

AFFORDABLE HOUSING IMPACT FEE AGREEMENT

This Affordable Housing Impact Fee Agreement (hereinafter "Agreement") is made and entered into on the ___ day of _____, 20__ ("Effective Date") by and between: _____ ("Property Owner"), with an address of _____; and Indian River County, Florida, a political subdivision of the State of Florida, having a mailing address of 1801 27th Street, Vero Beach, FL, 32960 ("County").

Recitals

WHEREAS, on March 10, 2020, the Indian River County Board of County Commissioners approved Ordinance 2020-05, which adopted an impact fee schedule that incorporated a reduction or waiver in the impact fees for new single-family affordable housing projects that meet certain square footage and housing income requirements; and

WHEREAS, the Property Owner is developing an affordable housing project located at _____ (address) _____ (the "Property"), which is described in attached Exhibit "A"; and

WHEREAS, the Property is being developed as (number) single-family residential units (the "Project"); and

WHEREAS, the Property Owner is entering into this Agreement in order to either reduce or completely waive impact fees for the Project; and

WHEREAS, the Property Owner understands that as part of this Agreement, the Property must be used for affordable housing for at least ten years,

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Property Owner and County hereby agree as follows:

1. The foregoing recitals are true and incorporated as if fully restated herein.
2. Term. The term of this Agreement shall be for ten years, beginning on the Effective Date set forth above, and terminating on _____, ____, 20__.
3. Waiver/Reduction of Impact Fees. The impact fee for the development of the Project on the Property, without the affordable housing reduction, is \$_____. However, due to the applicable affordable housing reduction, the new impact fee for the Project on the Property is \$_____.
4. Affordable Housing Verification. In order to remain eligible for the impact fee reduction set forth in section 3 above, the single family home(s) must be occupied by a household with an annual household income not to exceed 80% of the Area Median Income (AMI) by household size, as determined by the United States Department of Housing and Urban Development. For owner-occupied homes, Property Owner income must be verified prior

to initial occupancy and prior to change of occupancy by new owners. For rental homes, Property Owner shall verify renter income at change of tenancy. For owner occupied and rental homes, income shall be documented using the County's State Housing Initiative Partnership ("SHIP") program processes, unless a State or Federal Housing Program (e.g. Low Income Housing Tax Credit program) or a nonprofit housing provider program, with qualifying income restriction and monitoring requirements similar to the SHIP program is/are used to fund the construction of the housing. In those instances, County may rely on the income verification process established by those programs provided sufficient documentation is provided showing compliance with the below 80% AMI requirement based on household size, as determined by the U.S. Department of Housing and Urban Development. If no State or Federal Housing Programs or nonprofit housing programs with qualifying income restrictions are used to fund the construction of the housing, County will document income using the County's SHIP program processes.

5. Loss of Affordable Housing Impact Fee Reduction Eligibility. If during the term of this Agreement, the Property Owner no longer intends on utilizing the Property for affordable housing, the Property Owner can apply to County for a release of the affordable housing requirement and a termination of this Agreement, which will be granted upon the payment of the pro rata difference between the full impact fee due for the Property and the amount reduced under this Agreement, based upon the time the Property have been used for the required affordable housing. Any conversion of the use of the Property to a non-residential use, shall be addressed under Title X of the Indian River County Code of Ordinances.
6. Breach. To the extent the Property is no longer used for affordable housing or eligible for the affordable housing reduction as set forth in this Agreement, and Property Owner has not sought a termination as set forth in section 5 above, the Property Owner shall be deemed to have breached the terms of this Agreement. Property Owner shall owe County the difference between the full impact fee due for the Property and the amount reduced under this Agreement, upon thirty days' notice by the County of the breach. However, if the breach occurred more than five years after the effective date of this Agreement, Property Owner shall owe the County fifty percent of the difference between the full impact fee due for the Property and the amount reduced under this Agreement. If the breach occurs within five years of the Effective Date, but is not discovered until more than five years after the Effective Date, the Property Owner will not be entitled to the fifty percent reduction. Additionally, any amount owed will also include three percent interest calculated from the Effective Date.
7. Agreement Runs With the Land. Property Owner acknowledges that the rights and obligations under this Agreement run with the land and shall be binding and enforceable on all Property Owner's successors and/or assigns through the term of the Agreement. The County will record this Agreement in the Public Records of Indian River County.
8. Applicable Law; Venue. The validity, interpretation, construction, and effect of this Agreement shall be in accordance with and governed by the laws of the State of Florida, only. The location for settlement of any and all claims, controversies, or disputes, arising

out of or relating to any part of this Agreement, or any breach hereof, as well as any litigation between the parties, shall be Indian River County, Florida.

9. Indemnification. Property Owner shall indemnify and hold harmless the County, its commissioners, officers, agents, officials, employees, and subcontractors from and against any and all claims, liabilities, losses, damages, or causes of action which may arise from any misconduct, negligent act, or omissions of either the Property Owner or any of its respective agents, officers, or employees in connection with the performance of this Agreement.

10. No Third Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement is solely for the benefit of the named parties, and no enforceable right or cause of action shall accrue hereunder to or for the benefit of any entity or individual not a named party hereto.

[use if Property Owner is an entity]

Signed in the presence of the following witnesses:

_____ Property Owner

sign: _____
printed name: _____

By: _____
name: _____
title: _____

sign: _____
printed name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 20__ by _____, the _____ of _____, who executed on behalf of and with the authority of said entity, and who is either

___ Personally known
OR
___ Produced Identification and
Type of Identification Produced: _____

Notary Public
printed name:
Commission #
Commission Expiration:

[SEAL]

[use if Property Owner is an individual]

Signed in the presence of the following witnesses:

sign: _____
printed name: _____

By: _____
printed name: _____

sign: _____
printed name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 20__ by _____ who is either

___ Personally known to me
OR

___ Produced Identification and
Type of Identification Produced: _____

Notary Public

printed name:
Commission #
Commission Expiration:

[SEAL]

INDIAN RIVER COUNTY, FLORIDA
County

Signed in the presence of the following witnesses:

sign: _____
printed name: _____

By: _____
Phillip J. Matson
Community Development Director
Per Resolution 2020-__

sign: _____

printed name: _____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of physical presence, this ____ day of _____, 20__ by **Phillip J. Matson**, the Community Development Director for Indian River County, Florida. He is personally known to me.

Notary Public

printed name:
Commission #
Commission Expiration:

[SEAL]