



Flagler County Board of County Commissioners Workshop Agenda

Monday, November 18, 2024 • 1:00 p.m.

Government Services Complex, 1769 E. Moody Blvd., Bldg 2, Board Chambers, Bunnell, FL 32110

View the meeting broadcast live on cable television: Spectrum Channel 492

View the meeting streamed live on the County's YouTube Channel: www.YouTube.com/FlaglerCounty

1. Call to Order
2. Pledge to the Flag and Moment of Silence
3. Welcome: Flagler County Board Chair
4. Capital Projects Discussion
5. Request from Mark Langello concerning his transportation impact fees paid in 2006-2008.
6. Other Items for Discussion as Needed
7. Public Comment: *This thirty-minute time period has been allocated for public comment. Each speaker will be allowed up to three (3) minutes to address the Commission. Speakers should approach the podium, identify themselves and direct comments to the Chair.*
8. Adjournment

While this is a workshop only and no decisions are expected to be made by any of the governmental bodies, if a person decides to appeal any matter that may be discussed for a future proceeding, a record of the workshop may be needed and, for such purposes, the person may need to ensure that a verbatim record of the workshop is made.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in this meeting should contact the (386) 313-4001 at least 48 hours prior to the meeting.

2323 North State Street, Bunnell, FL 32110  (386) 313-6950, mark@buildmm.com

RECEIVED

August 1, 2018

Craig Coffey
Flagler County Administrator
1769 East Moody Blvd
Bunnell, FL 32110

AUG 1 REC'D

COUNTY ADMINISTRATOR
FLAGLER COUNTY, FLORIDA

Re: Application for Return of Impact Fees

Dear Craig:

As president of M&M Development of Flagler County, Inc. I am submitting this letter as my application for the return of all the impact fees M&M has paid to the County through an inter-local agreement with the City of Bunnell for the permitting and construction of our Atlantis project located at 2323 N. State Street (US 1) in Bunnell, between 2006 and 2008. Below you will find an accounting of these fees and documentation for the five buildings referenced.

According the County ordinance 89-19, Section IX, F., "Return of Fees if Not Spent for Capital Improvements", the County must return the impact to the fee payer if it was not spent for capital improvements within 7 years. Any improvements for which the impact fees are used must be related to address the transportation capacity impacted by the fee payer's project. To date there have not been any county impact fee funds spent on capital improvements that have a rational nexus to the Atlantis project.

In 2013 I had requested the return of this fee to the Planning Director in person. At the time I was shown the ordinance and to my surprise the time allotted for the return process was 14 years. I questioned this time period and stated I believed it was only 7 years and something must have changed. After staff checked the relevant ordinances I was told that it had not changed and in fact was 14 years. Dismayed I left the county office unable to request my funds at that time. I

2323 North State Street, Bunnell, FL 32110  (386) 313-6950, mark@buildmm.com

then reviewed the ordinance online with "Municode" and used the function of comparing code changes, and it didn't show any changes to that section. Fast forward to this month I again checked Municode to refresh my memory of the time period and discovered that the time frame was now listed as 15 years. I once again used the function in Municode to check for changes and no changes were shown to that section, but now I knew this was incorrect. I requested the actual ordinances from 1989 to today and found that the dates had been changed, and most people, including staff, were unaware of this change.

It is my contention that though the ordinance had changed in 2012, any fees I paid in 2006 to 2008 should have been available to me to be refunded beginning in 2013 when I requested such. The reasons for the changes to the ordinance were in the collection of the fees in order to encourage new development, not in the spending of the funds for which the fees were to be used, and there was no suspension in the spending of the funds. I made good faith attempt to request my fees returned in 2013 but staff, admittedly innocent of the knowing the true time frame, didn't accept my request. I went there to get the application form for the return of my fees, and according to staff I still had to wait more years. I later found out there is no application form and this is why I am using this letter. This year, as soon as I found out this error in the time line to request a refund, I addressed it to staff and I am now again requesting the fees be returned to me with the 6% interest as defined by ordinance.

As you probably know, most, if not all other persons who paid this fee are not aware of this section of the ordinance. I am not trying to cause a public outcry and a mad rush to your office by others who may request this same refund. I hope we can amicably agree and handle this as soon as possible without the need to address the commission. The ordinance gives the Administrator the authority to refund this without going to a public hearing.

Please make the check out to M&M Development of Flagler County, Inc. and either mail it to 2323 N. State Street, Unit #58, Bunnell, FL 32110, or give me a call and I will personally pick it up. Thank you in advance for your understanding.

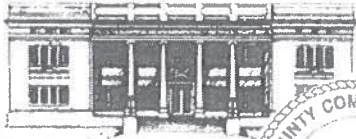
Sincerely,





Mark Langelo

Enclosure: 2006 Letter from FC, Invoice, 2006 Payment Slips (First two Bldgs)
2007 Letter from FC, Invoice, 2007 Payment Slip (Church Bldg)
2007 Letter from FC, Invoice, 2008 Payment Slip (Last two Bldgs)
M&M Check Stubs from payments of impact fees
Building Permits for Five Atlantis buildings charged impact fees



**Flagler County
Board of County Commissioners**

1200 E. Moody Blvd., #2
Bunnell, FL 32110
(386) 437-7484 FAX: (386) 437-7488

Planning & Zoning Department

March 21, 2006

Mr. Mark Langello, President
M & M Development of Flagler County, Inc.
3481 N. Ocean Shore Boulevard
Flagler Beach, FL 32136

Re: Transportation Impact Fees for Atlantis – East District
Parcel # 03-12-30-5015-00000-0010 – 2323 N. State Street lying within
City Limits of Bunnell

Dear Mr. Langello:

The proposed Atlantis General permit application at 2323 N. State Street, Bunnell has been reviewed for the purpose of calculation of Transportation Impact Fees. Based on the site plan submitted, bearing revision date 2/14/06, and the Phase Plan and Scope of Work, the Transportation Impact Fees for will be charged according to the Transportation Impact Fee Schedule as category 130 – Industrial Park. This category recognizes a mix of uses with a wide variation in the proportion of each type of use. It is apparent by the plan submitted that your project will provide a variety of industrial space for a variety of businesses to occupy over time. The application of category 130 will permit unlimited end users to occupy these buildings without obligation to pay additional Transportation Impact Fees.

You have requested a calculation for Phase 1 only, consisting of Buildings D and G as reflected by the referenced plan. You have advised that the buildings are being constructed as speculative commercial buildings as identified in the Transportation Impact Fee ordinance. Since the buildings are being constructed as spec buildings you are entitled to pay the impact fee amount due prior to being issued a Certificate of Occupancy for the buildings.

Based upon the current fee schedule the amount due for Building D is \$23,102.24 and Building G is \$23,102.24 for a total amount due of \$46,204.48 for Phase 1. This amount represents 32,000 sf of building as indicated on the above identified plans. The amount of the fee is subject to increase if the Board of County Commissioners adopts changes. The fees have been calculated as indicated in the table below:

JAMES M. O'CONNELL
District 1

BLAIR R. KANBAR
District 2

JIM DARBY
District 3

HUTCH KING
District 4

GEORGE HANNS
District 5

Project Description	Proposed SF	Transportation I F Category	Fee amount per 1000 sf	Fee Amount/Use
Atlantis Building D	16,000	130	\$1443.89	\$23,102.24
Atlantis Building G	16,000	130	\$1443.89	\$23,102.24
Total				\$46,204.48

At any time prior to issuance of the Certificate of Occupancy by the City of Bunnell for each building, bring this letter with your payment to the Central Permitting Office for Flagler County Development Services and a receipt for payment will be provided. Pursuant to an Interlocal Agreement between the City of Bunnell and Flagler County, a copy of the receipt for payment needs to be returned to the City of Bunnell. If you have any questions, feel free to contact me.

Sincerely,



Walter Frigidio, AICP
Planning & Zoning Director

cc: Jennifer Bennett, Development Services Coordinator
Central Permitting
James A. Darby, Chairman Flagler County Commission
Doug Wright, County Administrator
Caryn Miller, Community Development Director, City of Bunnell
Carl Kern, County Attorney

Miscellaneous Payment Slip

CDFR1108 - Miscellaneous Payment Slip

PAYMENT SLIP NBR: MS - 9615

ACCT NBR:

OWNER

SITE ADDRESS

M & M DEVELOPMENT OF FLAGLER COUNTY,

2323 N. STATE STREET

STATUS

SUBDIVISION

-

BLOCK

LOT

UNIT

RANGE-TWNSHP-SECT

RATE CLASS

SEWER UNITS

WATER UNITS

METER SIZE

NEW OR EXISTING

MEMO

Transportation Impact Fees for Atlantis - East District

Parcel #03-12-30-5015-00000-0010

Atlantis Building D - \$23,102.24 / Atlantis Building G - \$23,102.24

Impact Fee Category 130 - Industrial Park

USER

PL101

FEE CODE

DESCRIPTION

WAIVED

AMOUNT DUE

TIF-BE

TRANSPORATATION BUNNELL EAST

N

23,102.24

TIF-BE

TRANSPORATATION BUNNELL EAST

N

23,102.24

TOTAL DUE

\$46,204.48

Official Receipt - Flagler County

CDPR103 - Official Receipt

Trans Number	Date	Post Date	Payment Slip Nbr
2006100139	10/17/2006 1:59:14 PM	10/17/2006	MS 9615

M & M DEVELOPMENT OF FLAGLER COUNTY, INC.
2323 N. STATE STREET

Payor: M&M DEVELOPMENT OF FLAGLER COUNTY INC

Fee Information

Fee Code	Description	GL Account	Amount	Waived
TIF-BE	TRANSPORATATION BUNNELL	137-0000-363.20-01	\$23102.24	
TIF-BE	TRANSPORATATION BUNNELL	137-0000-363.20-01	\$23102.24	
Total			\$46204.48	

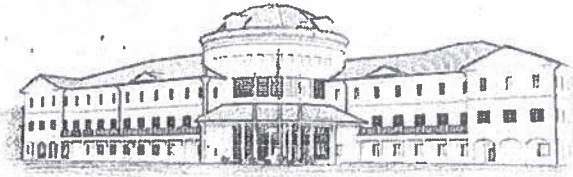
Payments

Payment Code	Account/Check Number	Amount
CHECK	1137	\$23102.24
CHECK	1137	\$23102.24

Total Cash	\$0.00
Total Non Cash	\$46204.48
Total Paid	\$46204.48

Memo: Transportation Impact Fees for Atlantis - East District

Cashier/location: CPR03 / 1
User: CPR03



Flagler County
Board of County Commissioners
 Planning and Zoning Department



1769 East Moody Boulevard, Suite 105 • Bunnell, Florida 32110 • (386) 313-4009 • fax: (386) 313-4109 • www.FlaglerCounty.org

March 23, 2007

Mr. Mark Langello, President
 M & M Development of Flagler County, Inc.
 3481 N. Ocean Shore Boulevard
 Flagler Beach, FL 32136

Re: Transportation Impact Fees for Atlantis – East District
 Parcel # 03-12-30-5015-00000-0010 – 2323 N. State Street, Building H
 lying within City Limits of Bunnell

Dear Mr. Langello:

The Transportation Impact Fees for the above referenced project are \$6281.20. This amount is for the proposed 8,000 sf Building H per plans dated 3/6/07 for Christ Lutheran Church and Bethel Baptist Church within Atlantis Industrial and Business Park. The fees have been calculated as indicated in the table below:

Project Description	Proposed SF	Transportation I F Category	Fee amount per 1000 sf	Total Impact Fee for Project
Church	8000	560	\$ 785.15	6,281.20

The impact fees may be paid at the Flagler County Central Permitting office located in Government Services Building at 1769 E. Moody Boulevard in Bunnell. These fees are to be paid prior to the building permit being issued by the City of Bunnell. If you have any questions, feel free to contact me.

Sincerely,

Gina Lemon
 Development Review Planner III

cc: Jennifer Bennett, Development Services Coordinator
 Central Permitting

Attachment: Payment Slip #9816

Miscellaneous Payment Slip

CDPR1108 - Miscellaneous Payment Slip

PAYMENT SLIP NBR: MS - 9816

ACCT NBR:

OWNER

M & M DEVELOPMENT OF FLAGLER INC.

SITE ADDRESS

2323 N. STATE STREET, BUILDING H

STATUS

SUBDIVISION

BLOCK

LOT

UNIT

RANGE-TWNSHP-SECT

RATE CLASS

SEWER UNITS

WATER UNITS

METER SIZE

NEW OR EXISTING

MEMO

Transportation Impact Fees for 8,000 sf building for Christ Lutheran Church and Bethel Baptist Church in the East Transportation District (City of Bunnell).

USER

PL101

FEE CODE

TIF-BE

DESCRIPTION

TRANSPORATATION BUNNELL EAST

WAIVED

N

TOTAL DUE

AMOUNT DUE

6,281.20

\$6,281.20

Official Receipt - Flagler County

CDPR103 - Official Receipt

Trans Number	Date	Post Date	Payment Slip Nbr
2007030254	3/23/2007 10:36:00 AM	3/23/2007	MS 9816

M & M DEVELOPMENT OF FLAGLER INC.
2323 N. STATE STREET, BUILDING H

Payor: M & M DEVELOPMENT OF FLAGLER

Fee Information

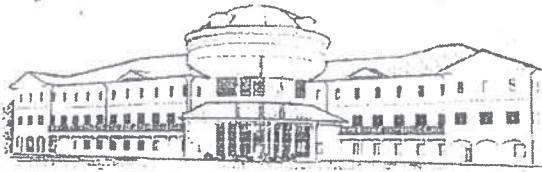
Fee Code	Description	GL Account	Amount	Waived
TIF-BE	TRANSPORATATION BUNNELL	137-0000-363.20-01 TE BUNL	\$6281.20	
Total			\$6281.20	

Payments

Payment Code	Account/Check Number	Amount
CHECK	1295	\$6281.20
Total Cash		\$0.00
Total Non Cash		\$6281.20
Total Paid		\$6281.20

Memo: Transportation Impact Fees for 8,000 sf building for Christ Lutheran Church and Bethel Baptist Church

Cashier/location: CPR01 / 1
User: CPR01



Flagler County
Board of County Commissioners
Planning and Zoning Department



1769 East Moody Boulevard, Suite 105 • Bunnell, Florida 32110 • (386) 313-4009 • fax: (386) 313-4109 • www.FlaglerCounty.org

April 27, 2007

Mr. Mark Langello, President
 M & M Development of Flagler County, Inc.
 3481 N. Ocean Shore Boulevard
 Flagler Beach, FL 32136

Re: Transportation Impact Fees for Atlantis – East District within City Limits of
 Bunnell - Parcel # 03-12-30-5015-00000-0010
 2323 N. State Street, Building E

Dear Mr. Langello:

The Transportation Impact Fees for the above referenced project are \$11,551.12. This amount is for the proposed 8,000 sf Building E per floor plan dated 3/17/07 within Atlantis Industrial and Business Park. The Transportation Impact Fees for will be charged according to the Transportation Impact Fee Schedule as category 130 – Industrial Park. It is apparent that the subject building is a part of that project being constructed as speculative commercial buildings as identified in the Transportation Impact Fee ordinance. Since the buildings are being constructed as spec buildings you are entitled to pay the impact fee amount due prior to being issued a Certificate of Occupancy for the buildings. The amount of the fee stated herein is subject to increase if the Board of County Commissioners adopts changes.

The fees have been calculated as indicated in the table below:

Project Description	Proposed SF	Transportation I F Category	Fee amount per 1000 sf	Total Impact Fee for Bldg
Building E	8,000	130	\$ 1,483.39	\$ 11,551.12

At any time prior to issuance of the Certificate of Occupancy by the City of Bunnell for each building, bring this letter with your payment to the Central Permitting Office for Flagler County Development Services and a receipt for payment will be provided. Pursuant to an Interlocal Agreement between the City of Bunnell and Flagler County, a copy of the receipt for payment needs to be returned to the City of Bunnell. If you have any questions, feel free to contact me.

Sincerely,

Gina Lemon
 Development Review Planner III.

cc: Jennifer Bennett, Development Services Coordinator
 Central Permitting

Attachment: Payment Slip #9867

James M. O'Connell
 District 1

Milissa Holland
 District 2

James A. Darby
 District 3

Bob Abbott
 District 4

George Hanns
 District 5



Flagler County
 Board of County Commissioners
 Planning and Zoning Department



1769 East Moody Boulevard, Suite 105 • Bunnell, Florida 32110 • (386) 313-4009 • fax: (386) 313-4109 • www.FlaglerCounty.org

June 1, 2007

Mr. Mark Langello, President
 M & M Development of Flagler County, Inc.
 3481 N. Ocean Shore Boulevard
 Flagler Beach, FL 32136

Re: Transportation impact Fees for Atlantis Building A
 East District within City Limits of Bunnell - Parcel # 03-12-30-5015-00000-0010
 2323 N. State Street

Dear Mr. Langello:

The Transportation Impact Fees for the above referenced project are \$23,102.24. This amount is for the proposed 16,000 sf Building A per floor plan bearing revision date 5/28/07 within Atlantis Industrial and Business Park. The Transportation Impact Fees for will be charged according to the Transportation Impact Fee Schedule as category 130 – Industrial Park. It is apparent that the subject building is a part of that project being constructed as speculative commercial buildings as identified in the Transportation Impact Fee ordinance. Since the buildings are being constructed as spec buildings you are entitled to pay the impact fee amount due prior to being issued a Certificate of Occupancy for the buildings. The amount of the fee stated herein is subject to increase if the Board of County Commissioners adopts changes.

The fees have been calculated as indicated in the table below:

Project Description	Proposed SF	Transportation I F Category	Fee amount per 1000 sf	Total Impact Fee for Bldg
Building A	16,000	130	\$ 1,443.89	\$ 23,102.24

At any time prior to issuance of the Certificate of Occupancy by the City of Bunnell for each building, bring this letter with your payment to the Central Permitting Office for Flagler County Development Services and a receipt for payment will be provided. Pursuant to an Interlocal Agreement between the City of Bunnell and Flagler County, a copy of the receipt for payment needs to be returned to the City of Bunnell. If you have any questions, feel free to contact me.

Sincerely,

Gina Lemon
 Development Review Planner III

cc: Jennifer Bennett, Development Services Coordinator
 Central Permitting

Attachment: Revised Payment Slip #9867

James M. O'Connell
 District 1

Milissa Holland
 District 2

James A. Darby
 District 3

Bob Abbott
 District 4

George Hanns
 District 5

Miscellaneous Payment Slip

CDPR1108 - Miscellaneous Payment Slip

PAYMENT SLIP NBR: MS - 9867

ACCT NBR:

OWNER

M & M DEVELOPMENT, INC.

SITE ADDRESS

2323 N. STATE STREET

STATUS

SUBDIVISION

BLOCK

LOT

UNIT

RANGE-TWNSHP-SECT

RATE CLASS

SEWER UNITS

WATER UNITS

METER SIZE

NEW OR EXISTING

MEMO
 Transportation Impact Fees - East District
 Atlantis Industrial and Business Park, Building E - 8,000 sf at Category 130 (Industrial
 Park) - \$11,551.12
 Atlantis Industrial and Business Park, Building A - 16,000 sf at Category 130 (Industrial

USER
 PL101

<u>FEE CODE</u>	<u>DESCRIPTION</u>	<u>WAIVED</u>	<u>AMOUNT DUE</u>
TIF-BE	TRANSPORATATION BUNNELL EAST	N	11,551.12
TIF-BE	TRANSPORATATION BUNNELL EAST	N	23,102.24
	TOTAL DUE		\$34,653.36

Official Receipt - Flagler County

CDPR103 - Official Receipt

Trans Number	Date	Post Date	Payment Slip Nbr
2008050106	5/13/2008 11:12:27 AM	5/13/2008	MS 9867

M & M DEVELOPMENT, INC.
2323 N. STATE STREET

Payor: M & M DEVELOPMENT OF FLAGLER COUNTY, INC

Fee Information

Fee Code	Description	GL Account	Amount	Waived
TIF-BE	TRANSPORATATION BUNNELL	137-0000-363.20-01 TE BUNL	\$11551.12	
TIF-BE	TRANSPORATATION BUNNELL	137-0000-363.20-01 TE BUNL	\$23102.24	
Total			\$34653.36	

Payments

Payment Code	Account/Check Number	Amount
CHECK	2108	\$11551.12
CHECK	2109	\$11551.12
CHECK	2108	\$23102.24
CHECK	2109	\$23102.24

Total Cash	\$0.00
Total Non Cash	\$34653.36
Total Paid	\$34653.36

Memo: Transporation Impact Fees - East District

Cashier/location: CPR04 / 1
User: CPR04

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: March 25, 2006

OWNER: M & M Development of FC, Inc.

TEL. NO: 386-445-5132

LOCATION: 2323 N. State Street

PARCEL #

CONTRACTOR: Michael C Construction

ADDRESS:

LIC. NO: CGC011631

ARCHITECT:

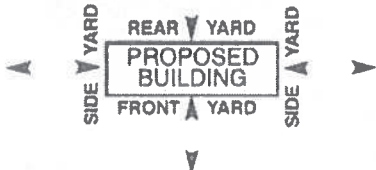
ADDRESS:

LIC. NO:

TYPE Type use L-1 New Addition Repair Walls Sw. Pool
AND Zoning Cl. Alter Demolish Move Fences Signs
CLASS Bldg. Hgt. Stories Sprinkler Well Water Supply Sq. Ftg.
OF Type Sewage Other STP Pipes Pub. Water Supply Garage
WORK Mobile Home Patio Carport Screen Porch U. Shed

Parcel No. 03-12-30-5015-00000-0010

Legal Description



Building D - 16,000 sq. Ft. warehouse w/ small offices

VALUATION \$317,000 FEE \$864.00

CONTRACTOR: Kehle PLUMBING PERMIT occ# 200164

NO. FIXTURES 48 FIRE HOSE CAB SEPTIC TANK NO:
SEWER SPRINKLER HDS
WTR. PUMP OTHER
PUB. WATER
TOTAL UNITS MINIMUM FEE 48x5+20 FEE \$260.00
RADON GAS FEE \$160.00
PLANS REVIEW FEE \$100.00

CONTRACTOR: Tri-T Electric ELECTRICAL PERMIT occ# 1103

SERVICE SIZE (2) 600 amps Fee Per KVA TEMP POLE
INC. SERVICE Fee Per KVA OTHER 100+140x2 FEE \$480.00
MINIMUM FEE SIGN

CONTRACTOR: Flair MECHANICAL PERMIT occ# 448

TYPE - HEATING Incln:
TYPE - COOLING (16) 2 tons Refrig Unit: 16x25 FEE \$400.00
MINIMUM FEE

MOBILE HOME PERMIT
TIE DOWN & FOUNDATION INSPECTION \$
PLUMBING - SEWER & WATER CONNECTION \$
ELECTRICAL SERVICE CONNECTION \$ FEE

TOTAL PERMIT FEES \$2,264.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer
CERTIFICATE of OCCUPANCY- No: DATE: March 25, 2006

Name: Address:
Zoning Class Zoning Use:

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY: [Signature] BuildingPermitFrontFace1.

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: March 25, 2006

OWNER: M & M Development of FC Inc.

TEL. NO: 386-445-5132

LOCATION: 2323 N. State Street

PARCEL #

CONTRACTOR: Michael C Construction

ADDRESS:

LIC. NO:

ARCHITECT:

ADDRESS:

LIC. NO:

TYPE Type use L-1 New Addition Repair Walls Sw. Pool
AND Zoning Cl. Alter Demolish Move Fences Signs
CLASS Bldg. Hgt. Stories Sprinkler Well WaterSupply Sq. Ftg.
OF Type Sewage Other STP Pipes Pub. Water Supply Garage
WORK Mobile Home Patio Carport Screen Porch U. Shed

Parcel No. 03-12-30-5015-00000-0010

Legal Description

Building G - 16,000 sq. ft. warehouse
w/ small offices

VALUATION 317,000.

FEE \$864.00

CONTRACTOR: Kehle Plumbing

PLUMBING PERMIT

occ#

64
3001 ✓

NO. FIXTURES 48

FIRE HOSE CAB

SEPTIC TANK NO:

SEWER

SPRINKLER HDS

WTR. PUMP

OTHER

PUB. WATER

TOTAL UNITS

MINIMUM FEE 48x5+20

FEE \$260.00

RADON GAS

FEE \$160.00

PLANS REVIEW

FEE \$100.00

CONTRACTOR: Tri-T Electric

ELECTRICAL PERMIT

occ#

1103 ✓

SERVICE SIZE (2) 600 amps

Fee Per KVA

TEMP POLE

INC. SERVICE

Fee Per KVA

MINIMUM FEE

SIGN

OTHER 100+140x2

FEE \$480.00

CONTRACTOR: Flair

MECHANICAL PERMIT

occ#

448 ✓

TYPE - HEATING

Incln:

TYPE - COOLING 16 2 ton units

Refrlg Unit:

MINIMUM FEE

16x25

FEE \$400.00

MOBILE HOME PERMIT

TIE DOWN & FOUNDATION INSPECTION

\$

PLUMBING - SEWER & WATER CONNECTION

\$

ELECTRICAL SERVICE CONNECTION

\$

FEE

TOTAL PERMIT FEES

\$2,264.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY.
HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer
March 25, 2006

CERTIFICATE of OCCUPANCY- No:

DATE:

Name: Address:
Zoning Class Zoning Use:

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS
ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY:

[Signature]

BuildingPermitFrontFace1.

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: March 10, 2007

OWNER: N&M Development TEL. NO: _____

LOCATION: 2323 N. State St. Unit 104 PARCEL # _____

CONTRACTOR: Kehle Const. ADDRESS: _____

ARCHITECT: Robert Johnson, Jr. ADDRESS: _____ LIC. NO: 03C150808

TYPE: New 1000 Addition Repair Walls Sw. Pool
CLASS: Bldg. Hgt. Alter Demolish Move Fences Signs
OF: Type Sewage Other STP Pipes Well Water Supply Sq. Ftg.
WORK: Mobile Home Patio Carport Screen Porch Garage U. Shed

Parcel No. 03-12-30-5015-0000-0010



Legal Description _____

Foundation and rough plg/

VALUATION \$50,000.00 FEE \$230.00

CONTRACTOR: Kehle Plb. PLUMBING PERMIT occ# _____

NO. FIXTURES 27 FIRE HOSE CAB _____ SEPTIC TANK NO: _____

SEWER _____ SPRINKLER HDS _____

WTR. PUMP _____ OTHER _____

PUB. WATER _____ MINIMUM FEE 20+27x5 FEE \$155.00

TOTAL UNITS 27 FEE _____

RADON GAS _____ FEE _____

PLANS REVIEW _____ FEE _____

CONTRACTOR: _____ ELECTRICAL PERMIT occ# _____

SERVICE SIZE _____ Fee Per KVA _____ TEMP POLE _____

INC. SERVICE _____ Fee Per KVA _____

MINIMUM FEE _____ SIGN _____ OTHER _____ FEE _____

CONTRACTOR: _____ MECHANICAL PERMIT occ# _____

TYPE - HEATING _____ Incin: _____

TYPE - COOLING _____ Refrlg Unit: _____

MINIMUM FEE _____ FEE _____

MOBILE HOME PERMIT

TIE DOWN & FOUNDATION INSPECTION \$ _____

PLUMBING - SEWER & WATER CONNECTION \$ _____

ELECTRICAL SERVICE CONNECTION \$ _____ FEE _____

TOTAL PERMIT FEES \$385.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I Fischer

CERTIFICATE of OCCUPANCY- No: _____ DATE: _____

Name: _____ Address: _____

Zoning Class _____ Zoning Use: _____

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY: _____

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: March 24, 2007

OWNER: M&M Development TEL. NO: _____

LOCATION: 2325 W. State St. Unit 104 PARCEL # _____

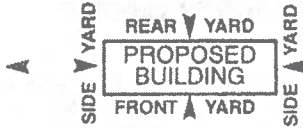
CONTRACTOR: Koble Const. ADDRESS: _____ LIC. NO: 0001504390

ARCHITECT: Robert Johnson ADDRESS: 00 000, 8 LIC. NO: _____

TYPE Type use Comm New 3000 Addition Repair Walls Sw. Pool
AND Zoning Class Alter Demolish Move Fences Signs
CLASS Bldg. Hgt. Stories Sprinkler Well Water Supply Sq. Ftg.
OF Type Sewage Other STP Pipes Pub. Water Supply Garage
WORK Mobile Home Patio Carport Screen Porch U. Shed

Parcel No. 03-12-10-5015-0010-0010

Legal Description _____



Construct 3,000 sq foot building

VALUATION 227,000.00 FEE 500.00

CONTRACTOR: Koble PLUMBING PERMIT occ# _____

NO. FIXTURES _____ FIRE HOSE CAB _____ SEPTIC TANK NO: _____
SEWER _____ SPRINKLER HDS _____
WTR. PUMP _____ OTHER _____
PUB. WATER _____
TOTAL UNITS _____ MINIMUM FEE _____ FEE 850.00
RADON GAS _____ FEE 100.00
PLANS REVIEW _____ FEE

CONTRACTOR: Tel T Pls ELECTRICAL PERMIT occ# _____

SERVICE SIZE 400/200/125 amps Fee Per KVA _____ TEMP POLE _____
INC. SERVICE _____ Fee Per KVA _____
MINIMUM FEE _____ SIGN _____ OTHER _____ FEE 200.00

CONTRACTOR: Blair MECHANICAL PERMIT occ# _____

TYPE - HEATING 5 tons 3 2 tons 1 Incin: _____
TYPE - COOLING 7.5 tons 2 Refrig Unit: total 22 tons
MINIMUM FEE _____ FEE 100.00

MOBILE HOME PERMIT
TIE DOWN & FOUNDATION INSPECTION \$ _____
PLUMBING - SEWER & WATER CONNECTION \$ _____
ELECTRICAL SERVICE CONNECTION \$ _____ FEE

TOTAL PERMIT FEES 81,257.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer

CERTIFICATE of OCCUPANCY- No: _____ DATE: _____

Name: _____ Address: _____
Zoning Class _____ Zoning Use: _____

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY: _____ BuildingPermitFrontFace1

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: March 24, 2007

OWNER: [unclear] development TEL. NO: _____

LOCATION: 2323 N. State St. 57 to 584 PARCEL # _____

CONTRACTOR: Kehla Const. ADDRESS: _____ LIC. NO: _____

ARCHITECT: Robert Johnson PP ADDRESS: _____ LIC. NO: _____

TYPE	Type use	New	Addition	Repair	Walls	Sw. Pool
AND	Zoning	Alter	Demolish	Move	Fences	Signs
CLASS	Bldg. Hgt.	Stories	Sprinkler	Well Water Supply		Sq. Ftg.
OF	Type Sewage	Other	STP Pipes	Pub. Water Supply		Garage
WORK	Mobile Home	Patio	Carport	Screen Porch		U. Shed

Parcel No. 03-12-30-5015-00000-0010

Legal Description _____



Foundation and rough plb.

VALUATION 250,000.00 FEE 220.00

CONTRACTOR: Kehla Plb PLUMBING PERMIT occ# _____

NO. FIXTURES 25 FIRE HOSE CAB _____ SEPTIC TANK NO: _____

SEWER _____ SPRINKLER HDS _____

WTR. PUMP _____ OTHER _____

PUB. WATER _____

TOTAL UNITS _____ MINIMUM FEE _____ FEE 145.00

RADON GAS _____ FEE _____

PLANS REVIEW _____ FEE _____

CONTRACTOR: _____ ELECTRICAL PERMIT occ# _____

SERVICE SIZE _____ Fee Per KVA _____ TEMP POLE _____

INC. SERVICE _____ Fee Per KVA _____

MINIMUM FEE 1000.00 SIGN _____ OTHER _____ FEE _____

CONTRACTOR: _____ MECHANICAL PERMIT occ# _____

TYPE - HEATING _____ Incin: _____

TYPE - COOLING _____ Refrig Unit: _____

MINIMUM FEE _____ FEE _____

MOBILE HOME PERMIT

TIE DOWN & FOUNDATION INSPECTION \$ _____

PLUMBING - SEWER & WATER CONNECTION \$ _____

ELECTRICAL SERVICE CONNECTION \$ _____ FEE _____

TOTAL PERMIT FEES 375.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer

CERTIFICATE of OCCUPANCY- No: _____ DATE: _____

Name: _____ Address: _____

Zoning Class _____ Zoning Use: _____

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY: [Signature]

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: April 28, 2007

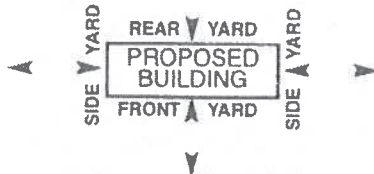
OWNER: M & M Development
LOCATION: 2323 N. State Bldg. E
CONTRACTOR: Kehle Construction
ARCHITECT:
PARCEL #:
ADDRESS:
ADDRESS:
LIC. NO: CG1508080
LIC. NO:

TYPE Type use C New Addition Repair Walls Sw. Pool
AND Zoning Cl. Alter Demolish Move Fences Signs
CLASS Bldg. Hgt. Stories Sprinkler Well WaterSupply Sq. Ftg.
OF Type Sewage Other STP Pipes Pub. Water Supply Garage
WORK Mobile Home Patio Carport Screen Porch U. Shed

Parcel No. 03-12-30-5015-0010

Legal Description

Construct 8,000 sq ft bldg



VALUATION \$100,000 FEE 430.00

CONTRACTOR: Kehle Plumbing PLUMBING PERMIT occ# 64

NO. FIXTURES 8 FIRE HOSE CAB SEPTIC TANK NO:
SEWER SPRINKLER HDS
WTR. PUMP OTHER
PUB. WATER
TOTAL UNITS MINIMUM FEE FEE 60.00
RADON GAS FEE
PLANS REVIEW FEE

CONTRACTOR: Cole Tri-4 Electric ELECTRICAL PERMIT occ# 1103

SERVICE SIZE 800 Fee Per KVA TEMP POLE
INC. SERVICE Fee Per KVA
MINIMUM FEE SIGN OTHER FEE 200.00

CONTRACTOR: Flair MECHANICAL PERMIT occ# 448

TYPE - HEATING Incin:
TYPE - COOLING Refrig Unit:
MINIMUM FEE FEE

MOBILE HOME PERMIT

TIE DOWN & FOUNDATION INSPECTION \$
PLUMBING - SEWER & WATER CONNECTION \$
ELECTRICAL SERVICE CONNECTION \$ FEE

TOTAL PERMIT FEES 630.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer
CERTIFICATE of OCCUPANCY- No: DATE: April 28, 2007

Name: Address:
Zoning Class Zoning Use:

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

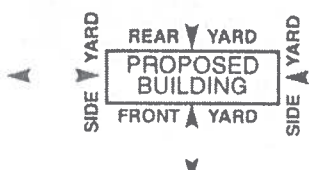
APPROVED BY: BuildingPermitFrontFace1.

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: June 2, 2007

OWNER: M&M Development
LOCATION: 2323 N. State St Bld. "A"
CONTRACTOR: Kehle Const.
ARCHITECT: Robert Johnson PE
TYPE: Type use Comm New 16,000
AND Zoning Cl. Alter
CLASS Bldg. Hgt. Stories
OF Type Sewage Other
WORK Mobile Home Patio



Parcel No. 03-12-30-50150-0010
Legal Description: First Plb and Foundation only
VALUATION \$75,000.00 FEE \$330.00

CONTRACTOR: Kehle Plb PLUMBING PERMIT
NO. FIXTURES 30
SEWER WTR. PUMP PUB. WATER
TOTAL UNITS 30
RADON GAS PLANS REVIEW
FIRE HOSE CAB SPRINKLER HDS OTHER
MINIMUM FEE 30x5+20
FEE \$170.00
FEE \$160.00
FEE

CONTRACTOR: ELECTRICAL PERMIT
SERVICE SIZE Fee Per KVA TEMP POLE
INC. SERVICE Fee Per KVA
MINIMUM FEE SIGN OTHER FEE

CONTRACTOR: MECHANICAL PERMIT
TYPE - HEATING Incln:
TYPE - COOLING Refrig Unit:
MINIMUM FEE FEE

MOBILE HOME PERMIT
TIE DOWN & FOUNDATION INSPECTION \$
PLUMBING - SEWER, & WATER CONNECTION \$
ELECTRICAL SERVICE CONNECTION \$ FEE

TOTAL PERMIT FEES \$660.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer
CERTIFICATE of OCCUPANCY- No: DATE:

Name: Address:
Zoning Class Zoning Use:

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY: [Signature] Building Permit Front Face 1.

BUILDING PERMIT

PHONE: (386) 437-7516

DATE: Aug. 18, 2007

OWNER: MAM Development TEL. NO: _____

LOCATION: 2323 N. State St. Blk "A" PARCEL # _____

CONTRACTOR: Robert Johnson 25 ADDRESS: _____ LIC. NO: 26022

ARCHITECT: Kahle Const cc-cc 8-7-06 ADDRESS: _____ LIC. NO: CBC150808

TYPE Type use New Addition Repair Walls Sw. Pool
AND Zoning Cl. Alter Demolish Move Fences M & Signs
CLASS Bldg. Hgt. Stories Sprinkler Well Water Supply Sq. Ftg.
OF Type Sewage Other STP Pipes Pub. Water Supply Garage
WORK Mobile Home Patio Cargort Screen Porch U. Shed

Parcel No. 03-12-30-50150-0010

Legal Description

Build out units 5, 6, 7, 8 and 29 thru 32



VALUATION \$395,000.00 FEE \$1020.00

CONTRACTOR: Kahle Plb PLUMBING PERMIT occ# _____

NO. FIXTURES FIRE HOSE CAB SEPTIC TANK NO:
SEWER SPRINKLER HDS
WTR. PUMP OTHER
PUB. WATER
TOTAL UNITS MINIMUM FEE
RADON GAS
PLANS REVIEW FEE PAID \$100.00

CONTRACTOR: Cole Ele. ELECTRICAL PERMIT occ# _____

SERVICE SIZE Fee Per KVA TEMP POLE
INC. SERVICE (2) 400 amp Fee Per KVA
MINIMUM FEE SIGN OTHER 100+1350x.40 FEE \$640.00

CONTRACTOR: Flair MECHANICAL PERMIT occ# _____

TYPE - HEATING Incin:
TYPE - COOLING (4) 4 tons (2) 3 tons Refrig Unit: 2x35 + 2x30
MINIMUM FEE FEE \$200.00

MOBILE HOME PERMIT
TIE DOWN & FOUNDATION INSPECTION
PLUMBING - SEWER & WATER CONNECTION
ELECTRICAL SERVICE CONNECTION
AUG 20 2007
BY: CK 11042 FEE

TOTAL PERMIT FEES \$1,950.00

PERMIT HOLDER WILL READ & FOLLOW INSTRUCTIONS ON BACK OF THEIR COPY. HOME OWNERS BUILDING THEIR OWN HOME WILL FILE 'STATEMENT OF FACT' WITH OFFICE.

PERMIT PROCESSED BY: Dennis I. Fischer
CERTIFICATE of OCCUPANCY- No: _____ DATE: _____

Name: _____ Address: _____
Zoning Class _____ Zoning Use: _____

THIS CERTIFICATE IS ISSUED IN ACCORDANCE WITH THE LAWS, ORDINANCES AND REGULATIONS ENFORCED BY THE DEPARTMENT OF BUILDING INSPECTIONS OF THE CITY OF BUNNELL.

APPROVED BY: [Signature] BuildingPermitFrontFace I.

M & M DEVELOPMENT OF FLAGLER COUNTY INC

1137

Flagler County Board of County Commission 10/13/2006
Impact Fees Traffic Impact Fees Atlantis Bldg D & G, 32,0 46,204.48

Suntrust Checking Traffic Impact Fees Atlantis Bldg D & G, 3 46,204.48

LMP12 M/P CHECK

51N311 (3/06) 534391

M & M DEVELOPMENT OF FLAGLER COUNTY INC

1295

Flagler County Board of County Commission 3/23/2007
Impact Fees Traffic Impact Fees Atlantis Bldg H, 8,000 SF C 6,281.20

Suntrust Checking 4 Traffic Impact Fees Atlantis Bldg H, 8,000 S 6,281.20

LMP12 M/P CHECK

51N311 (3/06) 534391

M & M DEVELOPMENT OF FLAGLER COUNTY, INC.

2108

Flagler County Board of County Commission
Impact Fees

05/12/2008

Traffic Impact Fees Atlantis Bldg E, 8,000 SF

11,551.12

Suntrust Checking 4 Traffic Impact Fees Atlantis Bldg E, 8,000 S

11,551.12



44512

M & M DEVELOPMENT OF FLAGLER COUNTY, INC.

2109

Flagler County Board of County Commission
Impact Fees

05/12/2008

Traffic Impact Fees Atlantis Bldg A, 16,000 SF

23,102.24

Suntrust Checking 4 Traffic Impact Fees Atlantis Bldg A, 16,000

23,102.24



44512

Administration
1769 E. Moody Blvd Bldg 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4001
Fax: (386)313-4101

August 14, 2018

Mr. Mark Langelo
M&M Development
2323 N. State Street
Bunnell, FL 32110

Dear Mark:

This is to acknowledge receipt of your letter dated August 1, 2018 and the subsequent materials, requesting the return of impact fees paid by M&M Development for the permitting and construction of your project located at 2323 N. State Street, Bunnell, FL.

Please be advised that we are in the process of reviewing your request and will be back in touch with you once that review is completed.

Sincerely,

Craig M. Coffey
County Administrator

C: Al Hadeed, County Attorney (w/request)

/clm

Administration
 1769 E. Moody Blvd Bldg 2
 Bunnell, FL 32110



www.flaglercounty.org

Phone: (386)313-4001

Fax: (386)313-4101

September 19, 2018

SENT ELECTRONICALLY AND BY REGULAR MAIL

Mr. Mark Langello
 M&M Development
 2323 N. State Street
 Bunnell, FL 32110

Re: Response to Application for Return of Transportation Impact Fees

Dear Mark:

This letter is in response to your correspondence received on August 1, 2018 requesting the return of Transportation Impact Fees paid by M&M Development for the permitting and construction of your projects located at 2323 N. State Street, Bunnell, Florida. The basis for your request is pursuant to Flagler County Code of Ordinances, Sec. 17-68(f) - Use of funds; refunds. – "Return of fees not spent for capital improvements." Staff's analysis as summarized below will demonstrate:

- Your initial building permit was issued on October 17, 2006 and a return of fees not spent would not be applicable until October 17, 2021; and
- Transportation Impact Fee dollars have been spent in accordance with Flagler County Codes.

As stated in your letter, you had verbally requested the return of Transportation Impact Fees in 2013 and was advised the expenditure time period had been extended by 4 years pursuant to Ordinance 2012-07. The Transportation Impact Fee program was created in 1989. Included as an attachment is a historical overview of Flagler Transportation Impact Fee Ordinances (not all-inclusive regarding the context).

Impact fees are one-time charges applied to new development, providing revenue for capacity-producing capital improvements to accommodate the demand for those improvements generated by new development in order to maintain adopted levels of service. Thus, the Transportation Impact fees are charged for all development activities that create/increase demand on capital facilities, using a fair share "consumption-based" approach.

Charles Ericksen, Jr.
 District 1

Greg Hansen
 District 2

David Sullivan
 District 3

Nate McLaughlin
 District 4

Donald O'Brien, Jr.
 District 5

Since your initial inquiry in 2013, Ordinances 2014-05 and 2015-11 were also adopted. Flagler County Ordinance 2014-05 extended the return of impact fees not spent to fifteen (15) years from the date the building permit was issued. According to the documents and records, payment was made for the following Transportation projects:

Project Description	Transportation Impact Fee Paid	Date of Receipt	FY Collected	Fees to be spent by:
Atlantis Bldg. D & G	\$46,204.48	10/17/2006	2006/07	10/17/2021
Atlantis Bldg. H	\$ 6,281.20	03/23/2007	2006/07	03/23/2022
Atlantis Bldg. E	\$11,551.12	05/13/2008	2007/08	05/13/2023
Atlantis Bldg. A	\$23,102.24	05/13/2008	2007/08	0513/2023
Total Collected	\$87,139.40			

More important than outlining the timeframes associated with the fees to be spent by, County staff wanted to provide you with the information which demonstrates that the Transportation Impact Fees collected for your building activities/permits have been spent in accordance with the above referenced ordinance. In determining whether impact fees have been expended or encumbered, impact fees are considered expended or encumbered on a first-in, first-out basis. As previously stated, the time periods associated with the permits issued to you would have been in Fiscal Years 2006/07 and 2007/08.

There are currently a total of three (3) districts within the Transportation Impact Fee Program which includes:

- District No. 1 – All lands within the Corporate Limits of the City of Palm Coast.
- District No. 2 – All lands, other than those within the Corporate Limits of the City of Palm Coast, lying east of the FEC Railroad right-of-ways.
- District No. 3 - All lands, other than those with the Corporate Limits of the City of Palm Coast, lying west of the FEC Railroad right-of-ways.
- The requested funds were collected as part of Transportation Impact Fee District No. 2.

Transportation Impact Fees for FY 2004/05 through FY 2007/08 are summarized below to provide the revenues and expenditures and the identification of the public improvements on which the fees collected were spent. The summary shows that not only were the funds collected spent, but also demonstrates that the County spent more on the projects than was collected in Transportation Impact Fees:

**Transportation Impact Fees – FY 2004 – 2007
 District No. 2**

Description	FY 2004	FY 2005	FY 2006	FY 2007
Revenues:				
Road & Street Imp Fee	823,066	1,113,522	576,178	265,022
Interest	3,021	31,821	128,342	46,936
Interfund Transfer	61,983			
Total Revenues	888,070	1,145,343	1,460,464	451,686
Expenditures:				
Old Kings North	5,844		1,838,600	356,184
Matanzas Wood Parkway Ext.			24,895	1,152,986
Matanzas Woods – IJR				5,387
Belle Terre Parkway	223			
Clerk of the Court – Admin. Fees	22,467	25,176	15,647	7,909
Impact Fee Study			19,899	119,480
Investment & Bank Fees			1,402	508
Interfund Transfers				241,817
Total Expenditures	28,544	25,176	1,900,444	1,884,272
Revenues vs. Expenditures	859,527	1,120,166	(439,980)	(1,432,586)

I have taken the liberty of providing the attached Overview of Flagler Transportation Impact Fee Ordinances from the inception to the suspension, as well as a copy of each ordinance. Though this is not the desired result you were seeking, it is my hope that you find the information provided addresses the matter. Should you have any questions, please feel free to contact me.

Sincerely,

Craig M. Coffey
 County Administrator

c: Al Hadeed, County Attorney
 Adam Mengel, Planning Director

Attachments: Overview and Copies of each Flagler Transportation Impact Fee Ordinance

Overview of Flagler Transportation Impact Fee Ordinances
 (Not all inclusive regarding the context)

<p>Ordinance No. 89-19 (adopted November 6, 1989)</p>	<p>Imposed "Transportation Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future transportation needs of the County residents.</p>
<p>Ordinance No. 2002-27 (adopted October 7, 2002)</p>	<p>Section 5 - provided for road construction districts.</p>
<p>Ordinance No. 2003-14 (adopted September 2, 2003)</p>	<p>Provided for proper contribution of proportionate shares.</p>
<p>Ordinance No. 2010-08 (adopted April 5, 2010)</p>	<p>Provided for provision when calculating changes in use for commercial and industrial buildings.</p>
<p>Ordinance No. 2012-07 (adopted October 1, 2012)</p>	<p>Provided for a two-year moratorium on the collection of transportation facilities and parks and recreation impact fees, as well as, extended the timeframes for expenditures of impact fees to be spent to 14 years. Further, added a provision that if moratorium is extended beyond 2014, the timeframe must be automatically extended by the same time period. Additionally, the ordinance reduces the interest paid on the fee return from six (6) to two (2) percent a year.</p>
<p>Ordinance No. 2014-05 (adopted October 6, 2014)</p>	<p>Provided for an additional two-year moratorium on the collection of transportation facilities. As well as, extended the timeframes for expenditures of impact fees to be spent to 15 years.</p>
<p>Ordinance No. 2015-11 (adopted October 5, 2015)</p>	<p>Provided for the suspension of the collection of transportation facilities impact fees and resuming the collection of the parks and recreation impact fee.</p>

1/14/00
Chrg: BCC
A/R C. DUKES

OFF REC 0412 PAGE 0386

**FLAGLER COUNTY TRANSPORTATION
FACILITIES IMPACT FEE ORDINANCE**

ORDINANCE NO. 89- 19

AN ORDINANCE TO BE KNOWN AS THE FLAGLER COUNTY TRANSPORTATION FACILITIES IMPACT FEE ORDINANCE; PROVIDING FOR SHORT TITLE, AUTHORITY AND APPLICABILITY; PROVIDING FOR INTENT AND PURPOSE; PROVIDING DEFINITIONS AND RULES OF CONSTRUCTION; PROVIDING FOR IMPOSITION OF THE IMPACT FEE; PROVIDING FOR FEE SCHEDULE; PROVIDING FOR INDEPENDENT ANALYSIS; PROVIDING FOR CREDITS; PROVIDING FOR REVIEW OF THE ORDINANCE AND FEE SCHEDULE; PROVIDING FOR USE OF FUNDS COLLECTED AND TRUST FUNDS; PROVIDING FOR LIBERAL CONSTRUCTION AND SEPARABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County has determined in the Flagler County Comprehensive Plan that the County's major road network system shall operate a Level of Service "C"; and

WHEREAS, Flagler County's major road network system is presently operating at Level of Service "C" or better; and

WHEREAS, the Flagler County Comprehensive Plan shows that the rapid rate of future growth and new development in Flagler county will require a substantial expansion in public transportation facilities and services if a Level of Service "C" is to be maintained on the County's major road network system; and

WHEREAS, the Board of County Commissioners of Flagler County has determined that future growth and new development should contribute its proportionate share of the cost of providing such public transportation facilities and services; and

WHEREAS, an impact fee that contributes this proportionate share would assist in the implementation and be consistent with the Flagler County Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY that:

**SECTION I:
AUTHORITY AND APPLICATION**

A. This Ordinance shall be known and may be cited as the "Flagler County Transportation Facilities Impact Fee Ordinance".

B. The Board of Commissioners of Flagler County has the authority to adopt this Ordinance pursuant to Article VIII of the Florida Constitution and Chapters 125 and Sections 163.3201, 163.3202, and 380.06(16) of the Florida Statutes.

C. This Ordinance shall apply to the unincorporated area of Flagler County, and to the incorporated areas of Flagler County to the extent authorized by the Florida Constitution, Article VIII, 1(f).

SECTION II.
INTENT AND PURPOSE

A. This Ordinance is intended to implement and be consistent with the Flagler County Comprehensive Plan pursuant to Section 163.3161 et seq., Florida Statutes, the Florida Local Government Comprehensive Planning and Land Development Regulation Act.

B. This objective is accomplished by requiring all new impact generating land development activity to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts on public transportation facilities having a rational nexus to the proposed land development and for which the need is reasonably attributable to the proposed development.

C. This Ordinance is intended to be consistent with the principals for allocating a fair share of the cost of new public facilities to new users as established by the Florida Supreme Court in the case of Contractors and Builders Association of Pinellas County v. City of Dunedin, 329 So.2d 314 (1976).

SECTION III.
DEFINITIONS

A. Access Improvements mean improvements designed to insure safe and adequate ingress and egress.

B. Arterial Road means a road which is a main traffic artery carrying relatively high traffic volume for relatively long distances.

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Generally, an arterial road is greater than two (2) lanes in width, and longer than two (2) miles in distance.

C. Average Trip Length means the average length in miles of external trips, as determined in the Flagler County Impact Fee Technical Report.

D. Building Permit means that development permit issued by the Flagler County Building Department or any other county or City office before any building or construction activity can be initiated on a parcel of land.

E. Capacity means the maximum number of vehicles for a given time period which a typical new land can safely and efficiently carry, usually expressed in terms of vehicles per day. For the purpose of this Ordinance, typical new capacity shall mean 7,100 vehicles per day per through land.

F. Capital Improvement includes the planning of, engineering for, acquisition of land for, and construction of road facilities.

G. Collector Road means a road which carries traffic from local roads to arterial roads. Collector roads have more continuity, carry higher traffic volumes, and may provide less access than local roads. Generally, collector roads are two lane facilities and generally operate at a lower capacity and operating speeds than do arterial roads.

H. Commencement of land development activity occurs upon any of the following events:

- (1) The approval of a Development of Regional Impact; or
- (2) The issuance of any permit to authorize building or construction of any kind on the property.

I. Existing Land Development Activity means the most intense use of land within the twelve (12) months prior to the time of

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commencing land development activity.

J. Expansion of the capacity of a road includes any widening, intersection improvement, signalization or other capital improvement designed to increase the existing road's capacity.

K. External Trip means any trip which either has its origins from or its destination to the development site, and which impacts the major road network system.

L. Feepayer means a person commencing impact generating land development activity who is obligated to pay an impact fee in accordance with the terms of this Ordinance.

M. Internal Trip means a trip which has both its origin and destination within the land development site and does not impact the County's major road network system.

N. Generation of Traffic shall include both the production and attraction of traffic.

O. Impact-generating land development activity is land development designed or intended to permit a use of the land which will contain more dwelling units or floor space than the then-existing use of the land in a manner that increases the generation of vehicular traffic as shown in Section V.

P. Land shall have the same meaning as set forth in Section 380.031(6), Florida Statutes.

Q. Level of Service "C" as a measure of roadway sufficiency, is a zone of stable traffic flow in which speed and maneuverability are closely controlled by the higher volumes of traffic. Most drivers are restricted in their freedom to select their own speed, change lanes, or pass.

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R. Level of Service "D" as a measure of roadway sufficiency, approaches unstable traffic flow with tolerable operating speeds being maintained, although considerably affected by changes in operating conditions. Fluctuations in volume and temporary restrictions of flow may cause substantial drops in operating speeds. Drivers have little freedom to maneuver, and comfort and convenience are low, but conditions can be tolerated for short periods of time.

S. Major Road Network System means all arterial and collector roads within Flagler County, including proposed arterial and collector roads necessitated by new land development activity generating traffic. The Major Road Network System, including all existing arterial and collector roads and all proposed arterial and collector roads made necessary by new development, is designated in Exhibit A, "which is attached hereto and incorporated herein by reference."

T. Non Commencement means the cancellation of construction activity which is proposed to make a material change in a structure.

U. Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

V. Off-site Roadway Improvement means roadway improvements located outside the boundaries of the parcel proposed for development (except on-site arterial and major collector roads), which are required by the County in order to serve the development's external trips on its major road network system. Off-site roadway improvements do not include access improvements as defined herein.

W. On-site Roadway Improvements means roadway improvements at or

near the land development activity which are necessary to access the land development's external trips upon the major road network system, or which are necessary to access the land developments internal trips upon the major road network system where a portion of the major road network system is included within the development.

X. Percent New Trips Factor means the percentage of average daily trips that a proposed use will generate that constitutes new or additional trips added to the County's major road network system. Those trips that do not represent additional trip ends shall not be counted as new or additional trips.

Y. Road shall have the same meaning as set forth in Section 334.03(17), Florida Statutes.

Z. Road capacity means the maximum number of vehicles which have a reasonable expectation of passing over a given section of a lane or a roadway in one direction, or in both directions of a highway, during a given time period, under prevailing traffic conditions. In the absence of a modifier, capacity is based upon hourly volumes.

AA. Roadway Capital Improvement shall include transportation planning and the right-of-way acquisition, engineering and construction of any project eligible for inclusion as a road project in a construction plan under Section 334.21, Florida Statutes, but does not include maintenance as defined in Section 334.01(18) or (13), Florida Statutes.

BB. Trip means a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end). For the purposes of this Ordinance, trip shall have the meaning which it has in commonly accepted engineering practice, which is substantially the same as the definition in the previous sentence.

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CC. Trip Generation means the attraction or production of trips caused by a certain type of land development.

SECTION IV:
RULES OF CONSTRUCTION

In the construction of this Ordinance, the rules set out in this section shall be observed unless such construction is inconsistent with the manifest intent of the Flagler County Board of County Commissioners. The rules of construction and definitions set out here shall not be applied to any section of this Ordinance which contains any express provisions excluding such construction, or where the subject matter or content of such section would be inconsistent with this section.

A. Generally. All provisions, terms, phrases and expressions contained in this Ordinance shall be liberally construed in order that the true intent and meaning of the Flagler County Board of County Commissioners may be fully carried out. Terms used in this Ordinance, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms.

B. Text. In case of any difference of meaning or implication between the text of this Ordinance and any figure, the text shall control.

C. Delegation of Authority. Whenever a provision appears requiring the head of a department or some other County officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or some other County officer or employee to designate/delegate and authorize professional level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

D. Gender. Words importing the masculine gender shall be construed to include the feminine and neuter.

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E. Month. The word "month" shall mean a calendar month.

F. Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

G. Number. A word importing the singular number only, may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.

H. Shall, may. The word "shall" is mandatory; "may" is permissive.

I. Tense. Words used in the past or present tense include the future as well as the past or present.

J. Written or in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or otherwise.

K. Boundaries. Where a road right-of-way is used to define zone boundaries, that portion of the road right-of-way demarcating the boundary shall be considered as part of the zone it bounds.

**SECTION V:
FEE TO BE IMPOSED ON
IMPACT GENERATING LAND DEVELOPMENT ACTIVITY**

A.

**Fee Obligated at Commencement of
Land Development Activity.
Fee Determined and Paid at
Issuance of Building Permit**

(1) After the effective date of this Ordinance, any person or governmental body who shall commence any impact-generating land

development activity as herein defined shall be obligated to pay an impact fee upon the commencement of such land development activity. The fee shall be determined and paid to the County Administrator or his designee at the time of issuance of a building permit for the development. The fee shall be computed separately for the amount of development covered by the permit, if the building permit is for less than the entire development. If the fee is exacted for impact generating land development activity that increases impact because of a change in use, the fee shall be determined by computing the difference in the fee schedule between the new land development activity and the existing land development activity. The obligation to pay the impact fee shall run with the land.

(2) Any developer who prior to the effective date of this Ordinance agreed as a consideration of development approval to pay transportation impact fees, shall be responsible for the payment of such fees by the developer will be offset against any impact fees otherwise due at later stages of the land development activity for which the fee was paid.

(3) Any land or facilities agreed to be dedicated to the County as a condition of development approval shall be dedicated by either easement or deed, at the discretion of the County, no later than the time of building permit issuance.

B.

Fee Agreement Providing for Payment of Fee

At any time prior to issuance of a building permit, the owner of property may enter into a Fee Agreement with the Board of County Commissioners or with the City Council if the proposed development is within a City, providing for payment of the fee pursuant to the terms of this Ordinance.

C.

Establishment of Fee Schedule

(1) Any person who shall initiate any new impact-generating

land development activity, except those preparing an Individual Assessment of Fiscal Impact or those receiving an interpretation of the impact of their proposed land development activity, shall pay an impact fee as determined by the fee schedule on pages 11 - 13. The fees stated on the "Transportation Impact Fee Schedule" include a discount of Fifteen Percent (15%) of the calculated fees as an incentive for utilization of the fee schedule. This fee includes the cost of administering the Ordinance, which is not to exceed 3% of the fee. If a building permit is requested for mixed uses, then the fee shall be determined according to the above schedule by apportioning the space committed to uses specified on the schedule.

(2) Annually, the County shall review the fee schedule and modify the fees in the fee schedule based upon the percentage of change in the road construction costs identified in Composite Construction Cost Index, U.S. Department of Commerce, Bureau of Economic Analysis.

(3) Every two years, the County Administrator or his designee shall recommend to the Board of County Commissioners whether any changes should be made to the impact fee schedule to reflect changes in the factors that affect the fee schedule. The purpose of this review is to analyze the effects of inflation on the actual costs of facilities, to assess potential changes in road improvement needs, to assess any changes in traffic characteristics (e.g. trip generation, trip length, and capture and diversion factors by district) and land uses, and to insure that the fee charged new impact generating activity will not exceed its pro rata share for the reasonably anticipated expansion costs of facilities necessitated by its presence.

(4) The County shall, within two (2) years of the date of the adoption of this Ordinance, conduct an additional trip generation rate study for mobile homes in Flagler County and modify the impact fee schedule for mobile homes, based upon the results of the study.

TRANSPORTATION IMPACT FEE SCHEDULE

<u>Land Use Type</u>	<u>Unit</u>	<u>East District Fee</u>	<u>East Impact Fee w/15% Discount</u>	<u>West District Fee</u>	<u>West Impact Fee w/15% Discount</u>
RESIDENTIAL					
Single Family Residential	du	\$ 462	\$ 393	\$ 116	\$ 98
Duplex	du	\$ 305	\$ 259	\$ 76	\$ 65
Mobile Home	du	\$ 222	\$ 189	\$ 55	\$ 47
Multi-Family					
1-2 Stories	du	\$ 205	\$ 259	\$ 76	\$ 65
3 Stories and over	du	\$ 185	\$ 157	\$ 46	\$ 39
ACLF/Retirement Home	du	\$ 153	\$ 130	\$ 38	\$ 32
LODGING					
Hotel/Motel	room	\$ 472	\$ 401	\$ 118	\$ 100
INDUSTRIAL					
General Light Industry	1000 s.f.	\$ 300	\$ 255	\$ 75	\$ 64
General Heavy Industrial	1000 s.f.	\$ 83	\$ 71	\$ 21	\$ 18
Warehouse	1000 s.f.	\$ 273	\$ 232	\$ 68	\$ 58
Mini Warehouse	1000 s.f.	\$ 156	\$ 132	\$ 39	\$ 33
Utilities	employee	\$ 39	\$ 33	\$ 10	\$ 8
MEDICAL					
Nursing Home	bed	\$ 145	\$ 123	\$ 36	\$ 31
Hospital	bed	\$ 634	\$ 539	\$ 159	\$ 135

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<u>Land Use Type</u>	<u>Unit</u>	<u>East District Fee</u>	<u>East Impact Fee w/15% Discount</u>	<u>West District Fee</u>	<u>West Impact Fee w/15% Discount</u>
OFFICE					
Under 100,000 s.f.	1000 s.f.	\$ 984	\$ 837	\$ 246	\$ 209
100,000 - 199,999 s.f.	1000 s.f.	\$ 795	\$ 676	\$ 199	\$ 169
200,000 s.f. and over	1000 s.f.	\$ 606	\$ 515	\$ 152	\$ 129
Research Facility	1000 s.f.	\$ 295	\$ 251	\$ 74	\$ 63
Insurance	1000 s.f.	\$ 640	\$ 544	\$ 160	\$ 136
RETAIL					
Shopping Center					
Convenience	1000 s.f.	\$ 607	\$ 516	\$ 152	\$ 129
Under 50,000 s.f.	1000 s.f.	\$ 901	\$ 766	\$ 191	\$ 162
50,000 - 99,999 s.f.	1000 s.f.	\$1,294	\$1,100	\$ 275	\$ 234
100,000 - 199,999 s.f.	1000 s.f.	\$1,564	\$1,329	\$ 332	\$ 282
200,000 - 299,999 s.f.	1000 s.f.	\$1,489	\$1,266	\$ 317	\$ 269
300,000 - 399,999 s.f.	1000 s.f.	\$1,534	\$1,304	\$ 326	\$ 277
400,000 - 499,999 s.f.	1000 s.f.	\$1,362	\$1,158	\$ 289	\$ 246
1,000,000 s.f. and over	1000 s.f.	\$1,249	\$1,061	\$ 265	\$ 225
Wholesale	1000 s.f.	\$ 327	\$ 278	\$ 70	\$ 59
Furniture	1000 s.f.	\$ 34	\$ 29	\$ 7	\$ 6
Hardware/Paint Store	1000 s.f.	\$ 594	\$ 505	\$ 126	\$ 107
RESTAURANT					
Restaurant	1000 s.f.	\$1,298	\$1,103	\$ 325	\$ 276
Restaurant with Drive Thru	1000 s.f.	\$1,595	\$1,356	\$ 399	\$ 339

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<u>Land Use Type</u>	<u>Unit</u>	<u>East District Fee</u>	<u>East Impact Fee w/15% Discount</u>	<u>West District Fee</u>	<u>West Impact Fee w/15% Discount</u>
SERVICES					
Bank	1000 s.f.	\$ 1,520	\$ 1,292	\$ 380	\$ 323
Bank with Drive Thru	1000 s.f.	\$ 1,726	\$ 1,468	\$ 432	\$ 367
Savings & Loan/Walk-in	1000 s.f.	\$ 549	\$ 466	\$ 137	\$ 117
Savings & Loan/Drive-in	1000 s.f.	\$ 665	\$ 566	\$ 166	\$ 141
Day Care Center	1000 s.f.	\$ 1,260	\$ 1,071	\$ 315	\$ 268
Service Station	1000 s.f.	\$ 647	\$ 550	\$ 162	\$ 137
RECREATION					
General Recreation	acre	\$ 191	\$ 162	\$ 48	\$ 40
Golf Course	acre	\$ 365	\$ 310	\$ 91	\$ 78
Marina	slip	\$ 159	\$ 135	\$ 40	\$ 34
Racquet Club/Health Club	1000 s.f.	\$ 582	\$ 495	\$ 146	\$ 124
INSTITUTIONAL					
Elementary School	student	\$ 51	\$ 43	\$ 13	\$ 11
Jr. High/Middle School	student	\$ 51	\$ 43	\$ 13	\$ 11
High School	student	\$ 71	\$ 61	\$ 18	\$ 15
Junior Technical College	student	\$ 81	\$ 69	\$ 20	\$ 17
College	student	\$ 122	\$ 104	\$ 31	\$ 26
Church	1000 s.f.	\$ 392	\$ 333	\$ 98	\$ 83
General Aviation	flight	\$ 156	\$ 132	\$ 39	\$ 33
Civic Center	1000 s.f.	\$ 1,273	\$ 1,082	\$ 318	\$ 271

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SECTION VI:
INDIVIDUAL ASSESSMENT OF FISCAL IMPACT

A.
General

(1) The impact fee shall be computed by the use of an individual assessment of fiscal impact if (1) the type of land development being commenced is not comparable to one of those types listed on the fee schedule in Section V.C.; or (2) the fee payer chooses to have the amount of the fee determined by the use of an individual assessment of fiscal impact; or (3) the County staff's or City staff's analysis of the proposed land development activity concludes that the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to remediate than the amount of the fee that would be generated by the use of the fee schedule. An individual assessment of fiscal impact is required to be reviewed pursuant to the terms of this Ordinance, prior to seeking judicial redress of an impact fee or the fee schedule.

(2) The developer shall be responsible for preparation of the individual assessment of fiscal impact if he chooses to conduct the analysis. The County Administrator or his designee shall be responsible for preparation of the individual assessment of fiscal impact if the type of land development being proposed is interpreted not to be one of those types listed in the fee schedule or analysis of the proposed land development activity concludes that the nature, timing or location of the proposed development make it likely to generate impacts costing substantially more than the amount of the fee generated by the use of the fee schedule. The person who prepares the individual assessment of fiscal impact shall be a qualified professional in the preparation of impact analysis, and shall be approved by the County Administrator or his designee on the basis of professional training and experience. If the County Administrator or his designee is responsible for preparation of the assessment, he may request the developer to prepare the individual assessment of fiscal impact, and credit the cost for such preparation against the impact fee.

B.

The Transportation Formula

(1) The individual assessment of fiscal impact for the transportation facilities impact fee shall be calculated by the use of the following formula:

$$\text{IMPACT FEE} = \frac{(\text{ADT}) (\text{X}) (\text{COST})}{(\text{CAP}) (2)} - \text{CREDIT}$$

- ADT = Number of average daily trips generated
- X = Percent new trips
- TL = Trip lengths for each proposed use
- CAP = Typical new capacity per lane mile in vehicles per day (7,100)
- COST = Cost of right-of-way acquisition, if any, plus construction costs
- CREDIT = Allowance for applicable taxes

(2) The fee calculations shall be based on data, information or assumptions contained in this Ordinance or independent sources, provided that:

(a) the independent source is an accepted standard source of transportation engineering or planning data or information, or

(b) the independent source is a local study carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering.

(3) The percent new trips factor used in the individual assessment of fiscal impact shall be based on actual surveys conducted in Flagler County.

C.

Procedure for Review of Application of Assessment of Fiscal Impact

1) An individual assessment of fiscal impact shall be undertaken through the submission of an Application Assessment of Fiscal Impact. A developer may submit such an application at his discretion. The County shall submit such an application for any proposed land development activity interpreted as not one of those types listed on the fee schedule, and for any proposed land development activity for which it concludes the nature, timing, or location of the proposed development make it likely to generate impacts costing substantially more to remediate than the amount of

the fee that would be generated by the use of the fee schedule.

2) Within ten (10) days of receipt of an Application of Assessment of Fiscal Impact, the County Administrator or his designee shall determine if the application is complete. If the County Administrator or his designee determines that the application is not complete, he shall send a written statement specifying the deficiencies by mail to the person submitting the application. The application shall be deemed complete if no deficiencies are specified. The Administrator or his designee shall take no further action on the application until it is deemed complete.

3) When the County Administrator or his designee determines the application is complete, he shall review it and render a written decision in twenty (20) days on whether the fee should be modified, and if so, what the amount should be.

4) If on the basis of generally recognized principles of impact analysis it is determined the data, information and assumptions used by the applicant to calculate the Assessment of Fiscal Impact satisfies the requirements of this section, the fee determined in the Assessment of Fiscal Impact shall be deemed the fee due and owing for the proposed land development activity. The adjustment shall be set forth in a Fee Agreement which shall be entered into pursuant to Section V. B.

D.

Appeal of Decision
on Application of Assessment of Fiscal Impact

Any person may appeal the County Administrator or his designee's decision on his Application for Assessment of Fiscal Impact, or on an Application for Assessment of Fiscal Impact initiated by the County staff on his proposed land development activity, by filing a petition with the Board of County Commissioners. In reviewing the County Administrator or his

designee's decision, the Board of County Commissioners shall make written findings of fact and conclusions of law and use the standards established in Section IV.

SECTION VII.
CREDITS

A.
General

1) Any person who shall initiate any impact generating land development activity may apply for a credit against any fee up to but not exceeding the full obligation for transportation impacts proposed to be paid pursuant to the provisions of this Ordinance for any contribution, payment, construction, or dedication of land accepted and received by Flagler County for transportation facilities, including any contribution, payment, construction or dedication made pursuant to a development order issued by Flagler County pursuant to its local development regulations, Section 380.06, Florida Statutes, or any additional development requirement imposed by the Florida Land and Water Adjudicatory Commission on a development of regional impact.

2) Credit for contributions, payment, construction or dedications shall not be transferable for credit against impact fees required to be paid for other public facilities. Credit shall be transferable within the same development.

B.
Credit Against Transportation Fees

For any credit against any transportation fee proposed to be paid, the contribution, payment, construction or dedication shall be credited in an amount equal to its full fair market value at the time of contribution, payment, construction, or dedication, if it is for an off-site roadway improvement (including on-site arterial and major collector roads) which expands the capacity of the County's major road network system. The credit shall not exceed the full obligation of the transportation impact fees for the proposed land development activity.

C.
Procedures for Review of
Application for Credit Agreement

1) The determination of any credit shall be undertaken through the submission of an Application for Credit Agreement, which shall be submitted to the County Administrator or his designee. The Application for Credit Agreement shall include the following information:

a) If the proposed Application for Credit Agreement involves credit for the dedication of land:

- 1) A drawing and legal description of the land;
- 2) The appraised fair market value of the land at the date a building permit is proposed to be issued for the impact generating land development activity, prepared by a professional Real Estate Appraiser who is a member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA), and if applicable;
- 3) A certified copy of the development order in which the land was agreed to be dedicated.

b) If the proposed Application for Credit Agreement involves construction:

- 1) The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Florida engineer or contractor;
- 2) The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction cost of plans and specifications, surveys of estimates of costs and of revenues, cost of professional services, and all other expenses necessary or incident to

determining the feasibility or practicability of such construction or reconstruction.

c) If the proposed Application for Credit Agreement involves a credit for any other contribution or payment:

- 1) A certified copy of the development order in which the contribution or payment was agreed;
- 2) If payment has been made, proof of payment, or
- 3) If payment has not been made, the proposed method of payment.

2) Within ten (10) days of receipt of the proposed Application for Credit Agreement, the County Administrator or his designee shall determine if the application is complete. If it is determined that the Application for Credit Agreement is not complete, the County Administrator or his designee shall send a written statement to the applicant outlining the deficiencies. The County Administrator or his designee shall take no further action on the proposed Application for Credit Agreement until all deficiencies have been corrected or otherwise settled.

3) Once the County Administrator or his designee determines the proposed Application for Credit Agreement is complete, he shall review it within twenty (20) days and grant the proposed credit if it meets the standards set forth in Section VII. B.

4) If the Application for Credit Agreement is approved by the County Administrator or his designee, a Credit Agreement shall be prepared and signed by the applicant and the County. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be completed, dedicated, or paid, and any extensions thereof, and the dollar credit the applicant shall receive for the contribution, payment or construction.

D.
Appeal of Application
for Credit Agreement

Any person may appeal the County Administrator or his designee's decision on the Application for Credit Agreement by

filing a petition with the Board of County Commissioners within thirty (30) days of a decision. In reviewing the County Administrator or his designee's decision, the Board of County Commissioners shall use the standards established in Section VII.
B.

SECTION VIII.
ROAD CONSTRUCTION DISTRICTS

For the purpose of ensuring fee payers receive sufficient benefit for fees paid, two Transportation Impact Fee Districts are established. The Road Construction Districts are shown in Exhibit "B" which is attached hereto and incorporated herein by reference.

SECTION IX.
USE OF FUNDS

A.
Intent

Any fees collected under this Ordinance are expressly designated for the accommodation of impacts reasonably attributable to the proposed development as hereinafter provided in this section.

B.
Establishment of Trust Fund

There is hereby established the Flagler Transportation Facilities Impact Fee Ordinance Trust Fund for the purpose of insuring that the fees collected pursuant to this Ordinance are designated for the accommodation of impacts reasonably attributable to the proposed land development activity.

C.
Expenditure of Fees in Trust Accounts

Proceeds collected for the transportation impact fee and all interest accrued on such funds shall be used solely for transportation capital facilities on the County's major road network system within the Road Construction District from which the fees have been collected.

D.
Investment of Fees in Interest Bearing Accounts

Any proceeds in the trust fund not immediately necessary for expenditure, shall be invested in interest bearing assets. All income derived from these investments shall be retained in the trust fund.

E.
Annual Recommendation for Expenditure of Fees

Each year, at the time the annual budget is reviewed, the County Administrator or his designee shall propose appropriations to be spent from the trust fund to the Board of County Commissioners. After review of the County Administrator or his designee's recommendation, the Board of County Commissioners shall either approve, modify or deny the recommended expenditures of the trust fund monies. Any amounts not appropriated from the trust fund together with any interest earnings shall be carried over in the specific trust account to the following fiscal period.

F.
Return of Fees if Not Spent for Capital Improvements

1) Any fees collected shall be returned to the feepayer or his successor in interest if the fees have not been spent within seven (7) years from the date the building permit for the development was issued, along with interest of six (6%) percent a year. Provided, however, that the Board of County Commissioners may by resolution extend for up to three (3) years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three (3) year period, specific transportation capital improvements are planned and evidenced by the adoption and incorporation into the Flagler county Comprehensive Plan, that these capital improvements shall be constructed within the next three (3) years, that these capital improvements are reasonably attributable to the feepayer's land development activity, and that the fees whose time of refund is extended shall be spent for these capital improvements. Fees shall be deemed to be spent on the basis of the first fee collected shall be first fee spent. The refund of fees shall be undertaken through the following process:

a) A Refund Application shall be submitted within one (1) year following the end of the sixth (6) year from the date on which the building permit was issued on the proposed development. If the time of refund has been extended pursuant to Section VIII, F, the Refund Application shall be submitted within one (1) year following the end of this extension. The Refund Application shall include the following information:

- 1) A copy of the dated receipt issued for payment of the fee;
- 2) A copy of the building permit;
- 3) A copy of the receipt issued by the County for payment of the fee; and if applicable
- 4) Evidence that the applicant is the successor in interest to the feepayer.

2) Within ten (10) days of receipt of the Refund Application, the County Administrator or his designee shall determine if it is complete. If the County Administrator or his designee determines the application is not complete, he shall send a written statement specifying the deficiencies by mail to the person submitting the application. Unless the deficiencies are corrected, the County Administrator or his designee shall take no further action on the Refund Application.

3) When the County Administrator or his designee determines the Refund Application is complete, he shall review it within twenty (20) days, and shall approve the proposed refund if it is determined the feepayer or his successor in interest has paid a fee which the County has not spent within the period of time permitted under this section. The refund shall include the fee paid plus interest of six (6%) percent a year.

4) Any feepayer or his successor in interest may appeal the decision of a Refund Application by filing a petition with the Board of County Commissioners within thirty (30) days of the decision. In reviewing the County Administrator or his designee's decision, the Board of County Commissioners shall use the standards established in Section VIII. F. (1).

**SECTION X.
INTERLOCAL AGREEMENT**

The County and the Cities agree to enter into an Interlocal Agreement to carry out the administration and collection of the fees pursuant to the terms of this Ordinance.

**SECTION XI.
LIBERAL CONSTRUCTION,
SEVERABILITY AND PENALTY PROVISIONS**

- A. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.
- B. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portions.
- C. A violation of this Ordinance shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution, Flagler County shall have the power to sue in civil court to enforce the provisions of this Ordinance.

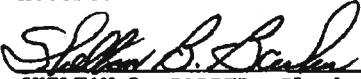
**SECTION XII.
EFFECTIVE DATE**

This Ordinance shall become effective the 1st day of January, 1990

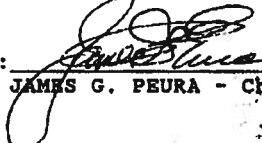
PASSED AND DULY ADOPTED this 6th of November, 1989.

BOARD OF COUNTY COMMISSIONERS
FLAGLER COUNTY, FLORIDA

Attest:



SHELTON B. BARBER, Clerk and
Ex-Officio of the Board

By: 

JAMES G. PEURA - Chairman

DATE EFFECTIVE PER FLORIDA STATUTES 125.66 January 1, 1990

Kimley-Horn
Kimley-Horn and Associates, Inc.



Flagler County

COUNTY'S MAJOR ROAD NETWORK SYSTEM

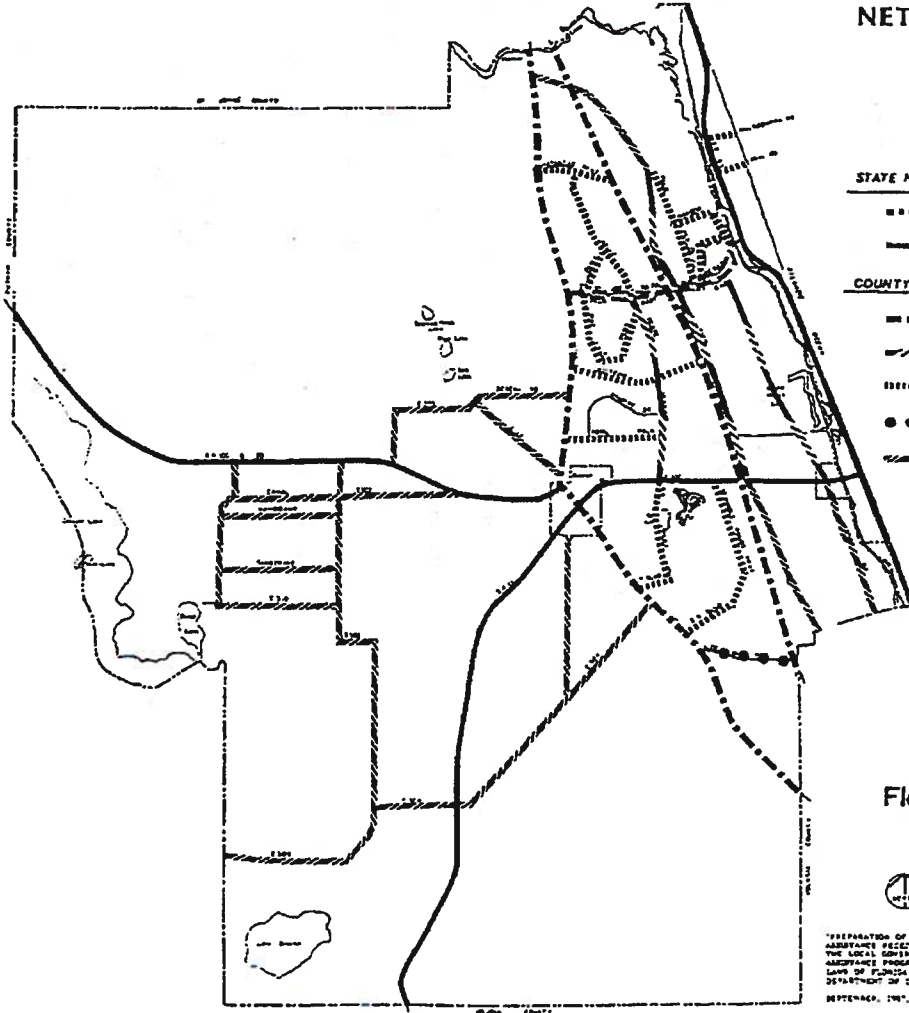
EXHIBIT 'A'

STATE HIGHWAY SYSTEM

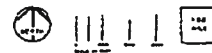
- ==== 4 LANE Principle Arterial
- 2 LANE Minor Arterial

COUNTY ROAD SYSTEM

- ==== 4 LANE Minor Arterial
- //// 2 LANE Urban Major Collector
- |||| 2 LANE Urban Minor Collector
- 2 LANE Rural Major Collector
- //// 2 LANE Rural Minor Collector



Flagler County, Fla.



"PREPARATION OF THIS MAP HAS BEEN THROUGH FINANCIAL ASSISTANCE RECEIVED FROM THE STATE OF FLORIDA UNDER THE LOCAL GOVERNMENT COMPARATIVE PLANNING ASSISTANCE PROGRAM AUTHORIZED BY CHAPTER 19-10, LAWS OF FLORIDA AND APPROVED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION AFFAIRS."

SEPTEMBER, 1961. FLAGLER COUNTY PLANNING DEPARTMENT

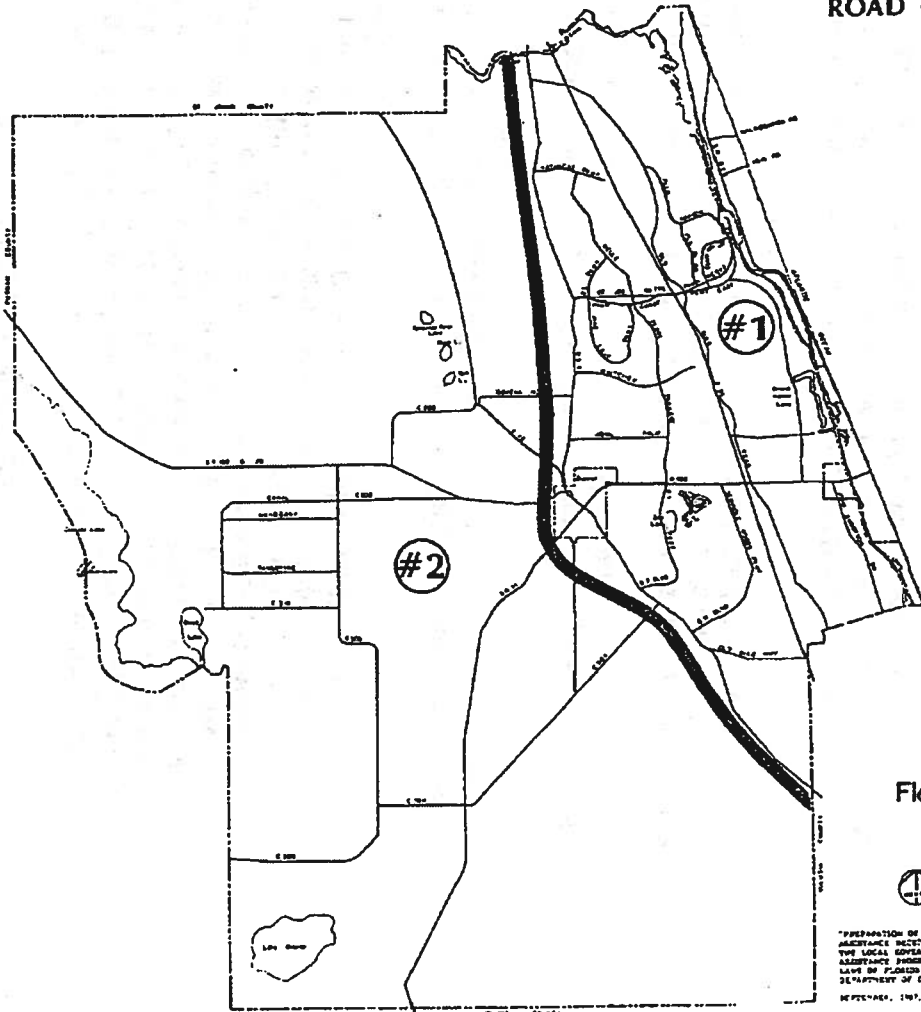
Kimley-Horn
Kimley-Horn and Associates, Inc.



Flagler County

ROAD CONSTRUCTION DISTRICTS

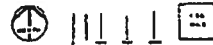
Exhibit "B"



Legend

■ District Boundaries

Flagler County, Fla.



"PREPARATION OF THIS MAP HAS AIDED THROUGH FINANCIAL ASSISTANCE RECEIVED FROM THE STATE OF FLORIDA UNDER THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING ASSISTANCE PROGRAM AUTHORIZED BY CHAPTER 191, LAWS OF FLORIDA AND ADMINISTERED BY THE FLORIDA DEPARTMENT OF CONCRETE AFFAIRS."

DEPARTMENT OF TRANSPORTATION, FLAGLER COUNTY PLANNING DEPARTMENT

OFF REC 0412 PAGE 0410



89/016659
FILED & RECORDED 386-
P.R. BOOK 412 PAGE 410

NOV 16 1989
P. Strickland
CLERK OF CIRCUIT COURT

**FLAGLER COUNTY
ORDINANCE NO. 2002- 27**

An Ordinance Pertaining to Road Impact Fees, Amending Ordinance No. 89-19; Deleting the Fee Schedule Discount Provision; Deleting the Required Impact Fee Study for Mobile Homes; Providing For Establishment of Fee Schedule by Ordinance; Providing for Payment of Impact Fees; Amending the Impact Fee Rate Formula; Providing Impact Fee Related Regulations; Amending the Road Construction Districts; Providing Roadway Nomenclature; Providing a Finding of Consistency with the Comprehensive Plan; Providing for Severability; Providing for Codification; and Providing for an Effective Date.

WHEREAS, the Board of County Commissioners of Flagler County, Florida has determined it to be in the public interest to examine and amend Ordinance 89-19 as necessary for clarity and efficiency; and

WHEREAS, Flagler County's major road network is presently operating at Level of Service "C" or better, as required by its Comprehensive Plan; and

WHEREAS, the rapid growth experienced by the County as a whole indicates the continued expansion in public transportation facilities and services is essential to maintain a Level of Service on the County's major road network as designated by the County's adopted Comprehensive Plan; and

WHEREAS, modifications to the existing Ordinance 89-19 are necessary to provide for proper contribution of proportionate shares in support of expanding elements of the County's major road network to maintain a Level of Service required by the Comprehensive Plan or better;

NOW THEREFORE, be it ordained by the Board of County Commissioners of Flagler County, Florida that Ordinance No. 89-19 be amended as follows:

SECTION 1. Section III *Definitions*, is hereby amended by adding the following provision:

F(a) Certificate of Occupancy means the development permit issued by the Flagler County Building Department in accordance with the Florida Building Code after completion of the final inspection for building or construction activity.

SECTION 2. Section V.A. is hereby repealed and replaced by the following provision.

A.

Fee Obligated at Commencement of
Land Development Activity.
Fee Determined at Issuance of Building Permit.
Time of Fee Payment.

(1) Any person or governmental body who shall commence any impact-generating land development activity as herein defined shall be obligated to pay an impact fee upon the commencement of such land development activity. The fee shall be determined at the time of issuance of a building permit for the development. The fee shall be computed separately for the amount of development covered by the permit, if the building permit is for less than the entire development. If the fee is extracted for impact generating land development activity that increases impact because of a change in use, the fee shall be determined by computing the difference in the fee schedule between the new land development activity and the existing land development activity. The obligation to pay the impact fee shall run with the land. The impact fee shall be paid to the County Administrator or his/her designee at the time of issuance of a building permit for the development, except as provided herein.

Speculative ("spec") and "shell" commercial buildings not being constructed under contract or for a specific occupant, but which are being constructed and then placed on the market, may pay the required road impact fee either before the commencement of construction or prior to being issued a Certificate of Occupancy. However, in no instance shall a Certificate of Occupancy be issued without the full payment of all road impact fees. For any building permit to be issued for spec or shell commercial buildings during the period of October 15, 2002, until January 15, 2003, one-half of the total impact fee shall be paid prior to the issuance of the building permit and the remaining one-half portion of the impact fee paid prior to the issuance of a Certificate of Occupancy.

SECTION 3 Section V(c), *Establishment of Fee Schedule* is hereby repealed and replaced with the following provision:

(c) *Fee schedule*

(1) Any person who shall initiate any new impact-generating land development activity, except those preparing an individual assessment of fiscal impact or those receiving an interpretation of the impact of their proposed land development activity, shall pay an impact fee as determined by the fee schedule established by this Ordinance, which impact fees are more particularly stated in the attached Exhibit "B." These fees may only be amended by Ordinance. This fee includes the cost of administering this article, which is not to exceed three (3) percent of the fee. If a building permit is requested for mixed uses, then the fee shall be

determined according to the schedule provided in this section by apportioning the space committed to uses specified on the schedule.

- (2) Every two (2) years, the county administrator shall recommend to the board of county commissioners whether any changes should be made to the impact fee schedule to reflect changes in the factors that affect the fee schedule. The purpose of this review is to analyze the effects of inflation on the actual costs of facilities, to assess potential changes in road improvement needs, to assess any changes in traffic characteristics (e.g., trip generation, trip length, and capture and diversion factors by district) and land uses, and to ensure that the fee charged new impact-generating activity will not exceed its pro rata share for the reasonably anticipated expansion costs of facilities necessitated by its presence.

SECTION 4. Section VI(b), *The Transportation Formula* is hereby repealed and replaced with the following provision:

(b) *Transportation formula.*

- (1) The individual assessment of fiscal impact for the transportation facilities impact fee shall be calculated by the use of the following formula:

$$\begin{aligned} & \text{IMPACT} \\ & \text{FEE} \\ & \text{RATE} = \frac{(\text{ADT} \times \text{X} \times \text{COST} \times \text{TL})}{(\text{CAP} \times 2) - \text{CREDIT}} \end{aligned}$$

ADT = Number of average daily trips generated
X = Percent new or primary trips
TL = Average trip lengths
CAP = Typical new capacity per lane mile in vehicles per day (7,100)
COST = Cost of right-of-way acquisition, if any, plus construction costs

CREDIT = Allowance for applicable credit and/or taxes. No credits shall be allowed for Flagler County gas tax revenue since those revenues are committed to highway maintenance only.

- (2) The fee calculations shall be based on data, information or assumptions contained in this article or independent sources, provided that:
 - a. The independent source is an accepted standard source of transportation engineering or planning data or information; or

- b. The independent source is a local study carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering.
- (3) The percent new trips factor used in the individual assessment of fiscal impact shall be based on actual surveys conducted in the county.

SECTION 5. Section VIII, Road construction districts is hereby repealed and replaced with the following provision:

Section VIII. *Road construction districts.*

For the purpose of ensuring that fee payers receive sufficient benefit for fees paid, three (3) transportation impact fee districts are established. The road construction districts are:

- DISTRICT No. 1 – All lands within the Corporate Limits of the City of Palm Coast.
- DISTRICT No. 2 – All lands, other than those within the Corporate Limits of the City of Palm Coast, lying east of the FEC Railroad right-of-ways.
- DISTRICT No. 3 – All lands, other than those within the Corporate Limits of the City of Palm Coast, lying west of FEC Railroad right-of-ways.

SECTION 6. Roadway Nomenclature.

For purposes of clarity in administering the Road Impact Fee Administration Program, the nomenclature provided in Exhibit "A" (attached hereto and incorporated herein) shall be used.

SECTION 7. Consistence with Comprehensive Plan.

This Ordinance is hereby found to be compliant with the goals and objectives of the Flagler County Comprehensive Plan.

SECTION 8. Severability.

If any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not be construed as to render unconstitutional or invalid the remaining provisions of the Ordinance.

SECTION 9. Codification.

It is the intent of the Board of County Commissioners of Flagler County, Florida, that the provisions of this Ordinance shall be made a part of the Flagler County Code. The codifier of the Code shall change headings and reletter and renumber sections hereof as necessary for that purpose.

SECTION 10. Effective Date.

This Ordinance shall be filed with the Department of State, as provided by Section 125.66, Florida Statutes, and shall become effective on November 1, 2002.

**PASSED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE
FLAGLER COUNTY COURTHOUSE, IN THE CITY OF BUNNELL, FLORIDA**

THIS 7th DAY OF OCTOBER, 2002.

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

10.14.02
BY: James A. Darby
James A. Darby, Chairman

ATTEST:

BY: Gail Wadsworth
Gail Wadsworth, Clerk and
Ex-Officio Clerk to the Board

APPROVED-AS-TO-FORM

Carl Kern
Carl Kern, County Attorney

APPENDIX A
MAJOR ROAD NETWORK SYSTEM - COUNTYWIDE

ROAD	FROM TO	CLASSIFICATION	JURISDICTION
Belle Terre Parkway	US 1 - Matanzas Woods Parkway	MA	City of Palm Coast
Club House Drive	Palm Coast Parkway - Palm Harbor Parkway	C	City of Palm Coast
Colbert Lane	Palm Coast Pkwy (WB) - Palm Coast Pkwy (EB)	MA	City of Palm Coast
Cypress Point Parkway	Belle Terre Parkway - Palm Coast Parkway	C	City of Palm Coast
Florida Park Drive	Palm Coast Pkwy (EB) - Palm Harbor Parkway	C	City of Palm Coast
Hargrove Grade	FEC Railroad East R/W - US 1	C	City of Palm Coast
Matanzas Woods Parkway	US 1 - Blvd of Paradise Drive	MA *	City of Palm Coast
Palm Coast Pkwy (EB + WB)	US 1 - Boulder Rock Dr/Cypress Point Pkwy	MA	City of Palm Coast
Palm Coast Pkwy (EB + WB)	Boulder Rock Dr/Cypress Point Pkw - Old Kings i	MA	State of Florida
Palm Coast Pkwy (EB + WB)	Old Kings Road - Palm Harbor Parkway	MA	City of Palm Coast
Palm Harbor Parkway	Palm Coast Parkway - Forest Grove Drive	MA **	City of Palm Coast
Pine Lakes Parkway	Belle Terre Pkwy (S) - Belle Terre Pkwy (N)	C	City of Palm Coast
Royal Palms Parkway	US 1 - Belle Terre Parkway	C	City of Palm Coast
Seminole Woods Parkway	US 1 - SR 100	C	City of Palm Coast
White View Parkway	US 1 - Pritchard Drive	C	City of Palm Coast
CR 302 (Canal Ave.)	Water Oak Road - CR 305	C	Flagler County
Colbert Lane	SR 100 - Palm Coast Pkwy (EB)	MA	Flagler County
CR 2006	CR 305 - Dead Lake	C	Flagler County
CR 205	SR 100 - CR 13	C	Flagler County
CR 302 (Canal Ave.)	CR 305 - SR 100	C	Flagler County
CR 304	CR 305 - US 1	MA	Flagler County
CR 305	Volusia County Line - SR 100	MA	Flagler County
CR 13	CR 205 - US 1	C	Flagler County
CR 201 (John Anderson Hwy)	Volusia County Line - SR 100	MA	Flagler County
CR 201 (John Anderson Hwy)	SR 100 - North End	C	Flagler County
MalaCompra Road	SR A-1-A - Atlantic Ocean	C	Flagler County
CR 2002 (Old Dbd Highway)	US 1 - I-95	C	Flagler County
Old Kings Road	Volusia County Line - SR 100	MA	Flagler County
Old Kings Road	SR 100 - Lehigh Canal	N/A	Private
Old Kings Road	Lehigh Canal - US 1	MA	Flagler County
Old Haw Creek Road	CR 304 - SR 100	C	Flagler County

EXHIBIT A

APPENDIX A
MAJOR ROAD NETWORK SYSTEM - COUNTYWIDE

ROAD	FROM TO	CLASSIFICATION	JURISDICTION
Hargrove Grade	Otis Stone Hunter Rd - FEC Railroad E.. R/W Lin	C	Flagler County
Otis Stone Hunter Road	CR 13 - US 1	C	Flagler County
Tangerine Ave (CR 90 W)	CR 305 - West End	C	Flagler County
Interstate 95	Volusia County Line - St. Johns County Line	LA	State of Florida
US 1	Volusia County Line - St. Johns County Line	PA	State of Florida
SR A-1-A	Volusia County Line - St. Johns County Line	MA	State of Florida
SR 11	Volusia County Line - US 1	MA	State of Florida
SR 100	Putnam County Line - SR A-1-A	MA	State of Florida

Functional CLASSIFICATIONS = LA = Limited Access Principal Arterial
 PA = Principal Arterial
 MA = Minor Arterial
 C = Collector

- * When completed across I-95 to Old Kings Road
- ** When extended to Old Kings Road/Matanzas Woods Parkway

EXHIBIT A (Continued)

EXHIBIT B
TRANSPORTATION IMPACT FEE SCHEDULE

<u>CODE</u>	<u>LAND USE</u>	<u>UNIT OF MEASUREMENT</u>	<u>UNIT FEE ALL AREAS</u>
<u>Residential</u>			
210	Single Family Units	Dwelling Unit (DU)	\$966.59 per DU
220	Apartments	Dwelling Unit (DU)	941.01 per DU
230	Residential Condominium/Townhouse	Dwelling Unit (DU)	493.23 per DU
240	Mobile Home Park	Dwelling Unit (DU)	341.35 per DU
310	Hotel	Rooms	562.83 per Room
320	Motel	Rooms	306.05 per Room
620	Nursing Homes	Bed	99.67 per Bed
<u>OFFICE & FINANCIAL</u>			
710	Office Under 10,000 Gross Square Feet	1,000 s.f.	\$1,884.24 per 1,000 s.f.
710	Office Over 10,000 Gross Square Feet	1,000 s.f.	1,008.70 per 1,000 s.f.
714	Corporate Headquarters Building	1,000 s.f.	644.58 per 1,000 s.f.
720	Medical Office	1,000 s.f.	2,423.45 per 1,000 s.f.
610	Hospital	1,000 s.f.	1,087.51 per 1,000 s.f.
911	Bank with No Drive-Thru	1,000 s.f.	1,983.36 per 1,000 s.f.
912	Bank with Drive-Thru	1,000 s.f.	4,779.62 per 1,000 s.f.
<u>INDUSTRIAL</u>			
110	Light Industry	1,000 s.f.	\$533.86 per 1,000 s.f.
130	Industrial Park	1,000 s.f.	970.49 per 1,000 s.f.
140	Manufacturing	1,000 s.f.	295.80 per 1,000 s.f.
150	Warehouse	1,000 s.f.	376.55 per 1,000 s.f.
151	Mini-Warehouse	1,000 s.f.	187.73 per 1,000 s.f.

EXHIBIT B
TRANSPORTATION IMPACT FEE SCHEDULE

RETAIL

820	Retail: Less than 10,000 sfgla	1,000 sfgla	\$2,334.31 per 1,000 sfgla
820	Retail: 10,000 - 99,999 sfgla	1,000 sfgla	1,512.07 per 1,000 sfgla
820	Retail: 100,000 - 1,000,000 sfgla	1,000 sfgla	1,342.57 per 1,000 sfgla
820	Retail: Greater Than 1,000,000 sfgla	1,000 sfgla	1,618.70 per 1,000 sfgla
831	Quality Restaurant	1,000 s.f.	3,529.71 per 1,000 s.f.
832	High Turn-Over Restaurant	1,000 s.f.	4,620.54 per 1,000 s.f.
834	Fast Food Restaurant	1,000 s.f.	10,035.79 per 1,000 s.f.
N/A	CBD Sandwich Shop	1,000 s.f.	2,086.31 per 1,000 s.f.
837	Quick Lubrication	Bays	1,677.70 per 1,000 s.f.
840	Auto Repair	1,000 s.f.	1,612.90 per 1,000 s.f.
841	New & Used Car Sales	1,000 s.f.	2,297.83 per 1,000 s.f.
849	Tire Stores	Bays	1,204.84 per 1,000 s.f.
850	Supermarket	1,000 s.f.	2,966.60 per 1,000 s.f.
851	Convenience Store	1,000 s.f.	7,490.42 per 1,000 s.f.
853	Convenience Store w/Gas Pumps	1,000 s.f.	6,363.71 per 1,000 s.f.
N/A	Convenience Store w/Gas Pumps & Fast Food	1,000 s.f.	11,999.10 per 1,000 s.f.
862	Home Improvement Store	1,000 s.f.	1,570.07 per 1,000 s.f.
881	Pharmacy/Drugstore w/Drive-Thru	1,000 s.f.	1,263.46 per 1,000 s.f.
890	Furniture Store	1,000 s.f.	276.10 per 1,000 s.f.

RECREATION

N/A	General Recreation	Acres	\$335.11 per Acre
N/A	Major Sports Facility	Parking Space	203.58 per Parking Space
N/A	Local Park	Acres	153.48 per Acre
N/A	District Park	Acres	228.09 per Acre

MISCELLANEOUS

444	Movie Theater	Screens	\$4,098.94 per Screen
560	Church	1,000 s.f.	527.72 per 1,000 s.f.
565	Day Care	1,000 s.f.	1,915.03 per 1,000 s.f.

FLAGLER COUNTY, FLORIDA

ORDINANCE NO. 2003 - 14

AN ORDINANCE PERTAINING TO ROAD IMPACT FEES; AMENDING ORDINANCE NO. 2002-27; REVISING EXHIBITS A AND B; PROVIDING FOR INCORPORATION INTO THE FLAGLER COUNTY CODE, PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County, Florida has determined it to be in the public interest to examine and amend Ordinance No. 2002-27 and Exhibits A and B thereto; and

WHEREAS, Flagler County's major road network is presently operating at Level of Service "C" or better, as required by its Comprehensive Plan; and

WHEREAS, the rapid growth experienced by Flagler County as a whole indicates continued expansion in public transportation facilities and services is essential to maintain an acceptable Level of Service on the County's major road network as designated by the County's adopted Comprehensive Plan; and

WHEREAS, modifications to the existing Ordinance No. 2002-27 are necessary to provide for proper contribution of proportionate shares in support of expanding elements of Flagler County's major road network to maintain a Level of Service required by the Comprehensive Plan, or better;

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Flagler County, Florida Ordinance No. 2002-27 be amended as follows:

SECTION 1.

1. REVISIONS TO EXHIBIT A
See attached revised Exhibit "A".

2. REVISIONS TO EXHIBIT B
See attached revised Exhibit "B".

SECTION 2. The provisions of this Ordinance shall be made a part of the *Flagler County Code*. The codifier of the *Code* shall change headings, reletter, and renumber sections hereof as necessary for that purpose.

SECTION 3. If any section, subsection, sentence, clause, phase or provision of this Ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not be construed as to render unconstitutional or invalid the remaining provisions of the Ordinance.

SECTION 4. All Ordinances, or parts of Ordinances, in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance is adopted this 2nd day of September, 2003 by the Board of County Commissioners of Flagler County, duly assembled at the Flagler County Courthouse, Bunnell, Florida.

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

BY:

James A. Darby
JAMES A. DARBY, CHAIRMAN

ATTEST:

BY:

Gail Wadsworth
GAIL WADSWORTH, CLERK AND
EX-OFFICIO CLERK TO THE BOARD

APPROVED AS-TO-FORM

Carl Kern
CARL KERN, COUNTY ATTORNEY

DATE:

7/18/03

EXHIBIT A (03)
MAJOR ROAD NETWORK SYSTEM - COUNTYWIDE

ROAD	FROM - TO	CLASSIFICATION	JURISDICTION
Belle Terre Parkway	US 1 - Matanzas Woods Parkway	MA	City of Palm Coast
Club House Drive	Palm Coast Parkway - Palm Harbor Parkway	C	City of Palm Coast
Colbert Lane	Palm Coast Pkwy (WB) - Palm Coast Pkwy (EB)	MA	City of Palm Coast
Cypress Point Parkway	Belle Terre Parkway - Palm Coast Parkway	C	City of Palm Coast
Florida Park Drive	Palm Coast Pkwy (EB) - Palm Harbor Parkway	C	City of Palm Coast
Hargrove Grade	FEC Railroad East R/W - US 1	C	City of Palm Coast
Matanzas Woods Parkway	US 1 - Old Kings Road	MA *	City of Palm Coast
Palm Coast Pkwy (EB + WB)	US 1 - Boulder Rock Dr/Cypress Point Pkwy	MA	City of Palm Coast
Palm Coast Pkwy (EB + WB)	Boulder Rock Dr/Cypress Point Pkw - Old Kings Road	MA	State of Florida
Palm Coast Pkwy (EB + WB)	Old Kings Road - Palm Harbor Parkway	MA	City of Palm Coast
Palm Harbor Parkway	Palm Coast Parkway - Old Kings Road	MA **	City of Palm Coast
Pine Lakes Parkway	Belle Terre Pkwy (S) - Belle Terre Pkwy (N)	C	City of Palm Coast
Royal Palms Parkway	US 1 - Belle Terre Parkway	C	City of Palm Coast
Seminole Woods Parkway	US 1 - SR 100	C	City of Palm Coast
White View Parkway	US 1 - Pritchard Drive	C	City of Palm Coast
CR 302 (Canal Ave.)	Water Oak Road - CR 305	C	Flagler County
Colbert Lane	SR 100 - Palm Coast Pkwy (EB)	MA	Flagler County
CR 2006	CR 305 - Dead Lake	C	Flagler County
CR 205	SR 100 - CR 13	C	Flagler County
CR 302 (Canal Ave.)	CR 305 - SR 100	C	Flagler County
CR 304	CR 305 - US 1	MA	Flagler County
CR 305	Volusia County Line - SR 100	MA	Flagler County
CR 13	CR 205 - US 1	C	Flagler County
CR 201 (John Anderson Hwy)	Volusia County Line - SR 100	MA	Flagler County
CR 201 (John Anderson Hwy)	SR 100 - North End	C	Flagler County
MalaCompra Road	SR A-1-A - Atlantic Ocean	C	Flagler County
CR 2002 (Old Dixie Highway)	US 1 - I-95	MA	Flagler County
Old Kings Road	Volusia County Line - US 1	MA	Flagler County
Old Haw Creek Road	CR 304 - SR 100	C	Flagler County

EXHIBIT A (03) (con't)

ROAD	FROM - TO	CLASSIFICATION	JURISDICTION
Hargrove Grade	Otis Stone Hunter Rd - FEC Railroad E.. R/W Line	C	Flagler County
Otis Stone Hunter Road	CR 13 - US 1	C	Flagler County
Tangerine Ave (CR 90 W)	CR 305 - West End	C	Flagler County
Interstate 95	Volusia County Line - St. Johns County Line	LA	State of Florida
US 1	Volusia County Line - St. Johns County Line	PA	State of Florida
SR A-1-A	Volusia County Line - St. Johns County Line	MA	State of Florida
SR 11	Volusia County Line - US 1	MA	State of Florida
SR 100	Putnam County Line - SR A-1-A	MA	State of Florida

Functional CLASSIFICATIONS = LA = Limited Access Principal Arterial
 PA = Principal Arterial
 MA = Minor Arterial
 C = Collector

- * When completed across I-95 to Old Kings Road
- ** When extended to Old Kings Road/Matanzas Woods Parkway
- *** Scheduled for Flagler County Jurisdiction

EXHIBIT B (03)
TRANSPORTATION IMPACT FEE SCHEDULE

<u>RESIDENTIAL</u>		<u>UNITS</u>	<u>FEE</u>
210	Single Family Units	Dwelling Unit (DU)	\$1,438.10
220	Apartments	Dwelling Unit (DU)	\$1,400.03
230	Residential Condominium/Townhouse	Dwelling Unit (DU)	\$733.83
240	Mobile Home Park	Dwelling Unit (DU)	\$507.86
310	Hotel	Rooms	\$837.19
320	Motel	Rooms	\$455.34
620	Nursing Homes	Bed	\$148.30
<u>OFFICE & FINANCIAL</u>			
710	Office Under 10,000 Gross Square Feet	1,000 s.f.	\$2,803.38
710	Office Over 10,000 Gross Square Feet	1,000 s.f.	\$1,500.00
714	Corporate Headquarters Building	1,000 s.f.	\$959.02
720	Medical Office	1,000 s.f.	\$3,605.62
610	Hospital	1,000 s.f.	\$1,618.00
911	Bank with No Drive-Thru	1,000 s.f.	\$2,950.85
912	Bank with Drive-Thru	1,000 s.f.	\$7,111.14
<u>INDUSTRIAL</u>			
110	Light Industry	1,000 s.f.	\$794.28
130	Industrial Park	1,000 s.f.	\$1,443.89
140	Manufacturing	1,000 s.f.	\$440.10
150	Warehouse	1,000 s.f.	\$560.23
151	Mini-Warehouse	1,000 s.f.	\$279.30

EXHIBIT B (03) (con't)
TRANSPORTATION IMPACT FEE SCHEDULE

		<u>UNITS</u>	<u>FEE</u>
<u>RETAIL</u>			
820	Retail: Less than 10,000 sfgla	1,000 sfgla	\$3,473.00
820	Retail: 10,000 - 99,999 sfgla	1,000 sfgla	\$2,249.87
820	Retail: 100,000 - 1,000,000 sfgla	1,000 sfgla	\$1,997.48
820	Retail: Greater Than 1,000,000 sfgla	1,000 sfgla	\$2,408.31
831	Quality Restaurant	1,000 s.f.	\$5,251.52
832	High Turn-Over Restaurant	1,000 s.f.	\$6,874.46
834	Fast Food Restaurant	1,000 s.f.	\$14,931.30
N/A	CBD Sandwich Shop	1,000 s.f.	\$3,104.03
837	Quick Lubrication	Bays	\$2,496.09
840	Auto Repair	1,000 s.f.	\$2,399.69
841	New & Used Car Sales	1,000 s.f.	\$3,418.87
849	Tire Stores	Bays	\$1,792.56
850	Supermarket	1,000 s.f.	\$4,413.73
851	Convenience Store	1,000 s.f.	\$11,144.29
853	Convenience Store w/Gas Pumps	1,000 s.f.	\$9,467.96
N/A	Convenience Store w/Gas Pumps & Fast Food	1,000 s.f.	\$17,852.32
862	Home Improvement Store	1,000 s.f.	\$2,335.95
881	Pharmacy/Drugstore w/Drive-Thru	1,000 s.f.	\$1,879.76
890	Furniture Store	1,000 s.f.	\$410.78
<u>RECREATION</u>			
N/A	General Recreation	Acres	\$498.57
N/A	Major Sports Facility	Parking Space	\$302.89
N/A	Local Park	Acres	\$228.35
N/A	District Park	Acres	\$339.35
<u>MISCELLANEOUS</u>			
444	Movie Theater	Screens	\$4,098.94
560	Church	1,000 s.f.	\$785.15
565	Day Care	1,000 s.f.	\$2,849.19

ORDINANCE NO. 2010 -08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF FLAGLER COUNTY, FLORIDA RELATED TO TRANSPORTATION IMPACT FEE CALCULATIONS FOR COMMERCIAL AND INDUSTRIAL CHANGE IN USE; AMENDING CHAPTER 17, IMPACT FEES, ARTICLE III, TRANSPORTATION FACILITIES IMPACT FEE, SECTION 17-64 FEE IMPOSED; AMENDING ORDINANCE PROVISIONS REGARDING CALCULATION OF CHANGE IN USE; AMENDING ORDINANCE PROVISIONS FOR THE PAYMENT OF ROAD IMPACT FEES FOR SPECULATIVE AND SHELL COMMERCIAL BUILDINGS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on Wednesday, January 20, 2010 at its regular meeting, the Board of County Commissioners by consensus requested that County staff review the County Code's provisions related to the payment of impact fees resulting from a change in use where such use generates additional impacts, referred to within the Code text as an "impact-generating land development activity"; and

WHEREAS, County staff researched this topic and looked at the regulatory measures taken by other jurisdictions and prepared this ordinance in accordance with the direction provided by the Board of County Commissioners; and

WHEREAS, on Monday, February 15, 2010, the Board of County Commissioners directed that the provisions related to the requirements for the assessment of impact fees for "changes in use" in existing commercial and industrial buildings be rescinded; and

WHEREAS, the County Commission at their February 15, 2010 workshop meeting provided comments on staff's draft ordinance and approved proceeding with a public hearing on this ordinance to be scheduled for Monday, April 5, 2010 at 9:30 a.m. or as soon thereafter as the matter may be heard; and

WHEREAS, public notice of the adoption of this Ordinance has been provided in accordance with Chapter 125.66(2)(a), Florida Statutes.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: FINDINGS

The above Recitals are incorporated herein as Findings of Fact.

SECTION 2: CODE AMENDMENT

The Flagler County Code of Ordinances, Chapter 17, *Impact Fees*, Article III, TRANSPORTATION FACILITIES IMPACT FEE, Section 17-64, Fee imposed, is hereby amended as follows (additions are shown in double underline format and deletions are shown as ~~strikethrough format~~):

Sec. 17-64. Fee imposed.

(a) Fee obligated at commencement of land development activity; fee determined at issuance of building permit; time of fee payment.

- (1) Any person or governmental body who shall commence any impact-generating land development activity as herein defined shall be obligated to pay an impact fee upon the commencement of such land development activity. The fee shall be determined at the time of issuance of a building permit for the development. The fee shall be computed separately for the amount of development covered by the permit, if the building permit is for less than the entire development. However, in no instance shall an additional impact fee be due for any change in use regardless of whether such change in use results in an additional impact due to the new impact-generating land development activity provided, however, that at least twenty-four (24) months have passed following the date of the initial issuance of a certificate of occupancy and the submittal of any subsequent building permit application and/or business tax receipt request submitted for County review and approval, including areas of incorporated municipalities where an interlocal agreement remains in effect for the collection and payment of the transportation impact fee. ~~If the fee is extracted for impact generating land development activity that increases impact because of a change in use, the fee shall be determined by computing the difference in the fee schedule between the new land development activity and the existing land development activity.~~ The obligation to pay the impact fee shall run with the land. The impact fee shall be paid to the county administrator or his/her designee at the time of issuance of a building permit for the development, except as provided herein.

Speculative ("spec") and "shell" commercial buildings not being constructed under contract or for a specific occupant, but which are being constructed and then placed on the market, may pay, at the option of the fee payer, the required road impact fee; either in total before the commencement of construction; or in total prior to being issued a certificate of occupancy; or one-half (1/2) of the total

impact fee paid at the issuance of the building permit and the remaining one-half (1/2) portion of the impact fee paid prior to the issuance of a certificate of occupancy. Payment of the impact fee, in whole or in part, shall be based on the prevailing transportation impact fee schedule as of the date of payment of the fee. However, in no instance shall a certificate of occupancy be issued without the full payment of all road impact fees. ~~For any building permit to be issued for spec or shell commercial buildings during the period of October 15, 2002, until January 15, 2003, one half (1/2) of the total impact fee shall be paid prior to the issuance of the building permit and the remaining one half (1/2) portion of the impact fee paid prior to the issuance of a certificate of occupancy.~~

SECTION 3: CODIFICATION AND SCRIVENER'S ERRORS

1. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions or amendments thereto, and shall be appropriately renumbered or relettered to conform to the uniform numbering system of the Code. Scrivener errors may be corrected as deemed necessary.
2. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances.

SECTION 4: SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5: EFFECTIVE DATE

This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

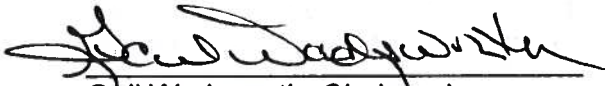
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SIGNATURE PAGE TO FOLLOW**

**PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA THIS 5TH DAY OF APRIL, 2010.**

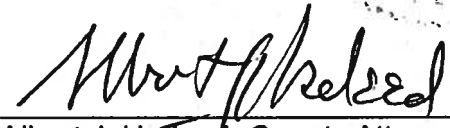
**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**


George Hanns, Chairman

ATTEST:


Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board

APPROVED AS TO FORM:


Albert J. Hadeed, County Attorney

ORDINANCE NO. 2013-07

AN ORDINANCE OF FLAGLER COUNTY, FLORIDA, AMENDING CHAPTER 17, ARTICLES III AND IV OF THE FLAGLER COUNTY CODE OF ORDINANCES IMPOSING A TWO YEAR MORATORIUM ON THE COLLECTION OF TRANSPORTATION FACILITIES IMPACT FEES AND PARKS AND RECREATION IMPACT FEES; AMENDING CHAPTER 17, ARTICLE III OF THE FLAGLER COUNTY CODE OF ORDINANCES ENTITLED "TRANSPORTATION FACILITIES IMPACT FEE ORDINANCE"; AMENDING SECTION 17-68(f) – REFUNDS; EXTENDING TIMEFRAMES FOR EXPENDITURES; AMENDING THE INTEREST RATE APPLICABLE TO REFUNDS; PROVIDING FOR FINDINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners ("the Board") enacted Ordinance No. 89-19 imposing "Transportation Facilities Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future transportation needs of the County residents; and

WHEREAS, the Board enacted Ordinance No. 89-20 as amended by Ordinance No. 94-10 imposing "Parks and Recreation Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet future parks and recreational needs of the County residents; and

WHEREAS, a deep economic recession has gripped the United States and Flagler County; and

WHEREAS, the recession has caused many citizens to lose their jobs through lay-offs, work force reductions and corporate insolvency; and

WHEREAS, the impact of the economic downturn in Flagler County is further evidenced by the 12.7% unemployment rate attained in July of 2012, as reported by the Center for Business Excellence, which has been categorized as the second highest unemployment rate in the State of Florida; and

WHEREAS, the Board finds that the construction industry in the County has been particularly hard hit by the recession and the significant drop in construction activity threatens the County's economic stability; and

WHEREAS, the Board has determined that putting citizens back to work is a high priority for every level of government, including county government; and

WHEREAS, the Board wishes to utilize methods of stimulating the local economy by encouraging development and promoting our community; and

WHEREAS, the Board finds that the quickest and most effective stimulus that the County can provide is to incentivize new development projects by removing the County-imposed development costs represented by the Transportation Facilities Impact Fee and the Parks and Recreation Impact Fee; and

WHEREAS, during the last five years, the Florida Legislature, with the concurrence of the Governor, has extended certain state and local government permit and development order expiration dates, as well as key dates related to implementing developments of regional impact ("DRIs"), due to the poorly performing real estate market in Florida; and

WHEREAS, in 2007, the Legislature enacted and the Governor signed into law Chapter 2007-204, Laws of Florida, to provide three-year extensions for certain DRI dates; and

WHEREAS, in 2009, the Legislature enacted and the Governor signed into law Chapter 2009-96, Section 14, Laws of Florida, to grant two-year permit extensions to certain development orders and building permits (as reenacted by Chapter 2010-147, Section 47, Laws of Florida); and

WHEREAS, in 2010, 2011 and 2012, the Legislature enacted and the Governor signed into law various additional extensions to certain development orders and building permits, all in recognition of the continued decline in real estate market conditions, including: Chapter 2010-147, Section 46, Laws of Florida; Chapter 2011-139, Section 73 and Section 79, Laws of Florida; and Chapter 2012-205, Section 24, Laws of Florida; and

WHEREAS, the various legislative enactments extend certain development orders and building permits for durations ranging from two years to seven years; and

WHEREAS, because land development projects based on permits and development orders have been delayed due to the prolonged economic downturn, local governments throughout Florida and in Flagler County have not collected permit fees, impact fees and other fees based on such development at the rate previously anticipated; and

WHEREAS, the economic downturn has been particularly significant in Flagler County as evidenced by a 73% reduction in building permit applications that generate

transportation facilities impact fees, when comparing applications filed in Fiscal Years 2004 through 2007, with the applications filed in Fiscal Years 2008 through 2011; and

WHEREAS, transportation facilities impact fee revenue has declined 73%, when comparing the revenue generated in Fiscal Years 2004 through 2007, with the revenue generated in Fiscal Years 2008 through 2011; and

WHEREAS, the economic downturn and associated unemployment rate, combined with extraordinary and unprecedented decreases in building permit issuance and impact fee revenue collections require Flagler County to delay projects as anticipated revenues continue to decline; and

WHEREAS, amending the Transportation Facilities Impact Fee Ordinance to allow Flagler County to collect and retain revenues for an additional period of time coincides with the time period the legislature has extended certain projects and construction time frames for specified development permits and with imposition of the moratorium on the collection of impact fees anticipated in this ordinance; and

WHEREAS, as the economy begins to improve, real estate development should increase, which will result in local governments collecting more fees with which to construct needed capital improvements planned and funded in part by impact fees:

NOW, THEREFORE, be it ordained by the Flagler County Board of County Commissioners on this 1st day of October 2012, as follows:

SECTION A. FINDINGS. The above recitals are incorporated herein as Findings of Fact.

SECTION B. IMPACT FEE MORATORIUM PROPOSED (TRANSPORTATION FACILITIES IMPACT FEE). The following provisions are added to Chapter 17, Article III of the Flagler County Code of Ordinances. Underlined text is added:

In order to establish an incentive for vertical construction projects, the Board hereby declares and establishes a moratorium on the collection of Transportation Facilities Impact Fees if a property owner or applicant: (A) submits to the County a completed building permit application between October 10, 2012 and October 9, 2014, and receives a building permit from the County within one hundred eighty (180) days of having submitted a complete building permit application, and (B) schedules and receives an approved initial inspection within one hundred eighty (180) days of building permit issuance, and (C) receives an additional approved inspection every 180 days

thereafter (provided additional inspections are required), and (D) receives a permanent certificate of occupancy within 18 months of the date the building permit was issued. The County Administrator or his/her designee is authorized to grant up to a six (6) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections to a developer of any non-residential building greater than 20,000 square feet and less than 100,000 square feet in size that otherwise meets the requirements for exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. For non-residential buildings 100,000 square feet or greater in size, the County Administrator is authorized to grant up to a twelve (12) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections, providing the project otherwise meets the exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. Such extension determinations shall be based solely upon the due diligence demonstrated in pursuing the completion of the project and any extenuating circumstances that delayed completion. Such decision shall be final and not appealable.

SECTION C. IMPACT FEE MORATORIUM PROPOSED (PARKS AND RECREATION IMPACT FEE). The following provisions are added to Chapter 17, Article IV of the Flagler County Code of Ordinances. Underlined text is added:

In order to establish an incentive for vertical, residential, construction projects, the Board hereby declares and establishes a moratorium on the collection of Parks and Recreation Impact Fees if a property owner or applicant: (A) submits to the County a completed building permit application between October 10, 2012 and October 9, 2014, and receives a building permit from the County within one hundred eighty (180) days of having submitted a complete building permit application, and (B) schedules and receives an approved initial inspection within one hundred eighty (180) days of building permit issuance, and (C) receives an additional approved inspection every 180 days thereafter (provided additional inspections are required), and (D) receives a permanent certificate of occupancy within 18 months of the date the building permit was issued.

SECTION D. STATUS OF IMPACT FEES. Except as otherwise stated herein, all Transportation Facilities Impact Fees and Parks and Recreation Impact Fees that are due and collectable in relation to applications for building permits that are outstanding as of the effective date of this Ordinance, shall remain due and must be paid prior to issuance of a certificate of occupancy or building permit, whichever is required by Code.

SECTION E. AMENDMENTS. Chapter 17, Article III, Sec. 17-68, entitled "Use of

funds; refunds,” subsection (f), of the Flagler County Code of Ordinances is hereby amended as follows. Strikethrough text is deleted. Underlined text is added.

(f) *Return of fees not spent for capital improvements.*

(1) Any fees collected shall be returned to the feepayer or his successor in interest if the fees have not been spent within fourteen (14) ~~seven (7)~~ years from the date the building permit for the development was issued, along with interest of six (6) two (2) percent a year; ~~provided, however, that the board of county commissioners may by resolution extend for up to three (3) years the date at which fees must be refunded. Such an extension shall be made upon a finding that, within such three year period, specific transportation capital improvements are planned and evidenced by the adoption and incorporation into the county comprehensive plan, that these capital improvements will be constructed within the next three (3) years, that these capital improvements are reasonably attributable to the feepayer's land development activity, and that the fees whose time of refund is extended will be spent for these capital improvements. Should a moratorium on the collection of impact fees be extended beyond October 9, 2014 by the Board of County Commissioners, the timeframe within which collected impact fees must be expended shall automatically be extended by the same time period.~~ Fees shall be deemed to be spent on the basis that the first fee collected shall be first fee spent. The refund of fees shall be undertaken through the following process:

a. A refund application shall be submitted within one (1) year following the end of the thirteenth ~~sixth~~ year from the date on which the building permit was issued on the proposed development. If the time of refund has been extended pursuant to this subsection (f)(1), the refund application shall be submitted within one (1) year following the end of this extension.

SECTION F. SEVERABILITY. If any section, sentence, phrase, word, or portion of this ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION G. CODIFICATION. It is the intent of the County Commissioners of Flagler County, Florida, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Flagler County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplished such intention; that the word “Ordinance” may be changed to “Section,” “Article,” or other appropriate word.

SECTION H. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

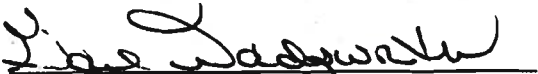
SECTION I. EFFECTIVE DATE. This ordinance shall take effect upon filing with the Department of State, as provided by Section 125.66, *Florida Statutes*.

**FLAGLER COUNTY
BOARD OF COUNTY COMMISSIONERS**

ATTEST:




Barbara S. Revels, Chair



Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board

APPROVED AS TO FORM:



Al Hadeed, County Attorney

for

ORDINANCE NO. 2014-05

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2012-07; AMENDING CHAPTER 17, ARTICLES III AND IV OF THE FLAGLER COUNTY CODE OF ORDINANCES; EXTENDING THE TWO YEAR MORATORIUM APPROVED THROUGH ORDINANCE NO. 2012-07 ON THE COLLECTION OF TRANSPORTATION FACILITIES IMPACT FEES AND PARKS AND RECREATION IMPACT FEES FOR AN ADDITIONAL PERIOD OF TWELVE MONTHS; AMENDING CHAPTER 17, ARTICLE III OF THE FLAGLER COUNTY CODE OF ORDINANCES ENTITLED "TRANSPORTATION FACILITIES IMPACT FEE ORDINANCE"; AMENDING SECTION 17-68(F) - REFUNDS, EXTENDING TIMEFRAMES FOR EXPENDITURES; PROVIDING FOR FINDINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County, Florida, (the "Board") enacted Ordinance No. 89-19 imposing "Transportation Facilities Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future transportation needs of the County residents; and

WHEREAS, the Board enacted Ordinance No. 89-20 as amended by Ordinance No. 94-10 imposing "Parks and Recreation Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future parks and recreational needs of the County residents; and

WHEREAS, in recognition of the economic recession that gripped the United States and Flagler County, the Board enacted Ordinance No. 2012-07, providing for a two-year moratorium on the collection of transportation facilities and parks and recreation impact fees; and

WHEREAS, the impact fee moratorium expires on October 9, 2014, unless extended by the Board; and

WHEREAS, while the economy has shown signs of recovery as the ongoing recession and its effects have recently eased, the unemployment rate in Flagler County remains high at 9.5% based on August 2014 data, the next to the highest rate reported for Florida's 67 counties; and

WHEREAS, the Flagler Home Builders Association, through its letter dated September 2, 2014, acknowledged the increase in building permit activity, but requested that the impact fee moratorium be continued for an additional two years; and

WHEREAS, the Board of County Commissioners desires to continue its extraordinary efforts to strengthen the local economy through extending the impact fee moratorium for an additional twelve months.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Flagler County, Florida, on this 6th day of October 2014, as follows:

SECTION A. FINDINGS. The above recitals are incorporated herein as Findings of Fact.

SECTION B. IMPACT FEE MORATORIUM EXTENDED (TRANSPORTATION FACILITIES IMPACT FEE). The following amendments are made to Chapter 17, Article III of the Flagler County Code of Ordinances (strikethrough text is deleted; underlined text is added):

In order to establish an incentive for vertical construction projects, the Board hereby declares and establishes a moratorium on the collection of Transportation Facilities Impact Fees if a property owner or applicant: (A) submits to the County a completed building permit application ~~between October 10, 2012~~ 2014 and October 9, ~~2014~~ 2015, and receives a building permit from the County within one hundred eighty (180) days of having submitted a complete building permit application, and (B) schedules and receives an approved initial inspection within one hundred eighty (180) days of building permit issuance, and (C) receives an additional approved inspection every 180 days thereafter (provided additional inspections are required), and (D) receives a permanent certificate of occupancy within 18 months of the date the building permit was issued. The County Administrator or his/her designee is authorized to grant up to a six (6) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections to a developer of any non-residential building greater than 20,000 square feet and less than 100,000 square feet in size that otherwise meets the requirements for exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. For non-residential buildings 100,000 square feet or greater in size, the County Administrator is authorized to grant up to a twelve (12) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections, providing the project otherwise meets the exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. Such extension determinations shall be based solely upon the due diligence demonstrated in pursuing the completion of the project and any extenuating

circumstances that delayed completion. Such decision shall be final and not appealable.

SECTION C. IMPACT FEE MORATORIUM EXTENDED (PARKS AND RECREATION IMPACT FEE). The following amendments are made to Chapter 17, Article IV of the Flagler County Code of Ordinances (strikethrough text is deleted; underlined text is added):

In order to establish an incentive for vertical, residential, construction projects, the Board hereby declares and establishes a moratorium on the collection of Parks and Recreation Impact Fees if a property owner or applicant: (A) submits to the County a completed building permit application between October 10, ~~2012~~ 2014 and October 9, ~~2014~~ 2015, and receives a building permit from the County within one hundred eighty (180) days of having submitted a complete building permit application, and (B) schedules and receives an approved initial inspection within one hundred eighty (180) days of building permit issuance, and (C) receives an additional approved inspection every 180 days thereafter (provided additional inspections are required), and (D) receives a permanent certificate of occupancy within 18 months of the date the building permit was issued.

SECTION D. STATUS OF IMPACT FEES. Except as otherwise stated herein, all Transportation Facilities Impact Fees and Parks and Recreation Impact Fees that are due and collectable in relation to applications for building permits that are outstanding as of the effective date of this Ordinance, shall remain due and must be paid prior to issuance of a certificate of occupancy or building permit, whichever is required by Code.

SECTION E. ADDITIONAL AMENDMENTS. Chapter 17, Article III, Sec. 17-68, entitled "Use of funds; refunds," subsection (f), of the Flagler County Code of Ordinances is hereby amended as follows (strikethrough text is deleted; underlined text is added):

(f) *Return of fees not spent for capital improvements.*

- (1) Any fees collected shall be returned to the feepayer or his successor in interest if the fees have not been spent within ~~fourteen (14)~~ fifteen (15) years from the date the building permit for the development was issued, along with interest of two (2) percent a year. Should a moratorium on the collection of impact fees be extended beyond October 9, ~~2014~~ 2015 by the Board of County Commissioners, the timeframe within which collected impact fees must be expended shall automatically be extended by the same time period. Fees shall be deemed to be spent on the basis that the first fee collected shall be first fee spent. The refund of fees shall be undertaken through the following process:

- a. A refund application shall be submitted within one (1) year following the end of the ~~thirteenth~~ fourteenth year from the date on which the building permit was issued on the proposed development. If the time of refund has been extended pursuant to this subsection (f)(1), the refund application shall be submitted within one (1) year following the end of this extension.

SECTION F. SEVERABILITY. If any section, sentence, phrase, word, or portion of this ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION G. CODIFICATION. It is the intent of the County Commissioners of Flagler County, Florida, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Flagler County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplished such intention; that the word "Ordinance" may be changed to "Section," "Article," or other appropriate word.

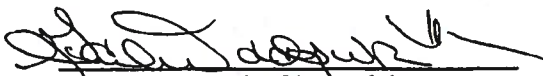
SECTION H. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION I. EFFECTIVE DATE. This ordinance shall take effect upon filing with the Department of State, as provided by Section 125.66, *Florida Statutes*.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**


George Hahns, Chairman

ATTEST:


Gail Wadsworth, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM:


Al Hadeed, County Attorney

ORDINANCE NO. 2015- 11

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING ORDINANCE NOS. 2012-07 AND 2014-05; AMENDING CHAPTER 17, ARTICLE III OF THE FLAGLER COUNTY CODE OF ORDINANCES ENTITLED "TRANSPORTATION FACILITIES IMPACT FEE" AND AMENDING CHAPTER 17, ARTICLE IV OF THE FLAGLER COUNTY CODE OF ORDINANCES ENTITLED "PARKS AND RECREATION IMPACT FEE"; PROVIDING FOR A SUSPENSION ON THE COLLECTION OF TRANSPORTATION FACILITIES IMPACT FEES; PROVIDING FOR FINDINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County, Florida, (the "Board") enacted Ordinance No. 89-19 imposing "Transportation Facilities Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future transportation needs of the County residents; and

WHEREAS, the Board enacted Ordinance No. 89-20 as amended by Ordinance No. 94-10 imposing "Parks and Recreation Impact Fees" (as defined therein) to facilitate the generation of funds necessary to meet the future parks and recreational needs of the County residents; and

WHEREAS, in recognition of the economic recession that gripped the United States and Flagler County, the Board enacted Ordinance No. 2012-07, providing for a two-year moratorium on the collection of transportation facilities and parks and recreation impact fees; and

WHEREAS, the Board extended the moratorium through Ordinance No. 2014-05 until October 9, 2015; and

WHEREAS, building permit activity has increased as the ongoing recession and its effects have recently eased; and

WHEREAS, the Board, through their workshop meeting on September 15, 2015, received a presentation from staff regarding suspending the collection of transportation facilities impact fees and resuming the collection of the parks and recreation impact fee following the expiration of the moratorium on October 9, 2015; and

WHEREAS, the Board of County Commissioners desires to continue its extraordinary efforts to strengthen the local economy through suspending the collection of the transportation facilities impact fee until such time as a study is completed.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Flagler County, Florida, on this 5th day of October, 2015, as follows:

SECTION A. FINDINGS. The above recitals are incorporated herein as Findings of Fact.

SECTION B. IMPACT FEE SUSPENSION (TRANSPORTATION FACILITIES IMPACT FEE). The following amendments are made to Chapter 17, Article III, Section 17-70, *Impact fee moratorium*, of the Flagler County Code of Ordinances (strikethrough text is deleted; underlined text is added):

In order to establish an incentive for vertical construction projects, the Board hereby declares and establishes a moratorium suspension on the collection of Transportation Facilities Impact Fees ~~if a property owner or applicant: (A) submits to the County a completed building permit application between October 10, 2014 and October 9, 2015, and receives a building permit from the County within one hundred eighty (180) days of having submitted a complete building permit application, and (B) schedules and receives an approved initial inspection within one hundred eighty (180) days of building permit issuance, and (C) receives an additional approved inspection every 180 days thereafter (provided additional inspections are required), and (D) receives a permanent certificate of occupancy within 18 months of the date the building permit was issued. The County Administrator or his/her designee is authorized to grant up to a six (6) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections to a developer of any non-residential building greater than 20,000 square feet and less than 100,000 square feet in size that otherwise meets the requirements for exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. For non-residential buildings 100,000 square feet or greater in size, the County Administrator is authorized to grant up to a twelve (12) month extension of the deadline for obtaining a permanent certificate of occupancy for the purposes of impact fee collections, providing the project otherwise meets the exemption from Transportation Facilities Impact Fees, as provided for in this ordinance. Such extension determinations shall be based solely upon the due diligence demonstrated in pursuing the completion of the project and any extenuating circumstances that delayed completion. Such decision shall be final and not appealable. This suspension in the collection of the Transportation Facilities Impact Fees shall remain in effect until such time as a study is completed and this Article is amended to resume collection of the Transportation Facilities~~

Impact Fees or otherwise amended or deleted by the Board of County Commissioners.

SECTION C. IMPACT FEE MORATORIUM EXPIRED (PARKS AND RECREATION IMPACT FEE). As of October 10, 2015, the date of the expiration of the parks and recreation impact fee moratorium as provided in Ordinance No. 2014-05 and codified as Chapter 17, Article IV, Section 17-111, *Impact fee moratorium*, of the Flagler County Code of Ordinances, Section 17-111 is deleted in its entirety, and this section shall be reserved.

SECTION D. STATUS OF IMPACT FEES. Except as otherwise stated herein, all impact fees shall remain in effect as provided in the Flagler County Code of Ordinances.

SECTION E. SEVERABILITY. If any section, sentence, phrase, word, or portion of this ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION F. CODIFICATION. It is the intent of the County Commissioners of Flagler County, Florida, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Flagler County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplished such intention; that the word "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION G. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

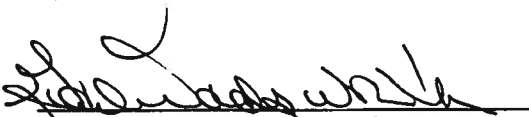
SECTION H. EFFECTIVE DATE. This ordinance shall take effect upon filing with the Department of State, as provided by Section 125.66, *Florida Statutes*.

FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS



Frank J. Meeker, Chairman

ATTEST:



Gail Wadsworth, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM:



Al Hadeed, County Attorney

LIVINGSTON & SWORD, P.A.

Attorneys At Law

April 4, 2019

VIA U.S. MAIL & EMAIL

Jerry Cameron
Flagler County Administrator
1769 E. Moody Blvd., Bldg. 2
Bunnell, Florida 32110

Subject: M&M Development of Flagler County, Inc.
Application for Return of Impact Fees

Dear Mr. Cameron:

Thank you for meeting with my client and I on March 26th to discuss the issue regarding the impact fees paid by M&M Development of Flagler County, Inc. ("M&M") for the Atlantis commercial development located at 2323 N. State Street, Bunnell, Florida. As requested, I am providing a summary of Flagler County's transportation impact fee ordinance and the fees paid by M&M for the above development along with a brief of the legal issues related to the expenditures of and my client's application for return of the impact fees paid.

Flagler County first established a transportation impact fee in 1989 when the Board of County Commissioner's ("BOCC") adopted Ordinance No. 89-19. The objective of the ordinance was to "require all new impact generating land development activity to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts on public transportation facilities having a rational nexus to the proposed land development and for which the need is reasonably attributable to the proposed development." In an attempt to ensure that the impact fees collected were spent on portions of the County's transportation network impacted by development the County established two "Road Construction Districts". All lands west of the Florida East Coast Railroad Line comprised one district with all lands east of the line in the other.

To be legal and valid transportation impact fees must be segregated and used only to pay for transportation improvements reasonably attributable to the impact generating development. In that light, the 1989 transportation impact fee ordinance contains specific provisions for what would happen with impact fees that were collected but not used as permitted by the Ordinance. Specifically, Section IX(F)(1) of the ordinance provided as follows:

393 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@gmail.com

Any fees collected shall be returned to the feepayer or his successor in interest if the fees have not been spent within seven (7) years from the date the building permit for the development was issued, along with interest of six (6%) percent a year. Provided, however, that the Board of County Commissioners may by resolution extend for up to three (3) years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three (3) year period, specific transportation capital improvements are planned and evidenced by the adoption and incorporation into the Flagler County Comprehensive Plan, that these capital improvements shall be constructed within the next three (3) years, that these capital improvements are reasonably attributable to the feepayer's land development activity, and that the fees whose time of refund is extended shall be spent for these improvements. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent. The refund of fees shall be undertaken through the following process..."

The subsection then goes on to describe the specific administrative process the County Administrator is to follow when processing an application for refund.

In 2002 the BOCC amended Ordinance No. 89-19 by adopting Ordinance No. 2002-27, which, *inter alia*, established a third Road Construction District to recognize the recently incorporated City of Palm Coast. The amending ordinance also included an Exhibit "A", which contained a list of roads in the County and the applicable Road Construction District for each roadway segment. In 2003 the BOCC further amended the impact fee ordinance by adopting Ordinance No. 2003-14, which revised, *inter alia*, the list of roads in Exhibit "A". The transportation impact fee ordinance as revised in 2003 is what was effective during the period M&M paid transportation impact fees for the Atlantis development.

M&M paid a total of **\$87,139.40** in transportation impact fees for the phases of the Atlantis development as follows:

- Atlantis Bldg. D&G - \$46,204.48 paid on October 17, 2006
- Atlantis Bldg. H - \$6,281.20 paid on February 23, 2007
- Atlantis Bldg. E - \$11,551.12 paid on May 13, 2008
- Atlantis Bldg. A - \$23,102.24 paid on May 13, 2008

M&M initially requested a return of the above impact fees in 2013 when Mark Langello, who is a principal of the corporation, made a verbal request in person to the County's Planning Director. He was surprised to be informed that the timeframe for requesting a return of impact fees was twice as long as specified in the original impact fee ordinance quoted above. The reasons for the extension of the period to request a return of the impact fees is explained in more detail below. Finally, on July 20, 2018 Mr. Langello submitted a written request pursuant to the administrative provisions of the transportation impact fee ordinance to the former County Administrator, Craig Coffey. Mr. Coffey denied the request for two reasons. First, he advised that the application was premature due to changes to the impact fee ordinance that extended the

deadline to request a refund. Second, he indicated that even if the request was not premature all the fees paid by M&M had already been spent by the County so there was nothing to return. Copies of both the written Application for Return of Impact Fees and Mr. Coffey's response are enclosed with this letter for your reference. Mr. Coffey's response also contains copies of the original transportation impact fee ordinance and all subsequent amendments for your reference.

Due to the economic conditions in the County caused by the "Great Recession", the BOCC decided to impose a moratorium on the collection of transportation impact fees. The hope was that this would not only spur development but also help the construction industry which was hit particularly hard by the economic downturn. Ordinance 2012-07 imposed a moratorium on the collection of transportation impact fees for a period of two years and extended the period the County had to spend impact fees from seven to fourteen years. In addition, it reduced the interest accruing on impact fees collected but not used from 6% to 2% but that percentage was not changed in all the sections of the original ordinance where the six percent was specified. See Article III(C) and Article III(F) of the original ordinance where the six percent was originally specified. Two years later Ordinance 2014-05 extended the moratorium for another two years and further extended the time period the County had to spend previously collected fees to 15 years. Finally, in 2015, the BOCC adopted Ordinance No. 2015-11 and suspended the collection of transportation impact fees indefinitely. According to the language of this ordinance such impact fees will not be collected until such time as a "study" is completed. No time frame was set for when the required study needs to be completed.

M&M has several objections and concerns regarding the basis for Mr. Coffey's denial of its Application for Return of Impact Fees as follows:

- When M&M paid the impact fees for Atlantis it did so in reasonable reliance that those fees would be spent only on transportation improvements reasonably related to impacts to the County's transportation network caused by the development. It also did so in reasonable reliance that if some or all the fees were not spent in a manner permitted by the ordinance any unspent amounts would be returned with interest at a rate of six percent per annum. When the County adopted the moratorium on the collection of impact fees it did not make any of the findings required by the original impact fee ordinance as required to extend the repayment period. For these reasons, the County is now estopped from imposing the extended repayment period or the reduced interest rate on M&M or any other landowner that paid impact fees prior to the adoption of the moratoriums or the suspension of transportation impact fees.
- Mr. Coffey identified specific projects on which M&M's impact fees were spent. Specifically, the fees were used for Old Kings Road North, Matanzas Wood Parkway Ext., Matanzas Woods-IJR, and Belle Terre Parkway. He also confirmed that all the fees paid by M&M for the Atlantis development were for Transportation Impact Fee District No. 2. The problem, however, is that all the roadway projects described above all lie within the City of Palm Coast and are part of Transportation Impact Fee District No. 1, except maybe a portion of Old Kings Road North. These expenditures appear to be in direct violation of the transportation impact fee ordinance in effect at the time M&M paid impact fees for the Atlantis development.

- Even if the projects the County used the impact fees for were in the correct fee district there is no rational nexus or reasonable relationship between the impacts created by the Atlantis development and the roadway improvements described above. I am not aware of any studies or other data demonstrating that the Atlantis development created impacts that required these transportation improvements. Without this information it will be impossible for the County to justify paying for these improvements with the impact fees collected from M&M for Atlantis.
- The information Mr. Coffey provided also indicates that a total of \$71,199.00 was paid to the Clerk of Court for administrative fees. The controlling case law as well as Section 163.31801, Florida Statutes, are clear that only the actual costs of collection can be charged against impact fees collected. The foregoing statute is also clear that the County has the burden of proving that the imposition or the amount of the fee meets the requirements of applicable law. When I submitted a public records request to the Clerk of Court regarding these administrative charges, I was informed that the backup data has been destroyed. Therefore, it appears that it will be impossible for the County to meet its burden of proof to justify these administrative charges.
- Finally, Mr. Coffey's response indicates that a total of \$139,379.00 of previously collected impact fees were used to pay for impact fee studies in fiscal years 2006 and 2007. However, I made several public records requests to the County that included requests for all impact fee studies from the adoption of the original impact fee ordinance to the present. The last study provided in response to this request was prepared in 2002. Even if these studies exist, it would be improper under the controlling case law and the above statute to use impact fees for the costs of these studies.

To be valid an impact fee must have a rational nexus or reasonable connection to the impacts created by the new development. *See, Contractors & Builders Association of Pinellas County v. City of Dunedin*, 329 So.2d 314 (Fla. 1976); *Wald Corp. v. Metropolitan Dade County*, 228 So.2d 863 (Fla. 3d DCA 1976). The requirements for determining the validity of an impact fee were nicely summarized in *Hollywood, Inc. v. Broward County*, 431 So.2d 606 (Fla. 4th DCA 1983), where the Court stated:

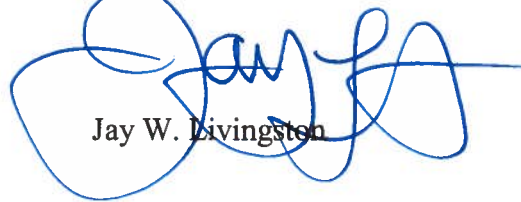
In order to satisfy these requirements, the local government must demonstrate a reasonable connection, or rational nexus, between the need for additional capital facilities and the growth in population generated by the subdivision. In addition, the government must show a reasonable connection, or rational nexus, between the expenditures of the funds collected, and the benefits accruing to the subdivision. In order to satisfy this latter requirement, the ordinance must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents.

Regarding Atlantis, it appears that the County has admittedly spent all, or a substantial majority of the impact fees M&M paid in the wrong impact fee district in direct violation of the transportation impact fee ordinance. Even if that were not the case, if the funds were spent on improvements that do not have a rational nexus to the impacts of the Atlantis development.

For the reasons stated above, I respectfully ask that you reevaluate my clients request for the return of impacts fees and accrued interest at a rate of six percent per annum since they were paid. The impact fees were spent in the wrong impact fee district in direct violation of the County's own ordinance. In addition, the impact fees were spent on studies that do not appear to exist or are unrelated to the impacts of the Atlantis development and for administrative charges that are either not related to the actual costs of collection or cannot be justified due to the County's or Clerk's failure to retain adequate records of these costs. Finally, the County is estopped from enforcing the extension of the expenditure and reimbursement period and reduction of the interest rate created when the moratoriums and suspension were adopted. These actions may also have violated by client's procedural due process rights and raise serious equal protection concerns because the County is asking all developers that paid impact fees prior to the 2012 moratorium to finance the impacts created by subsequent development.

Please advise if you will reconsider the application for refund. If you choose not to reconsider the application or, after review, determine that Mr. Coffey's denial was correct then we would like this matter placed on the next available BOCC agenda. Contact me if you have any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jay W. Livingston", is written over the typed name. The signature is stylized and somewhat illegible due to its cursive nature.

Jay W. Livingston

CC: Mark Langelo
Al Hadeed

County Attorney
 1769 E. Moody Blvd Bldg 2
 Bunnell, FL 32110



www.flaglercounty.org
 Phone: (386) 313-4005
 Fax: (386) 313-4105

December 16, 2019

By email to jay.livingston314@gmail.com

Jay L. Livingston

Livingston & Sword

P.A.393 Palm Coast Parkway SW #1

Palm Coast, FL 32137

Re: M&M Development of Flagler County, Inc.

Application for Return of Impact Fees

Dear Mr. Livingston:

This is a follow up to the request to review again the impact fee application of your client, Mark Langello on behalf of M&M Development of Flagler County, Inc. (hereafter either "Mr. Langello" or M&M Development"). As you acknowledged in your letter, Mr. Langello made the same request to then Administrator Craig Coffey in writing received on August 1, 2018. By letter dated September 19, 2018, Mr. Coffey denied Mr. Langello's request based upon the County's analysis of the payments made, the transportation projects undertaken with his payments and the interpretation of the County impact fee ordinances as applied to the facts.

Mr. Langello had 30 days from Mr. Coffey's determination to file an appeal with the Board of County Commissioners, and he did not. We are conducting this requested review as a courtesy, as Mr. Cameron indicated to Mr. Langello that we wanted to do the right thing. Unfortunately, we are quite delayed in being able to complete that courtesy review and you have been generous in understanding our workload predicament.

Due to the press of other very compelling business affecting the public interest at the County since April 2019 (utility operations, Sheriff operations, dune damage and restoration, several land use cases, land purchase issues, and financing our emergency infrastructure network, to name a few), the Planning and Legal Departments have been unable to conduct their review due to their respective workloads. We eventually determined to hire an outside consultant to perform the planning end of the questions.

Charles Ericksen, Jr.
 District 1

Greg Hansen
 District 2

David Sullivan
 District 3

Joe Mullins
 District 4

Donald O'Brien, Jr.
 District 5

She is unable to complete the review, as am I, due to some missing data and needing a better understanding of the basis of the refund request.

This is a combination of our informational needs. These are not in rank order but tend to follow your letter. You indicated that the County failed to make required findings when it adopted Ordinance 2012-07. Please advise what specific findings are lacking.

Chapter 17 of the Code of Flagler County provides the methodology and required submittal for an Application for Refund. The relevant section is Section 17-68, Subsection (f)(1) of the Code which states:

- a. *"A Refund Application shall be submitted within one (1) year following the end of the fourteenth (14th) year from the date on which the building permit was issued on the proposed development..."*
- b. *The Refund Application shall include the following information:*
 - 1) *A copy of the dated receipt issued for payment of the fee;*
 - 2) *A copy of the building permit;*
 - 3) *A copy of the receipt issued by the County for payment of the fee; and*
 - 4) *If applicable, evidence that the applicant is the successor in interest to the feepayer."*

For subpart 2 of the required submittals, please submit legible copies of the building permits for the impact-generating development by M & M Development. Several of the permits submitted are illegible, and there is some doubt as to which permits are relevant to Buildings E and H. Please note that the period for repayment begins at the issuance of a building permit, not at payment of the impact fees. Without legible copies of the permits that clearly show when the permit was issued and for which building, we are unable to determine the earliest date for an Application for Refund.

For subpart 4, please submit evidence that the Applicant still owns 100% of the impact-generating development, or that M & M Development is the successor in interest. The obligations of the impact fee run with the land as originally stated in Ordinance 89-19 Section A (1). Although this section of the Ordinance has been modified, the stipulation that the impact fee runs with the land remains unchanged.

Jay L. Livingston
December 16, 2019

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Providing this information will assist us in our review. Thank you.

Respectfully,

A handwritten signature in blue ink, appearing to read "Al Hadeed", with a long horizontal flourish extending to the right.

Al Hadeed