



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBral, Deputy County Attorney
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MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney

DATE: October 10, 2019

SUBJECT: 11th Drive Project Developer's Agreement

BACKGROUND.

The Capital Improvement Element of the Indian River County 2030 Comprehensive Plan (the "CIE") includes over \$7 million for funding for widening of 37th Street from US 1 to Indian River Boulevard. As part of this project, the CIE includes an alternative project, Aviation Extension US Highway 1 to 37th Street and to 41st Street via McCrystal Drive/11th Drive. The CIE notes that the Indian River County Board of County Commissioners (the "Board") has authorized the concept, and that staff is coordinating with property owners.

As part of that coordination, County staff has negotiated a developer's agreement with Virginia W. Russell Family, Ltd. ("Russell") and Riverfront Groves, Inc. for the dedication of right of way and the design, permitting and construction of 11th Drive from the southern boundary of the Russell property to 41st Street. County staff is currently negotiating with the other property owners to connect that roadway all the way to 37th Street.

Per the proposed developer's agreement, no later than six months from the effective date of the developer's agreement both property owners will dedicate a combined 60 foot wide right-of-way for the design, permitting, and construction of 11th Drive in accordance with plans and specifications which shall be approved by all parties through the County right-of-way permitting process in accordance with Chapter 312 of the Indian River County Code of Ordinances. Pursuant to Section 1000.12, Indian River County Code, the property owners will receive transportation impact fee credits in exchange for the dedication.

Additionally, Russell will design, permit, and construct 11th Drive as a two-lane roadway from 41st Street to the southern point of the Russell property. All road construction will be in compliance with design plans and standards which have been approved by Indian River County through the County right-of-way permitting process in accordance with Chapter 312 of the Indian River County Code of Ordinances. Provided the Public Works Director has reviewed the bid documents prior to bidding and the bids prior to approval for the work described herein, Indian River County will reimburse Russell for all design, permitting, and construction costs associated with the project.

Prior to beginning the design and permitting of 11th Drive, Russell will submit an engineer's cost estimate for the design and permitting of that portion of 11th Drive from 41st Street to the southern boundary of the Russell property. Such cost estimate shall be approved by both parties prior to beginning the design and permitting of 11th Drive. The agreed upon cost will be presented to the Board for approval.

Under the developer's agreement, if Indian River County has not entered into a contract for the purchase of the right-of-way necessary to connect to 37th Street within 90 days of the date of the developer's agreement, then Russell will include as part of the site plan and right-of-way permitting process, a temporary connection to 12th Drive, to provide a southern access to the Russell property from 37th Street. When 11th Drive is completed in an alignment from 37th Street to 41st Street, the temporary access connection to 12th Drive will be closed.

FUNDING.

The 37th Street five lane roadway widening project from US 1 to Indian River Boulevard is contained in the County's Capital Improvement Element of the Comprehensive Plan with funding of \$7,227,000 from optional sales tax. The project includes an alternate Aviation Extension US Highway 1 to 37th Street and to 41st Street via McCrystal Drive/11th Drive. There is no specific funding amount in the CIE for the alternate and per the agreement, Russell will prepare an engineer's cost estimate for the design and permitting of the project for review and approval by the Board prior to commencing the project.

RECOMMENDATION.

The County Attorney's Office recommends the Indian River County Board of County Commissioners approve and authorize the chair to execute the developer's agreement.

ATTACHMENT.

Proposed Developer's Agreement