

FRERC

**COMMUNITY DEVELOPMENT
DISTRICT**

August 3, 2020

**BOARD OF SUPERVISORS
TELEPHONIC SPECIAL
PUBLIC MEETING AGENDA**

FRERC Community Development District
OFFICE OF THE DISTRICT MANAGER
2300 Glades Road, Suite 410W • Boca Raton, Florida 334313
Phone: (561) 571-0010 • Toll-free: (877) 276-0889 • Fax: (561) 571-0013

July 27, 2020

Board of Supervisors
FRERC Community Development District

Dear Board Members:

ATTENDEES:
Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

TO ATTEND BY TELEPHONE
CALL-IN NUMBER: 1-888-354-0094
CONFERENCE ID: 2144145

The Board of Supervisors of the FRERC Community Development District will hold a Telephonic Special Public Meeting on August 3, 2020, at 10:00 a.m. at **1-888-354-0094, Conference ID: 2144145**. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments
3. Consideration of Agreement By and Between the District and City Center West Orange, LLC Regarding Assignment of Maine Street Retention Pond Reimbursement
4. NEXT MEETING DATE: AUGUST 26, 2020 at 10:00 AM

○ QUORUM CHECK

BARRY RADOLAN	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> PHONE
GIOVANNA GUTIERREZ	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> PHONE
DEANNA SNITKO	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> PHONE
JAMES LAVIGNE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> PHONE
CRAIG SHADRIX	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> PHONE

5. Board Members' Comments/Requests
6. Public Comments
7. Adjournment

“Further, please be advised that the Florida Governor’s Office has declared a state of emergency due to the Coronavirus (COVID-19). As reported by the Center for Disease Control and World Health Organization, COVID-19 can spread from person-to-person through small droplets from the nose or mouth, including when an individual coughs or sneezes. These droplets may land on objects and surfaces. Other people may contract COVID-19 by touching these objects or surfaces, then touching their eyes, nose or mouth. Therefore, merely cleaning

facilities, while extremely important and vital in this crisis, may not be enough to stop the spread of this virus.”

“That said, the District wants to encourage public participation in a safe and efficient manner. Toward that end, anyone wishing to listen and participate in the meeting can dial in at **1-888-354-0094, Conference ID: 2144145**. Additionally, participants are encouraged to submit questions and comments to the District’s manager in advance at 561-571-0010 or wraithllc@whhassociates.com.”

Should you have any questions or concerns, please do not hesitate to contact me directly at (561) 719-8675.

Sincerely,



Craig Wrathell
District Manager

FREERC

COMMUNITY DEVELOPMENT DISTRICT

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**AGREEMENT BY AND BETWEEN FRERC COMMUNITY
DEVELOPMENT DISTRICT AND CITY CENTER WEST ORANGE, LLC
REGARDING ASSIGNMENT OF MAINE STREET RETENTION POND
REIMBURSEMENT**

THIS AGREEMENT (“Agreement”) is made and entered into this 3rd day of August, 2020, by and between:

FRERC Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, and located in the City of Ocoee, Florida, whose address is 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431 (“District”); and

City Center West Orange, LLC, a Florida limited liability company whose address is 7380 Sand Lake Road, #395, Orlando, Florida 32819 (“Developer” and, together with the District, “Parties”).

RECITALS

WHEREAS, the District was established by the City Commission of the City of Ocoee, Florida, for the purpose of planning, financing, constructing, operating, and/or maintaining certain infrastructure; and

WHEREAS, the District issued its Special Assessment Bonds, Series 2020 (“Bonds”) to fund improvements within its boundaries as identified in the District’s Engineer’s Report dated October 9, 2018 (“Engineer’s Report”), which improvements comprise the District’s Capital Improvement Plan (“CIP”); and

WHEREAS, in connection with the issuance of the Bonds, District and Developer entered that certain Agreement Between the FRERC Community Development District and City Center West Orange, LLC Regarding the Acquisition of Certain Work Product, Contracts, Infrastructure and Real Property (“Acquisition Agreement”); and

WHEREAS, the District did not issue sufficient bonds to finance the total cost of all necessary improvements within the District and the District does not have sufficient funds to complete such improvements; and

WHEREAS, the CIP included water, reclaimed water and sanitary sewer systems, utility undergrounding, stormwater management improvements, roadway and parking improvements, and streetscape, landscape and hardscape improvements, as well the purchase of certain real property related to the construction of public parking improvements (“Property”); and

WHEREAS, the appraised value of the Property is \$7,705,000, however the District only budgeted in its CIP \$3,965,000 to purchase the Property; and

WHEREAS, in accordance with the Development and Economic Incentive Agreement between the Developer and the City of Ocoee, Florida as recorded in the Orange County Official Records as Instrument No. 20160517902 (“Development Agreement”), as amended, the City shall

provide payment in the amount of \$417,002 to the owner of the Maine Street Retention Pond, which pond has been acquired by the District under the Acquisition Agreement (“Maine Street Retention Pond Reimbursement”); and

WHEREAS, the District did not budget receipt of such Maine Street Retention Pond Reimbursement in its CIP and did not pledge such funds as revenues pledged to repay the Bonds;

WHEREAS, in recognition of the District’s inability to budget sufficient funds in the CIP to pay the appraised value of the Property, the District desires to assign the Maine Street Retention Pond Reimbursement to the Developer in order to compensate for the difference between the appraised value and amount paid for the real property;

WHEREAS, the District finds that entering into this Agreement with the Developer is in the best interest of the District.

THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties represent, covenant, and agree as follows:

1. INCORPORATION OF RECITALS. The recitals stated above are true and correct and by this reference are incorporated herein as a material part of this Agreement.

2. ASSIGNMENT OF MAINE STREET RETENTION POND REIMBURSEMENT. Upon receipt of the Maine Street Retention Pond Reimbursement from the City of Ocoee, the District shall cause the assignment of the Maine Street Retention Pond Reimbursement to the Developer. Developer hereby acknowledges and agrees to the acceptance of the Maine Street Retention Pond Reimbursement as the delta between the appraised value and amount paid for the real property acquired under the Acquisition Agreement. Upon request by Developer, the District shall cooperate with the Developer by executing such additional documents and taking such actions as may be necessary to effectuate the assignment to Developer of the Maine Street Retention Pond Reimbursement under this Agreement consistent with the intent of this Agreement, including, without limitation, any documents the Developer notifies the District that are requested by the City under the Development Agreement.

3. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief, and/or specific performance. The District shall be solely responsible for enforcing its rights under this Agreement against any interfering third party. Nothing contained in this Agreement shall limit or impair the District’s right to protect its rights from interference by a third party to this Agreement. If this Agreement or any matter covered by this Agreement is challenged, including, without limitation, any challenge to Developer’s receipt of payments under this Agreement, then Developer shall have no further obligation to the District as to the Project unless and until such challenge is resolved to Developer’s satisfaction and Developer may require the District to repurchase the Purchased Credits from Developer. Developer agrees to indemnify, defend and hold harmless the District and its officers, agents, and employees from any and all liability, claims, actions, suits or demands by any person, corporation, or other entity for injuries, death, and property damage of any nature, arising out of, or in connection with, any negligent act or omission

or willful misconduct of the Developer or its employees or agents. Developer agrees that nothing herein shall constitute or be construed as a waiver of the District's limitations on liability contained in Section 768.28, F.S., or other statutes or law.

4. SUCCESSORS. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties to this Agreement, except as expressly limited in this Agreement.

5. ASSIGNMENT. Neither the District nor the Developer may assign this Agreement without the prior written approval of the other. Any purported assignment without such written approval shall be void.

6. HEADINGS FOR CONVENIENCE ONLY. The descriptive headings in this Agreement are for convenience only and shall neither control nor affect the meaning or construction of any of the provisions of this Agreement.

7. ENFORCEMENT OF AGREEMENT. In the event that either the District or the Developer is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees, paralegal fees and costs for trial, alternative dispute resolution, or appellate proceedings.

8. AGREEMENT. This instrument shall constitute the final and complete expression of this Agreement between the District and the Developer relating to the subject matter of this Agreement.

9. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the District and the Developer.

10. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of the District and the Developer, both the District and the Developer have complied with all the requirements of law, and both the District and the Developer have full power and authority to comply with the terms and provisions of this instrument.

11. NOTICES. All notices, requests, consents and other communications under this Agreement ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A. If to the District: FRERC Community Development District
2300 Glades Road, Suite 410W
Boca Raton, Florida 33431
Attn: District Manager

With a copy to: Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300 (32301)

Post Office Box 6526
Tallahassee, Florida 32314
Attn: District Counsel

B. If to the Developer: City Center West Orange, LLC
7380 Sand Lake Road, #395
Orlando, Florida 32819
Attn: Brian Robinson

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for the Developer may deliver Notice on behalf of the District and the Developer. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days' written notice to the parties and addressees set forth herein.

12. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the District and the Developer and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the District and the Developer any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the District and the Developer and their respective representatives, successors, and assigns.

13. CONTROLLING LAW; VENUE. This Agreement and the provisions contained in this Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida. Venue for any dispute shall be in a court of appropriate jurisdiction in Orange County, Florida.

14. PUBLIC RECORDS. The Developer understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records and shall be treated as such in accordance with Florida law.

15. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

16. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the District and the Developer as an arm's length transaction. The District and the Developer participated fully in the preparation of this Agreement with the assistance of their

respective counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, the parties are each deemed to have drafted, chosen, and selected the language, and any doubtful language will not be interpreted or construed against any party.

17. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties execute this agreement the day and year first written above.

ATTEST:

**FRERC COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Vice Chairperson, Board of Supervisors

CITY CENTER WEST ORANGE, LLC,
a Florida limited liability company
By: CCWO Development Management,
LLC, a Florida limited liability
company, its manager

Name: _____

Name: _____
Title: _____

FRERC

COMMUNITY DEVELOPMENT DISTRICT

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FRERC COMMUNITY DEVELOPMENT DISTRICT		
BOARD OF SUPERVISORS FISCAL YEAR 2019/2020 MEETING SCHEDULE		
LOCATION		
<i>City Center West Orange, 7380 West Sand Lake Road, Suite 305/395, Orlando, Florida 32819</i>		
DATE	POTENTIAL DISCUSSION/FOCUS	TIME
October 23, 2019 CANCELED	Regular Meeting	10:00 AM
November 20, 2019*	Regular Meeting	10:00 AM
December 18, 2019*	Regular Meeting	10:00 AM
January 21, 2020	Regular Meeting	10:00 AM
January 22, 2020 RESCHEDULED <i>to January 21, 2020</i>	Regular Meeting	10:00 AM
February 26, 2020 CANCELED	Regular Meeting	10:00 AM
March 25, 2020 CANCELED	Regular Meeting	10:00 AM
April 22, 2020 CANCELED	Regular Meeting	10:00 AM
May 27, 2020	Telephonic Public Meeting	10:00 AM
June 24, 2020 CANCELED	Regular Meeting	10:00 AM
July 22, 2020 CANCELED	Regular Meeting	10:00 AM
August 3, 2020	Telephonic Special Public Meeting	10:00 AM
August 26, 2020	Public Hearing & Regular Meeting	10:00 AM
September 23, 2020	Regular Meeting	10:00 AM

***Exceptions**

*November meeting date is one week earlier to accommodate Thanksgiving Holiday
 December meeting date is one week earlier to accommodate Christmas Holiday*