”

Uses and Intensities

Land Use	ITE LUC	Intensity
Free-Standing Discount Superstore	813	185,492 sq. ft.
Building Materials and Lumber Store	812	55,172 sq. ft.
Convenience Store / Gas Station	945	1,618 sq. ft. with 12 vehicle fueling positions
Automated Car Wash	948	One car wash tunnel (1,700 sq. ft.)
Small Office Building	712	4,000 sq. ft.
High-Turnover (Sit-Down) Restaurant	932	6,500 sq. ft.
Medical / Dental Office	720	3,750 sq. ft.
Animal Hospital / Veterinary Clinic	640	4,000 sq. ft.
Fast-Food Restaurant with Drive-Through	934	5,700 sq. ft. with one drive-through lane
Drive-In Bank	912	3,000 sq. ft. with two drive-through lanes
Fast Casual Restaurant	930	12,000 sq. ft.

EXHIBIT “C”

Proportionate Share Calculation

Improvement	Total Est. Improvement Cost	PS %	Proportionate Share
Roadway Segment Improvement			
SR 100 — Seminole Woods Blvd. to Bulldog Dr. (widen 4 to 6 lanes)	\$6,683,380.44	48.12%	\$3,216,042.67
CPI adjustment (5.80%)			\$186,430.87
Segment Proportionate Share (with CPI)			\$3,402,473.54
Off-Site Intersections			
SR 100 at Old Kings Rd. — optimize signal timings	\$6,750.00	100.00%	\$6,750.00
CPI adjustment (5.79%)			\$391.06
Off-Site Intersection Proportionate Share (with CPI)			\$7,141.06
Turn-Lane Length Extensions (PS = deficient length ÷ 300 ft × unit cost; unit cost includes 35% design/survey/CEI)			
SR 100 at Belle Terre Pkwy — Westbound right-turn lane deficient by 150 ft	\$399,311.38	150/300	\$199,655.69
SR 100 at Belle Terre Pkwy — Northbound right-turn lane deficient by 25 ft	\$399,311.38	25/300	\$33,275.95
SR 100 at Palm Coast Import Auto/Project Driveway #1 — Westbound left-turn lane deficient by 15 ft	\$423,131.32	15/300	\$21,156.57
SR 100 at McCormick Dr. — Westbound left-turn lane deficient by 110 ft	\$423,131.32	110/300	\$155,148.15
SR 100 at I-95 Ramps — Eastbound left-turn lane deficient by 50 ft	\$423,131.32	50/300	\$70,521.89
SR 100 at Old Kings Rd. — Northbound left-turn lane deficient by 125 ft	\$423,131.32	125/300	\$176,304.72
Turn-Lane Extension Subtotal			\$656,062.97
CPI adjustment (5.79%)			\$38,009.02
Turn-Lane Extension Proportionate Share (with CPI)			\$694,071.99
PROPORTIONATE SHARE GRAND TOTAL			\$4,103,686.59

Total Estimated Transportation Impact Fees (City of Palm Coast, per Ord. 2025-12): \$7,352,962.56

EXHIBIT “D” — IMPACT FEE VOUCHER

Sample Transportation Impact Fee Voucher

Voucher No. _____

**CITY OF PALM COAST ROAD IMPACT FEE VOUCHER
FLAGLER LANDINGS**

Name and address of Grantor: Flagler Pines Properties, LLC / 4 Lambert Cove / Flagler Beach,
Florida 32136

Name and address of Grantee: _____

Legal description of subject property: _____

Subdivision or Master Development Plan name:

The undersigned Grantor confirms that it has received from Grantee on _____, 202__
funds sufficient for the following impact fees required under the applicable City of Palm Coast
Road Impact Fee Ordinance, as amended, as indicated below.

Grantor gives notice to City of Palm Coast, Florida that the following sums should be deducted
from the applicable Road Impact Fee Credit Account of the Grantor.

Road Impact Fees, Ordinance 2025-12, in the amount of \$_____.

Grantor:

FLAGLER PINES PROPERTIES, LLC

By: _____

Print Name: _____

Its: _____

SR 100 Corridor Improvements — Depiction (FDOT Concept: SR 100 at McCormick Drive)

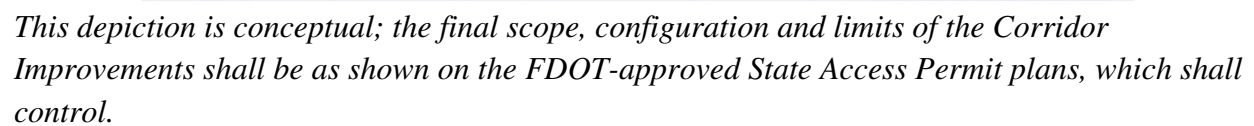


EXHIBIT “F”

Estimated Corridor Improvement Costs

(Planning-level estimates only — subject to true-up to actual cost under Section 6)

Corridor Improvement (by area and element)	Estimated Cost
Western Signals — two half signals: (1) serving the entrance into the Project site and (2) serving the entrance into the adjacent Gibbs Auto-Import site	\$1,000,000.00
McCormick Improvements — (3) pavement modifications and (4) modifications to the existing traffic signals	\$350,000.00
Design (ITS and lighting; all elements)	\$150,000.00
TOTAL ESTIMATED CORRIDOR IMPROVEMENT COST	\$1,500,000.00

The amounts shown above are planning-level estimates only and are provided for reference; the Corridor Improvements are generally depicted on Exhibit “E.” Pursuant to Section 6 of this Agreement, the Road Impact Fee Credit (the Corridor Improvement Credit) to which the Applicant is entitled equals the actual design and construction costs incurred and paid by the Applicant for the Corridor Improvements, as documented by the Applicant and reviewed and confirmed (trued up) by the City upon completion. In no event shall the Corridor Improvement Credits exceed the Corridor Improvement Credit Cap of \$3,000,000.00 set forth in Section 6.